

County of Sierra
STATE OF NEW MEXICO

REQUEST FOR QUOTES – (RFQ)

IT/ MEDIA SUPPORT SERVICES



RFQ #2021-05-006

SIERRA COUNTY PROCUREMENT
855 VAN PATTAN
TRUTH OR CONSEQUENCES, NM 87901

Issue Date: May 14, 2021

Pre-Proposal Conference: May 27, 2021 @ 10:00 AM MDT

Question Deadline: June 3, 2021 @ 10:00 AM MDT

Due Date: June 15, 2021 @ 2:00 PM MDT

COMMODITY CODE REFERENCE:

Information Technology (IT) /Media Services- NIGP CODES: NIGP: 95870) NIGP: 20654, NIGP: 206, NIGP: 91830, NIGP: 918, NIGP: 91579, NIGP: 91573, NIGP: 915, UNSPSC: 82111900

INVITATION:

Sierra County (hereinafter called County) invites you to submit an offer for the material(s) and/or services identified and described within this Request For Quote (RFQ). Please read carefully all instructions, specifications, and requirements, scope of work, terms and conditions. Failure to comply with the instructions, terms and conditions and specifications of this Request For Quotes may result in your offer being classified as unresponsive and disqualified. Offers must be submitted to the delivery location and mailing address indicated below no later than the time and date specified above. New Mexico criminal law prohibits bribes, gratuities and kickbacks.

OFFER SUBMITTAL:

All information must be entered in ink or typed and corrections must be initialed. **Offerors are required to submit three (3) printed copy of their offer.** Offers are to be submitted in a sealed envelope or package, clearly marked with the Request for Quote Number and Opening Date (see Offer Due By date above) in the lower left-hand corner. Failure to mark your sealed Offer Submission Envelope or package may result in your offer being opened early or your offer not being included in the Request for Quote Opening.

SUBMITTAL LOCATION:

Delivery Location address:

Sierra County
Attn: Jocelyn Holguin, Chief Procurement Officer
855 Van Patten
Truth or Consequences, NM 87901

Mailing Address:

Sierra County
Attn: Jocelyn Holguin, Chief Procurement Officer
855 Van Patten
Truth or Consequences, NM 87901

SIERRA COUNTY CONTACT INFORMATION:

Jocelyn Holguin, CPO

Telephone: 575-952-2025

E-mail: jholguin@sierraco.org

APPENDIX:

A – ACKNOWLEDGEMENT OF RECEIPT FORM

B– PRICE QUOTE

C– ACKNOWLEDGMENT OF ADDENDA

D– SAMPLE CONTRACT

**NOTE: QUESTIONS MAY BE SUBMITTED ELECTRONICALLY
UNTIL June 3, 2021 @ 10:00 AM - REPSONSE TBD**

OTHER INFORMATION:

Freight Terms: FOB Destination

Payment Terms: NET 30

INSTRUCTIONS TO OFFERORS

- 1. SUBMISSION OF QUOTE: OFFEROR QUOTES MUST BE RECEIVED FOR REVIEW AND EVALUATION BY THE CHIEF PROCUREMENT OFFICER OR DESIGNEE NO LATER THAN THE DATE INDICATED IN THE COVER SHEET. QUOTES 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. Quotes must be addressed and delivered to the Chief Procurement Officer or her designee at the delivery address listed. Quotes must be sealed and labeled on the outside of the package to clearly indicate that they are in response to the “IT/MEDIA SERVICES FOR COUNTY OF SIERRA” Request For Quotes and should reference “RFQ#2021-05-006”. Quotes submitted by facsimile or other electronic means **WILL NOT BE ACCEPTED**. A public log will be kept of the names of all Offerors submitting quotes. Pursuant to Section 13-1-116 NMSA 1978, the contents of any proposal shall not be disclosed to competing Offerors prior to contract award.
- 2. ACKNOWLEDGEMENT OF ADDENDA:** Offerors shall acknowledge receipt of any addenda of this RFQ by identifying the addendums number and date in the space provided on the offer form.
- 3. ALTERNATE OFFERS:** Alternate offers will be accepted and considered provided they are “equal to” and meet all specifications of this RFQ which may include all specifications of the Brand used to identify the quality of the goods and/or services requested. The County reserves the right to make the final determination as to whether or not an alternate offer is equal. It is the Offeror’s responsibility to provide, as part of the offer, descriptive literature, specifications and information on all alternate products and services offered. References of current users should be included. If the item(s) or service(s) offered are not clearly identified as alternate item(s) or services, it is understood that the offer is for item(s) and service exactly as specified in this RFQ.

AWARD INFORMATION: Award information will be posted electronically on the County’s Procurement Department web site: Please visit the Sierra County website: <http://www.sierraco.org>- **PROCUREMENT- FREE VENDOR REGISTRY LINK-** For the opportunity to fill out and submit the Sierra County Vendor Registration form, which will allow you notifications of all addendums and future projects. **NOTE: You will be required to be a registered vendor in Vendor Registry to see all updates. AWARD.** The award of contract as a result of this solicitation will be made in accordance with the approval of the Sierra County Board of Commissioners.

- 4. SITE VISIT AND PRE-PROPOSAL CONFERENCE:** **Applicable. A pre-con will be held on May 27, 2021 @ 10:00 AM. Location- 1st Site Location: 855 Van Patten Truth or Consequences, NM 87901 and 2nd Site Location: 1712 N Date St, Truth or Consequences, NM 87901-walk through new administration location.**

5. **CANCELLATION:** The County reserves the right to cancel without penalty, this RFQ, any resultant Purchase Order/Agreement, or any portion thereof for convenience, unsatisfactory performance, or unavailability of funds.
6. **CASH DISCOUNTS:** The County will take advantage of cash discounts offered whenever possible; however, cash discounts will not be used as a means to determine the lowest cost.
7. **CLARIFICATIONS:** Any clarification of instructions, terms and conditions, insurance, bonds, or offer preparation shall be made only by the CPO stated on the cover sheet of this RFQ. Technical clarifications should be addressed to the individual identified on the cover sheet. Clarifications must be in writing and submitted as an addendum to be considered and relied upon as a part of this RFQ solicitation.
8. **COPIES OF OFFER:** If submitting by hard copy or on CD, please submit the number of hard/CD copies of your offer as stated on the cover sheet along with all supporting documents. Proposal submitted on a CD must be in PDF format.
9. **LATE SUBMISSIONS:** Late submissions of offers will not be accepted or considered unless it is determined by County that the late receipt was due solely to mishandling by the County or the offer is the only offer received. Late submissions will be returned unopened.
10. **MODIFICATIONS:** Only modifications received prior to the date and time specified for the closing will be accepted. No modifications will be accepted after the opening. Technical clarifications of the offer may be requested by the Procurement Officer or his designee following the opening.
11. **OFFEROR CLARIFICATION:** The Offeror should include with their proposal a local or toll-free number and e-mail address for offer clarifications. Failure to do so may result in the Offer being deemed non-responsive.
12. **PERIOD FOR OFFER ACCEPTANCE:** Offeror agrees that any offer made submitted will be good for a period of ninety (90) calendar days; an additional time period may be requested in the RFQ Scope of Work.
13. **PUBLIC INFORMATION:** All information, except that classified as confidential, will become public information at the time that the RFQ is awarded. Confidential information must be marked "CONFIDENTIAL" in red letters in the upper right-hand corner of the pages containing the confidential information. Price and information concerning the specifications cannot be considered confidential.
14. **REJECTION OF OFFERS:** The County reserves the right to make an award based on the evaluation criteria contained herein, to reject any and all offers or any part thereof, and to accept the offer that is in the best interest of the County.

15. **SUBMISSIONS OF DRAWINGS/LITERATURE:** The submission of samples, drawings and literature to be used in the evaluation of the offer, must be submitted by the designated closing date and time in order to be considered. All submissions shall be made at no expense to the County. Returns shall only be made at the Offers request and expense. Submissions provided on a CD shall be in PDF format.
16. **TAXES:** The County is exempt from Federal Excise Taxes and from New Mexico Gross Receipts Taxes on materials. Services are not exempt. Taxes on services should be included as a separate line item and not included in the base price offer. Applicable taxes are excluded from the RFQ evaluation. A non-taxable transaction certificate can be made available by the County to the awarded firm.
17. **WITHDRAWAL OF OFFERS:** Offers may be withdrawn by written notice, electronically (email) or in person by an Offeror or an authorized representative at any time prior to the submittal due date and time. Offerors requiring bid security will result in forfeiture of the bid security if the offer is withdrawn following the opening.
18. **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.
19. **BEST AND FINAL OFFERS:** Finalists may be asked to submit revisions to their quotes for the purpose of obtaining best and final offers on the date to be determined.
20. **ORAL PRESENTATIONS:** Finalists may be required to attend and participate in an oral presentation (date(s) to be determined).
21. **ACCEPTANCE OF CONDITONS GOVERNING THE PROCUREMENT:** Offerors must indicate their acceptance of the Conditions Governing the Procurement in the letter of transmittal form (see Appendix B). Submission of a proposal constitutes acceptance of the Evaluation Factors contained in Section II of this RFQ.
26. **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 RFQ shall be borne solely by the Offeror.
27. **PRIME CONTRACTOR RESPONSIBILITY:** Any contract that may result from this RFQ 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.
28. **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.

- 29. AMENDED QUOTES:** An Offeror may submit an amended proposal before the deadline for receipt of quotes. Such amended quotes 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.
- 30. OFFERORS RIGHT TO WITHDRAW PROPOSAL:** Offerors will be allowed to withdraw their quotes at any time prior to the deadline for receipt of quotes. The Offeror must submit a written withdrawal request signed by the Offeror's duly authorized representative addressed to the Chief Procurement Officer or his designee. The approval or denial of withdrawal requests received after the deadline for receipt of the quotes is governed by the applicable procurement regulations.
- 31. DISCLOSURE OF PROPOSAL CONTENTS:** The quotes will be kept confidential until a contract is awarded by the awarding authority. At that time, all quotes and documents pertaining to the quotes will be open to the public, except for material which is proprietary or confidential. The Chief Procurement Officer or his designee 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.

- 32. 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.
- 33. TERMINATION:** This RFQ may be canceled at any time and any and all quotes may be rejected in whole or in part when the County determines such action to be in the best interest of the County.
- 34. SUFFICIENT APPROPRIATION:** Any contract awarded as a result of this RFQ 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.

- 35. LEGAL REVIEW:** The County requires that all Offerors agree to be bound by the General Requirements contained in this RFQ. Any Offeror concerns must be promptly brought to the attention of the Chief Procurement Officer or his designee.
- 36. GOVERNING LAW:** This procurement and any agreement with Offerors that may result shall be governed by the laws of the State of New Mexico.
- 37. BASIS FOR PROPOSAL:** Only information supplied by the County in writing through the Chief Procurement Officer to his designee or in this RFQ should be used as the basis for the preparation of Offeror quotes.
- 38. 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 RFQ. 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.
- 39. 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 quotes 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.
- 40. 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.
- 41. 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.
- 42. COUNTY RIGHTS:** The County reserves the right to accept all or a portion of an Offeror's proposal.
- 43. RIGHT TO PUBLISH:** Throughout the duration of this procurement process and contract term, potential Offerors 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.
- 44. OWNERSHIP OF QUOTES:** All documents submitted in response to the RFQ shall become the property of the County. However, any technical or user documentation submitted with the quotes of non-selected Offerors may be returned after the expiration of the protest period, by request, at the expense of the Offeror.

- 45. AMBIGUITY, INCONSISTENCY OR ERRORS IN RFQ:** Offerors shall promptly notify the Chief Procurement Officer or his designee, in writing, of any ambiguity, inconsistency or error which they discover upon examination of the RFQ.
- 46. 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.
- 47. CONFIDENTIALITY:** Any confidential information provided to, or developed by, the contractor in the performance of any agreement resulting from this RFQ 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.
- 48. ELECTRONIC MAIL ADDRESS REQUESTED:** 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.
- 49. USE OF ELECTRONIC VERSIONS OF THIS RFQ:** This RFQ is being made available by electronic means. If accepted by such means, the Offeror acknowledges and accepts full responsibility to ensure that no changes are made to the RFQ. In the event of conflict between a version of the RFQ in the Offeror's possession and the version maintained by the County, the version maintained by the County shall govern.
- 50. 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.

REQUEST FOR QUOTE (RFQ) STANDARD TERMS AND CONDITIONS

The purchases of materials and/or services awarded under this RFQ shall be subject to the County's "Standard Terms and Conditions" and all information and statements contained in this Request for Quote. Offerors may submit alternate terms and conditions; however, County reserves the right to reject the language if it is determined not to be in the best interest of County.

The following General Terms and Conditions are an equal and integral part of this Request for Quote (RFQ). The terms, conditions and specifications contained in this RFQ along with any attachments and the Offerors' response may be incorporated into any Purchase Order/ Agreement issued as a result of this RFQ, including any addenda. The County reserves the right to negotiate with a successful Offeror (Contractor) provisions in addition to those stipulated in this RFQ. The contents of this RFQ, as revised and/or supplemented, and the successful Offerors' proposal may be incorporated into the Contract. Should an Offeror object to any of the County's Standard Terms and Conditions the Offeror must propose specific alternative language that would be acceptable to the County. General references to the Offerors' terms and conditions or attempts at complete substitutions are not acceptable to the

County and will result in disqualification of the Offerors' proposal. Offerors' must provide a brief statement of the purpose and impact, if any, of each proposed change; followed by the specific proposed alternate wording.

Any proposed changes to the terms and conditions attached to this RFQ must be stated in Offerors' proposal in a Section marked "STANDARD TERMS AND CONDITIONS". Offerors are cautioned that any changes to the terms and conditions that are NOT stated in the RFQ response will not be entertained by the County at a later date. Any provisions in any proposal, quotation, acknowledgment or other forms or contract documents applicable to the services that are inconsistent, or in conflict, with any provisions of this RFQ or the resultant contract will be ineffective and inapplicable.

The County reserves the right to reject a proposal on the basis the compromising language cannot be accepted by the County. Any additional terms and conditions which may be the subject of negotiation will be discussed only between the County and the successful Offeror and shall not be deemed an opportunity to amend the Offeror's proposal.

An Awardee of a Price Agreement established with the County has the opportunity to market the resultant Price Agreement to other local public bodies and state agencies under the State of New Mexico Public Purchases and Property Act, NMSA 1978, Article 1, Procurement, Section 13-1-129, "Procurement under existing contracts."

1. **ACCEPTANCE AND REJECTION:** If prior to final acceptance, any goods or services are found to be defective or not as specified, or if the County is entitled to revoke acceptance of them the County may reject or revoke acceptance, require Contractor to correct without charge within a reasonable time, or require delivery at an equitable reduction in price, at the County's option. Contractor shall reimburse the County for all incidental and consequential costs related to unaccepted goods or services. Notwithstanding final acceptance and payment, Contractor shall be liable for latent defects, fraud, or such gross mistakes as amount to fraud. Acceptance of goods or services shall not waive the right to claim damages for breach of contract.
2. **AUTHORITY:** If Contractor is other than a natural person, the individual(s) signing this Agreement on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract.
3. **CHANGES:** The County may make changes within the general scope of any resultant Purchase Order/Agreement by giving notice to Contractor and subsequently confirming such changes in writing. If such changes affect the cost of, or the time required for performance of a resultant Purchase Order/Agreement, an appropriate equitable adjustment shall be made. No change by Contractor shall be recognized without written approval of the County. Any claim of Contractor for an adjustment under this Paragraph must be made in writing within thirty (30) days from the date of receipt by Contractor of notification of such change. Nothing in this Paragraph shall excuse Contractor from proceeding with the performance of the Purchase Order/Agreement as changed hereunder.

4. COMPENSATION:

- A. The County shall pay to the Contractor in full payment for services satisfactorily performed under the individual Task Orders based on the schedule of payments contained in the individual task order. In no event will the Contractor 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. 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.
- C. Contractor 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 Contractor that payment is requested, it shall provide the Contractor a letter of exception explaining the defect or objection to the services, and outlining steps the Contractor may take to provide remedial action. The County will continue to pay Contractor for any undisputed amounts pursuant to Article 6 (A). Upon certification by the County that the services have been received and accepted, payment shall be tendered to the Contractor 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. However, the County shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein.
- D. The payment of taxes due for any money received under this Agreement shall be the Contractor's sole responsibility and shall be reported under the Contractor's Federal and State tax identification number(s). A complete W9 form submitted with documents for faster processing is ideal for awarded vendor but is not mandatory.

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

6. CONTRACTOR'S EMPLOYEES AND AGENTS: Contractor shall have complete charge and responsibility for persons employed by Contractor and engaged in the performance of the specified work. The Contractor, its agents and employees state that they are independent contractors and not employees of the County. Contractor, its agents and employees shall not accrue leave, retirement, insurance, bonding or any other benefit afforded to employees of the County as a result of any resultant Purchase Order/Agreement.

7. DISCLAIMER AND HOLD HARMLESS: Sierra County shall not be liable to the Contractor, or the Contractor's successors, heirs, administrators, or assigns, for any loss, damage, or injury, whether to Contractor's person or property, occurring in connection with Contractor's performance of Contractor's duties according to this

Agreement. Contractor 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 Contractor of Contractor's duties according to this Agreement.

8. **DISCOUNTS:** If prompt payment discounts apply to any resultant Purchase Order/Agreement, any discount time will not begin until the materials, supplies, or services have been received and accepted and a correct invoice has been received by the County's Accounts Payable Department. In the event testing is required prior to acceptance, the discount time shall begin upon completion of the tests and acceptance.
9. **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.
10. **ELIGIBILITY FOR PARTICIPATION IN GOVERNMENT PROGRAMS:** Each party represents that neither it nor any of its management or any other employees or independent contractors who will have any involvement in the services or products supplied under a resultant Purchase Order/Agreement, have been excluded from participation in any government healthcare program, debarred from or under any other federal program (including but not limited to debarment under the Generic Drug Enforcement Act), or convicted of any offense defined in 42 U.S.C. Section 1320a-7, and that each party, its employees and independent contractors are not otherwise ineligible for participation in federal healthcare programs. Further, each party represents that it is not aware of any such pending action(s) (including criminal actions) against each party or its employees or independent contractors. Each party shall notify the other immediately upon becoming aware of any pending or final action in any of these areas.
11. **EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION:** In performing or providing the services and goods required under a resultant Purchase Order/Agreement, each party shall be an equal opportunity employer and shall conform to all affirmative action and other applicable requirements; accordingly, each party shall neither discriminate nor permit discrimination in its operations or employment practices against any person or group of persons on the basis of race, age, religion, color, national origin, ancestry, sex, physical or mental handicap or medical condition, sexual preference, prior military involvement or any other manner prohibited by law.
14. **F.O.B:** Unless stated otherwise, the price for goods is F.O.B. the place of destination, and the place of destination is the County's designated campus address.
15. **GOVERNING LAW:** In any action, suit or legal dispute arising from this Agreement, the Contractor 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, Contractor 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.

16. INDEMNIFICATION AND INSURANCE: Contractor assumes the entire responsibility and liability for losses, expenses, damages, demands and claims in connection with or arising out of any actual or alleged personal injury (including death) and/or damage or destruction to property sustained or alleged to have been sustained in connection with or arising out of the goods delivered by Contractor or the performance of the work by Contractor its agents, employees, sub-contractors or consultants. Contractor shall indemnify, defend and hold harmless the County, its officers, agents, and employees from any and all liability for such losses, expenses, damages, demands, and claims and shall defend any suit or action brought against any or all of them based on any actual or alleged personal injury or damages and shall pay any damage costs and expenses including attorneys' fees, in connection with or resulting from such suit or action. Contractor will also indemnify, defend and hold harmless the County against any joint and several liabilities imposed against the County with respect to strict products liability claims attributable to the fault of the Contractor.

Contractor agrees that it and its sub-contractors will maintain general liability, product liability and property damage insurance in reasonable amounts (at least equal to the New Mexico Tort Claims Act limits) covering the above obligation and will maintain workers' compensation coverage covering all employees performing under a resultant Purchase Order/Agreement on premises occupied by or under the control of the County. The liability of the County will be subject in all cases to the immunities and limitations of the New Mexico Tort Claims Act, Sections 41-4-1 et seq. NMSA 1978, as amended."

17. INDEPENDENT BUSINESS: Neither Contractor nor any of its agents shall be treated as an employee of the County for any purpose whatsoever. Contractor declares that Contractor is engaged in an independent business and has complied with all federal, state and local laws regarding business permits and licenses of any kind that may be required to carry out the said business and the tasks to be performed under any resultant Purchase Order/Agreement. Contractor further declares that it is engaged in the same or similar activities for other clients and that the County is not Contractor's sole or only client or customer.

18. INSPECTION: The County may inspect, at any reasonable time, any part of Contractor's plant or place of business, which is related to performance of any resultant Purchase Order/Agreement. Final Inspection will be made at the destination upon completion of delivery of goods and services. Acceptance of delivery shall not be considered acceptance of the goods and/or services furnished. Final inspection shall include any testing or Inspection procedures required by the Specifications.

19. INSTRUMENTALITIES: Contractor shall supply all equipment, tools, materials and supplies required for the performance of the designated tasks or requirements set forth in any resultant Purchase Order/Agreement or its attachments.

- 20. 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.
- 21. MERGER:** The contract shall incorporate all the agreements, covenants, and understandings between the parties thereto concerning the subject matter thereof. No prior agreements or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in the contract.
- 22. OTHER APPLICABLE LAWS:** Any provision required to be included in a resultant Purchase Order/Agreement by any applicable and valid executive order, federal, state or local law, ordinance, rule or regulation shall be deemed to be incorporated herein.
- 23. OWNERSHIP: Ownership of Documents -** All documents which are prepared by the Contractor or any member of the consulting team that form a part of its services under a resultant Purchase Order//Agreement are the sole property of the County and such works may not be reproduced nor distributed without the express written consent of the County and shall be delivered to the County upon termination and or completion of this Purchase Order/Agreement if the County so requests. The Contractor shall be responsible for the protection and/or replacement of any original documents in its possession. The County shall receive all original drawings and the Contractor shall retain a reproducible copy.
- a. *Work Made for Hire* - For the consideration payable under a resultant Purchase Order/Agreement, the work product required by the Purchase Order/Agreement shall be considered a work made for hire within the meaning of that term under the copyright laws of the United States, applicable common law and corresponding laws of other countries. The County shall have the sole right and authority to seek statutory copyright protection and to enjoy the benefits of ownership of the work. The party performing the work hereby assigns all rights, title and interest in and to the work to the County and shall require all members of the consulting team to agree in writing that they assign all right, title and interest in work product required by the Purchase Order/Agreement to the County.
- b. *Inventions.* For the consideration payable under a resultant Purchase Order/Agreement, the Contractor agrees to report any invention arising out of the Work required by the Purchase Order/Agreement with the County. The County shall have sole right and authority to seek statutory patent protection under United States and foreign patent laws and to enjoy the benefits of ownership of the invention, whether or not the invention was required of the Contractor or member of the consulting team as part of the performance of Work. The Contractor hereby assigns all right, title and interest in and to inventions made in the course of the Work to the County and agrees to execute and deliver all documents and do any and all things necessary and proper to effect such assignment. Contractor shall require all members of the Consulting Team to agree in writing that they will execute and deliver all documents and do any and all things necessary and proper to effect assignment of

inventions arising out of the Work required by the Purchase Order/Agreement with the County.

c. *Survival of Provision.* This provision shall survive expiration and termination of the Purchase Order/Agreement.

24. PATENT AND COPYRIGHT INDEMNITY: Contractor shall indemnify, defend and hold harmless the County against all losses, liabilities, lawsuits, claims, expenses (including attorneys' fees), costs, and judgments incurred through third party claims of infringement of any copyright, patent, trademark or other intellectual property rights.

25. PAYMENT TERMS: Upon written request from Contractor for payment, the County shall, within 30 days, issue a written certification of complete or partial acceptance or rejection, with payment to follow within 30 days after certificate of acceptance. Late payment charges shall be ½ of 1% per month.

26. PAYROLL OR EMPLOYMENT TAXES: No federal, state, or local income, payroll or employment taxes of any kind shall be withheld or paid by the County with respect to payments to Contractor or on behalf of Contractor its agents or employees. Contractor shall withhold and pay any such taxes on behalf of its employees as required by law. The payroll or employment taxes that are the subject to this paragraph include but are not limited to FICA, FUTA, federal personal income tax, state personal income tax, state disability insurance tax, and state unemployment insurance tax. If Contractor is not a corporation, Contractor further understands that Contractor may be liable for self-employment (Social Security) tax, to be paid by Contractor according to law.

27. PENALTIES: The Procurement Code, Section 13-1-28 at seq. NMSA 1978, as amended imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose criminal penalties for bribes, gratuities and kickbacks.

28. PUBLIC WORKS PERFORMANCE AND PAYMENT BONDS: A performance bond and a payment bond, covering materials and labor, each in the amount of 100% of the contract cost may be required. The bond must be executed by the bidder with a surety company authorized to do business in New Mexico or other sureties approved by the State Board of Finance. The performance and payment bonds must be received by the Buyer issuing the award within five (5) days of the award and must reference this RFQ Number on the face of the documents. All performance and payment bonds must meet the requirements of 13-4-18 NMSA, 1978, as amended

29. PURCHASE ORDER/AGREEMENT: Any resultant Purchase Order/Agreement shall be the sole and entire Purchase Order/Agreement between the parties; any documents incorporated into the Purchase Order/Agreement are listed explicitly on the front side of the Purchase Order/Agreement, or are incorporated by implication by the terms of any resultant Purchase Order/Agreement. Any terms inconsistent with or in addition to any resultant Purchase Order/Agreement proposed by Contractor are deemed rejected unless agreed to in writing by an appropriate County official.

- 30. RELEASE THE COUNTY COMMISSIONERS:** The Contractor shall, upon final payment of the amount due under the contract, release the County Commissioners of the Sierra County, their officers and employees and the State of New Mexico from liabilities, claims and obligations whatsoever arising from the contract. The Contractor agrees not to purport to bind the Sierra County of New Mexico or the State of New Mexico to any obligation not assumed in the contract by the County Commissioners of Sierra County of New Mexico or the State of New Mexico unless the Contractor has express, written authority to do so, and then only within the strict limits of that authority.
- 31. RETENTION OF RECORDS:** Contractor will maintain detailed records indicating the date, time and nature of services provided under any resultant Agreement for a period of at least five years after termination of the Agreement, and will allow access for inspection by the County of New Mexico, the Secretary for Health and Human Services, the Comptroller General and the Inspector General to such records for the purpose of verifying costs associated with provisions of services under the Agreement. The Contractor shall provide all materials and labor necessary to comply with the rules, regulations and ordinances
- 32. STATUS OF CONTRACTOR:** Subcontractor or Sub- Subcontractors: Work performed in the performance of any resultant Agreement by the Contractor, Subcontractor or Sub Subcontractors and its agents and employees are independent performing services for the County and are not employees of the County of Sierra. The Contractor, Subcontractor or Sub-Subcontractors 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 Contractor, Subcontractor or Sub-Subcontractors acknowledges that all sums received hereunder are reportable by the Contractor, Subcontractor or Sub-Subcontractors for tax purposes, including without limitation, self-employment and business income tax. The Contractor, Subcontractor or Sub-Subcontractors agrees not to purport to bind the County of Sierra unless the Contractor, Subcontractor or Sub-Subcontractors has express written authority to do so, and then only within the strict limits of that authority.
- 33. SUBCONTRACTING:** The Contractor shall not subcontract any portion of the delivery of goods or services to be performed under this Agreement without the prior written approval of the County and State Auditor.
- 34. TERM:** In accordance with Section 13-1-150 NMSA 1978, no term for a services contract, including extensions and renewals, shall exceed eight years, except as set forth in Section 13-1-87 NMSA 1978.

35. 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 Contractor's receipt of the notice of termination, if the County is the terminating party, or the Contractor's sending of the notice of termination, if the Contractor 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 Contractor 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 Contractor if the Contractor becomes unable to perform the services contracted for, as determined by the County or if, during the term of this Agreement, the Contractor 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 CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.

B. Termination Management. Immediately upon receipt by either the County or the Contractor of notice of termination of this Agreement, the Contractor 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 Contractor with contract funds shall become property of the County upon termination and shall be submitted to the County as soon as practicable.

36. TERMINATION FOR CAUSE:

A. County may by written notice terminate this Agreement in whole or in part for Contractor's default if the Contractor 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 Contractor shall be liable for damages suffered by County thereby, including incidental and consequential damages. If after notice of termination, County determines Contractor was not in default, or if Contractor'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 "Contractor" includes Contractor's sub-suppliers at any tier.

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

B. In the event a termination for cause notice is issued by the County, the Contractor 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 Contractor with contract funds shall become property of the County upon termination and shall be submitted to the County as soon as practicable.

- 37. TITLE AND DELIVERY:** Title to the materials and supplies passed hereunder shall pass to the County upon acceptance at the FOB point specified, subject to the right of the County to reject. For any exception to the delivery date specified, Contractor shall give prior notification and obtain approval thereto from the County's Purchasing Department. Time is of the essence and the Purchase Order/Agreement is subject to termination for failure to deliver on time.
- 38. WAIVER:** The Contract shall contain a provision that states that no waiver of any breach of the Contract or any terms or conditions thereof shall be held to be a waiver of any other or subsequent breach; nor shall any waiver be valid, alleged or binding unless the same shall be in writing and signed by the party to have granted the waiver.
- 39. WARRANTIES:** Contractor warrants the goods and/or services furnished to be exactly as specified in any resultant Purchase Order/Agreement, free from defects in Contractor's design, labor, materials and manufacture, and to be in compliance with any drawings or specifications incorporated herein and with any samples furnished by Contractor. All applicable UCC warranties express and implied are incorporated herein.
- 40. WORKERS COMPENSATION:** No workers compensation insurance has been or will be obtained by THE COUNTY on account of Contractor or its employees or agents. Contractor shall comply with the workers compensation laws with respect to Contractor and Contractor's employees and agents.
- 41. WORKMANSHIP/COOPERATION:** All work shall be done in a neat, workman-like manner using acceptable equipment and methods consistent with that level of care and skill ordinarily exercised by members of the profession/trade and in accordance with sound professional/trade standards and ethical practice. The Contractor will cooperate with the County and other contractors and coordinate their work involving other contractors through the County's authorized representative.

I. INTRODUCTION

A. SUMMARY SCOPE OF WORK

The County is seeking the ideal team to provide IT and Media services, but will consider two separate vendors to award for each service. The duties and responsibilities of the successful contractors include, but may not be limited to performing the following services:

The County of Sierra is seeking Quotes from qualified individuals for:

INFORMATION TECHNOLOGY ORGANIZATION: to conduct the necessary research and evaluation requirements, throughout the county with a company that is charged with establishing, monitoring and maintaining information technology systems and services. In the fields of computer software, hardware, data storage/retrieval, and computer support. The contractor will be expected to be on site at least once a week and when necessary, also remote work. Various locations throughout the county until centrally located.

MEDIA RELATIONS DEPARTMENT: selects and uses the best media possible to communicate the Sierra County Commission meetings every 3rd Tuesday of each calendar month and on special designated meeting days (TBD). Which will be broadcast through Facebook SC Emergency Services, GPK Media and others. Licensing may be required to be obtained as well. The purpose of informing the public of the Counties, mission, policies and practices in a positive, consistent and credible manner. This information is intended to benefit the public by educating them on county news and other events.

1. SCOPE OF WORK

To provide on-site IT support, update firewalls, update and service the Counties email on Outlook services. Contractor shall be familiar with IBM systems and be able to work with the counties financial company Triadic. Working with remote VPN set up for all needed departments. A complete systems connectivity set up at the new location once building is completed. Experience with Xerox systems.

Staff Locations:

- Administration: 9 Full-time staffers- 855 Van Patten
- Assessor: 8 Full-time staffers, plus 3 extra terminals -100 Date St.
- Treasurer: 5 Full-time staffers-100 Date Street
- Clerk: 5 Full-time staffers-100 Date Street
- Probate: 1 Full-time staffer-100 Date Street
- Sheriff: 1 Full-time staffer- 205 S. Broadway
- Road: 4 Full-time staffers- 205 S. Broadway
- Detention: 6 Full-time staffers- 311 N. Date St.-2 Locations
- Facility: 1 Full-time staffer- 311 N. Date St
- MCP: 4 Full-time staffers- 516 N. Broadway
- Flood: 1 Full-time staffer- 128f Hyde Street
- Some Fire and EMS on Occasion: Remote Services Only

IT support services shall consist of once a week on site visits, updating firewalls, working with staff in a friendly professional manor and remote capabilities. There may be times when IT will need to work with the County's webhost and Outlook services. Installations, re-installing of software/hardware, ext. Printers, scanners and standard installations. Shall obtain quotes for departments as needed. Shall obtain (3) quotes for departments requiring new systems that exceed cost, or utilize State Price Agreements. The IT company selected will need to work with the prior IT professionals to insure all the County log ins, passwords and other requirements for a smooth transition shall be obtained. The IT company will be required and able to assist the County when the relocation takes place for the new building. They will be required to disconnect and setup connectivity to the new location. Move date is currently pending as they are in current construction phase.

MEDIA:

To provide on-site Media Coverage of Sierra County Commission meetings. Live video streaming, government, pictures and powerpoints. The means of communication, as radio, television and the internet, that reach or influence people widely. Contract shall provide their own equipment and set up/test prior to meeting airing.

Current Location: 855 Van Patten, Truth or Consequences, NM 87901

New Location: **1712 N Date St, Truth or Consequences, NM 87901- TBD**

SCOPE SHALL ALSO BE INCULDED AS PART OF COST PROPOSAL FEE

RFQ APPLICATION FOR IT and/or Media Services

- Project Name:** IT/MEDIA SUPPORT SERVICESD
- Project Scope:** IT services for the County of Sierra/ Media Services for Commission
- Project Area:** Various Locations (Listed)
- Requirements:** Professional personnel to with all Sierra County IT services and assist in the transition to the new Administration building. Awarded contractor or contractors, will be able to provide emergency services when needed, shall be available when internet services go down and when a certain department is having issues with their systems.

Media: Shall be required to broadcast all County Commission meetings as well as some special meetings from time to time. They will also be required to provide their own equipment and obtain certain licensing and permissions.

APPENDIX A

ACKNOWLEDGEMENT OF RECEIPT FORM
Request for Quotations

DESIGN BUILD SIERRA COUNTY ADMINISTRATION BUILDING
SIERRA COUNTY RFQ #2020-05-006

In acknowledgment of receipt of this Request for Proposal, the undersigned agrees that he/she has received a complete copy of the above referenced RFP including all Appendix and Exhibits.

The acknowledgment of receipt should be signed and returned (by either fax, e-mail, or courier or hand delivery) to the Chief Procurement Officer no later than **June 10, 2021.**

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
Sierra County
855 Van Patten
Truth or Consequences, NM 87901
Phone: (575) 894-6215
Fax: (575) 894-9548
E-mail: jholguin@sierraco.org

APPENDIX B
PRICE QUOTE'S

To: County of Sierra

Date: _____

Chief Procurement Officer
855 Van Patten
T or C, NM 87901

Name of Bidder

In submitting this quote, the Bidder represents, as more fully set forth in Agreement, that:

1. The Bidder has examined all documents and acknowledges any applicable Addenda as follows on **Appendix B: See Attached:**
2. The quote is genuine and not made in the interest of, or on behalf of, any undisclosed person, firm or corporation. The Offeror has not directly or indirectly induced or solicited any Offeror to submit false information. The Offeror has not solicited or induced any person, firm or corporation to refrain from bidding. The Offeror has not sought by collusion to obtain for himself any advantage over any other Offeror or over the County of Sierra.
3. The Offeror, in conformance with this request for quote, hereby submits the following total prices:

NOT TO EXCEED FEE PROPOSAL:

Each Application for Payment shall be based upon the Schedule of Values submitted by the Contractor in accordance with the Contract Documents to be supported with an attached fee/cost break down in the format of services provided.

Note: Please, indicate if your company is able to meet IT Services, Media or Both.

CONTRACT SUM (s)

The Contract Sum is based upon the following combination of quotation as described in the above Project Description/Scope:

COMPENSATION FOR IT SERVICES: **Applicable** **Not Applicable**
 Both

MONTHLY SERVICE'S EXCLUDING GRT: \$ _____ . _____
(General Requirements Site Work and Labor)

HOURLY RATE'S EXCLUDING GRT: \$ _____ . _____
(For special projects not included in monthly services, please, list.)

OTHER RATE'S EXCLUDING GRT \$ _____ . _____

TRAVEL RATE'S \$ _____ . _____
(To and From- Only applicable for out of Sierra County vendors and not to exceed the State approved millage rates.)

COMPENSATION FOR MEDIA SERVICES: **Applicable** **Not Applicable**
 Both

MONTHLY SERVICE'S EXCLUDING GRT: \$ _____ . _____
(General Requirements Site Work, Equipment and Labor- 3 to 5 hours)

HOURLY RATE'S EXCLUDING GRT: \$ _____ . _____
(For special meeting not included in monthly services, please, list.)

OTHER RATE'S EXCLUDING GRT \$ _____ . _____

TRAVEL RATE'S \$ _____ . _____
(To and From- Only applicable for out of Sierra County vendors and not to exceed the State approved millage rates.)

Signature and Title of Point of Contact: _____

Contact #: _____ - _____ - _____

C. PROCUREMENT OFFICER

The County 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 (“CPO”) or his designee in writing. Offerors may contact ONLY the CPO regarding the procurement. Other County employees do not have the authority to respond on behalf of the County of Sierra.

Jocelyn Holguin
Chief Procurement Officer
Sierra County Purchasing

<u>Delivery Address (Including proposal delivery):</u> 855 Van Patten/ Truth or Consequences, NM 87901	<u>Mailing Address:</u> Same
---	---------------------------------

Phone: (575) 894-6215
Fax: (575) 894-9548
E-mail: 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 quotes.

“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 quotes.

"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 quotes.

"Finalist" is defined as an Offeror who meets all the mandatory specifications of this Request for Quote 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 Quotes" or "RFQ" means all documents, including those attached or incorporated by reference, used for soliciting quotes.

"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 Quotes. Material respects of a Request For Quotes 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, that 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:

Sierra county Procurement Department Website

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

New Mexico Procurement Code

<http://www.nmonesource.com>

F. 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. Quotes 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 ***Evaluation Criteria items*** in the order in which they appear in this RFQ. Any forms provided in the RFQ 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.

EVALUATION CRITERIA

The Offerors' quotes will be evaluated and percentage will be given as shown below in the evaluation criteria. An award to the lowest cost offer is not a requirement. Award will be based on best in value to for the County of Sierra.

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 RFQ, will be used in the evaluation of individual proposal submittals.

Mandatory Criteria

The mandatory requirements listed 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 quote.* Note: failure to respond to a mandatory requirement will result in receiving a score of zero (0) for that requirement.

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 RFQ, will be used in the evaluation of individual proposal submittals.

A. License **(PASS/FAIL)**

State of New Mexico License – State Auditor Approval.

B. References **(PASS/FAIL)**

Must provide (3) references with valid contact information for review.

Evaluation Criteria

COUNTY requires that you answer the evaluation criteria.

A. THE CAPABILITY OF THE OFFERER **(PASS/FAIL)**

- 1) Provide the name, title, including the detailed description of the role and job responsibilities, scope of work, education, experience, and years with the company for all management personnel who will have any direct or indirect responsibility over the project (s).
- 2) Identify and provide qualifications and experience for each proposed team member.
- 3) Past performance for jobs completed within the past 5 years by the proposed team.

Applicant Firm _____

Principal-in Charge _____
(Name) (License #) (% to Project) (Yrs. Exp.) (Yrs. w/Co.)

Project Manager _____
(Name) (License #) (% to Project) (Yrs. Exp.) (Yrs. w/Co.)

Other _____
(Name) (License #) (% to Project) (Yrs. Exp.) (Yrs. w/Co.)

B. WORK REQUIREMENTS & APPROACH (PASS/FAIL)

- 1) Demonstrate your company’s knowledge of Sierra County’s needs and the services and product to be delivered;
- 2) Provide your companies proposed technical plan and estimate of time to complete the process;
- 3) Outline and describe plans for using Sierra County staff and surrounding public bodies when required.

C. TERMINATIONS (PASS/FAIL)

Provide a list of any projects for which the firm’s contract terminated, held in default, or failed to complete the work. Include the name of the project, the timeframe of the project and circumstances surrounding the termination or default.

D. LITIGATION AND CLAIMS (PASS/FAIL)

Applicant should disclose the results and amounts of the settlement of the recent 3 years and contract litigations, arbitration, mediation or other claims involving Applicant or its principals or any proposed consultants for a period of three years prior to the submission of this proposal. These cases should prioritize as follow: (1) Disputes with Owners, (2) Disputes in the State of New Mexico, (3) other.

Name of case _____
Plaintiff/Defendant _____
Year Filed _____
Type of complaint _____
Current Status _____

H. FEES (PASS/FAIL)

NOTE: Offerors are to utilize *Appendix A– PRICE QUOTE* in responding to this criterion. The rates or fees proposed may be used for purposes of negotiation fees/costs for awards and subsequent change orders or modifications to existing awards. The rates proposed are all inclusive of all applicable overhead rates, direct or indirect costs, and profit.

BASIS OF AWARD: Contracts awarded as a result of this solicitation shall be awarded to the responsible Offeror(s) whose quote proposal represents the County's best interest. The evaluation committee will prepare a selection recommendation report for the Chief Procurement Officer or his/her designee recommending those firms that are considered to be the most highly qualified. All firms on the most highly qualified selection recommendation report are considered "selected contractor" with which the Chief Procurement Officer or his/her designee may negotiate.

The final award decision shall be made by the Chief Procurement Officer or his/her designee. The selection authority will review the recommendations of the evaluation committee and shall, with the advice of appropriate technical and staff representatives, make the final selection. If the firm selected for award is not the recommended as the most highly qualified by the evaluation committee, the selection authority shall provide for the contract file a written explanation of the reason for the award preference. Such awards may be subject to the prior review and approval of the County Commissioners.

APPENDIX C

ACKNOWLEDGMENT OF ADDENDA

THE FOLLOWING OFFEROR INFORMATION MUST BE COMPLETED AND RETURNED WITH THE RFQ.

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 offeror has examined this RFQ with its related documents and is familiar with all of the conditions surrounding the described materials, labor and/or services. Offeror 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 RFQ and at the prices stated within the RFQ.

The undersigned further states that the company submitting this RFQ is not in violation of any applicable Conflict of Interest laws or regulations or any other related clauses included in this **RFQ #2021-05-006**.

COMPANY NAME _____

ADDRESS _____

CITY/STATE/ZIP _____

TELEPHONE: _____ **FAX:** _____ **EMAIL:** _____

NEW MEXICO GROSS RECEIPTS TAX NO _____

FEDERAL EMPLOYER ID NUMBER (FEIN) _____

SIGNATURE OF AUTHORIZED REPRESENTATIVE _____

STATE OF NEW MEXICO VENDOR PREFERENCE NUMBER: _____

PRINTED OR TYPED NAME _____

TITLE _____

DATE: _____

APPENDIX D
SAMPLE CONTRACT

SIERRA COUNTY
CONTRACT # 2021-05-006

THIS AGREEMENT is made and entered into by and between the County of Sierra, hereinafter referred to as the "County" and **NAME OF CONTRACTOR**, hereinafter referred to as the "Contractor", and is effective as of the date set forth below upon which it is executed by the Chief Procurement Officer and the Board of County Commissioners.

IT IS AGREED BETWEEN THE PARTIES:

1. Scope of Work.

The Contractor shall perform the work outlined in the Scope of Work attached hereto as **Attachment 1** and incorporated herein by reference.

2. Compensation.

A. The County shall pay to the Contractor in full payment for services satisfactorily performed _____ dollars (\$_____) monthly, to be invoiced in equal monthly amounts after performance of the services. Based on mile stones indicating Contractor is meeting all requirements. The New Mexico gross receipts tax levied on the amounts payable under this Agreement totaling (AMOUNT) shall be paid by the County to the Contractor in equal monthly amounts. The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed (AMOUNT). In no event will the Contractor be paid any amount in excess of the specified total amount payable without this Agreement being amended in writing.

B. 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 Paragraph 1, Scope of Work. All invoices MUST BE received by the County no later than fifteen (15) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.

C. Contractor must submit a detailed statement accounting for all services performed, specified on a minimum of a quarter hour basis, and expenses incurred. If the County finds that the services are not acceptable, within thirty days after the date of receipt of written notice from the Contractor that payment is requested, it shall provide the Contractor a letter of exception explaining the defect or objection to the services, and outlining steps the Contractor may take to provide remedial action. Upon certification by the County that the services have been received and accepted, payment shall be tendered to the Contractor 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. However, the County shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein.

D. The payment of taxes due for any money received under this Agreement shall be the Contractor's sole responsibility and shall be reported under the Contractor'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 Manager. This Contract will automatically renew on an annual basis, for up to Seven (7) additional one (1) year terms unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with Section 13-1-150 NMSA 1978, no term for a services contract, including extensions and renewals, shall exceed eight years, except as set forth in Section 13-1-87 NMSA 1978.

4. Termination.

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 performed prior to the Contractor's receipt of the notice of termination, if the County is the terminating party, or the Contractor's sending of the notice of termination, if the Contractor 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 Contractor 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 Contractor if the Contractor becomes unable to perform the services contracted for, as determined by the County or if, during the term of this Agreement, the

Contractor 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 CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.

B Termination Management. Immediately upon receipt by either the County or the Contractor of notice of termination of this Agreement, the Contractor 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 Contractor with contract funds shall become property of the County upon termination and shall be submitted to the County as soon as practicable.

5. 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 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 Contractor. The County's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the County proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor 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.

6. Status of Contractor.

The Contractor and its agents and employees are independent contractors performing professional services for the County and are not employees of the County of Sierra. The Contractor 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 Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the County of Sierra unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

7. Assignment.

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the County. Any resultant Purchase Order/Agreement may be assignable by the County. Except as to any payment due hereunder, any resultant Purchase Order/Agreement shall not be assignable by Contractor without written approval from the County.

8. Subcontracting.

The Contractor *shall not* subcontract any portion of the services to be performed under this Agreement without the prior written approval of the County. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the County. In all cases, the contractor is solely responsible for fulfillment of this Agreement.

9. Release.

Final payment of the amounts due 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.

10. Confidentiality.

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

11. Product of Service -- Copyright.

All materials developed or acquired by the Contractor 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 Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

12. Conflict of Interest; Governmental Conduct Act.

A. The Contractor 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 Contractor 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 Contractor specifically represents and warrants that:

1) in accordance with Section 10-16-4.3 NMSA 1978, the Contractor 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 Contractor is not a public officer or employee of the County; (ii) the Contractor is not a member of the family of a public officer or employee of the County; (iii) the Contractor 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 Contractor 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 Contractor 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 Contractor 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 Contractor 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 Contractor 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. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which the County relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the County if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 12 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 Contractor's representations and warranties in Paragraphs A and B of this Article 12 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 12(B).

13. 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.

14. 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.

15. 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.

16. Equal Opportunity Compliance.

The Contractor 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 Contractor 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 Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

17. Applicable Law.

In any action, suit or legal dispute arising from this Agreement, the Contractor 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, Contractor

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.

18. Workers Compensation.

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

19. Records and Financial Audit.

The Contractor 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 Department of Finance and Administration and the 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.

20. Disclaimer and Hold Harmless.

Sierra County shall not be liable to the Contractor, or the Contractor's successors, heirs, administrators, or assigns, for any loss, damage, or injury, whether to Contractor's person or property, occurring in connection with Contractor's performance of Contractor's duties according to this Agreement. Contractor shall hold the 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 Contractor of Contractor's duties according to this Agreement.

21. Indemnification.

The Contractor 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 Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as

soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of the County of Sierra and the New Mexico Association of Counties by certified mail.

22. 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.

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

24. Authority.

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

25. Lobbying.

No federal appropriated funds can be paid or will be paid, by or on behalf of the CONTRACTOR, 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 CONTRACTOR shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

26. Approval of Contractor Personnel.

Personnel proposed in the Contractor'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 Contractor without prior written consent of the procuring agency of the County. Replacement of any Contractor personnel, if approved, shall be with personnel of equal ability, experience and qualifications. The Contractor will be responsible for any expenses incurred in familiarizing the replacement personnel to insure their being productive to the project immediately upon receiving assignments. Approval of replacement personnel shall not be unreasonably withheld. The procuring agency of the County shall retain the right to request the removal of any of the Contractor's personnel at any time.

27. Survival.

The agreement paragraphs 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

28. Succession.

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

29. 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.

30. 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.

31. 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. Further, the Contractor is not to proceed with its obligations under the Agreement until the Contractor has received a fully signed copy of the Agreement.

32. 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.

33. 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.

34. Incorporation and Order of Precedence.

Request for Quotation No. [2018-02-005] and the contractor'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 Quotation; then
4. the Contractors Best and Final Offer(s), in reverse chronological order; then
5. the contractor's quote; then
6. the contractor's standard agreement terms and conditions (which may or may not have been submitted as part of the contractor's quotation).

35. Patent, Copyright, Trademark and Trade Secret Indemnification.

A. The contractor 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 contractor's trade secret infringement relating to any product or service provided under this agreement, the contractor 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 contractor prompt written notice of any claim;
- ii. allow the contractor to control the defense or settlement of the claim; and
- iii. cooperate with the contractor in a reasonable way to facilitate the defense or settlement of the claim.

B. If any product or service becomes, or in the contractor's opinion is likely to become the subject of a claim of infringement, the contractor shall at its 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 contractor. The contractor'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.

36. 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:

THE COUNTY OF SIERRA

APPROVED, ADOPTED AND PASSED on this _____ day of June, 2021.

To: County of Sierra
Jocelyn Holguin, Chief Procurement Officer
855 Van Patten
Truth or Consequences, NM 87901

To the Contractor:

Printed Name:

Address:

Contractor Signature: _____ Date: _____
Name and Title

By: _____ Date: _____
County Manager

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

BOARD OF COUNTY COMMISSIONERS

APPROVED, ADOPTED AND PASSED on this ____ day of June, 2021.

James E. Paxson, Commissioner Chair

Travis Day, Vice- Chair

Hank Hopkins, Commissioner

Attest:

Shelly Trujillo
Sierra County Clerk

Sierra County Chief Procurement Officer:

By: _____ Date: _____

Jocelyn Holguin, CPO
Sierra County

SCOPE OF WORK

SHALL BE AS PER REQUEST FOR QUOTATION:

- END

