



**REQUEST FOR PROPOSALS (RFP)**

**Fairgrounds Pavilion ADA Renovations**

**RFP# 2024-08**

Released: April 19, 2024

**Proposal Submittal Due Date: May 14, 2024 at 2 p.m.**

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## I. INTRODUCTION

### A. PURPOSE OF THIS REQUEST FOR PROPOSALS

The purpose of the Request for Proposal (RFP) is to solicit sealed proposals to establish a contract through competitive negotiations for the procurement of renovations to the Pavilion building to include ADA restrooms and an accessible covered patio area.

### B. SCOPE OF WORK

The scope of work consists of demolition of toilet rooms and second floor deck and finish. Remove existing concrete slab as required installation of new plumbing fixtures and accessories as shown on drawings and installation of new flooring and finish as shown on drawings. Construct new metal stud walls with gypsum board each side and finishes as scheduled. Mechanical rerouting of ductwork and diffusers/return air grilles, lighting and electrical work as noted and shown on plans.

Construction of wood beam and column entry structure and roof assembly as shown on drawings. This structure is to match existing entry structure at the Pavilion.

Proposed Contract Documents may be examined at:

NCA Architects, P.A.  
1306 Rio Grande Blvd., NW  
Albuquerque, NM 87104  
(505) 255-6400  
(505) 268-6954 (fax)

Builder's News and Plan Room  
3435 Princeton Dr. NE  
Albuquerque, NM 87107  
(505) 884-1752  
(505) 883-1627 (fax)

Construction Reporter  
1609 Second Street NW  
Albuquerque, NM 87102  
(505) 243-9793  
(505) 242-4758 (fax)

Dodge Reports  
1615 University Blvd. NE  
Albuquerque, NM 87102  
(505) 243-2817  
(505) 842-0231 (fax)

Bona fide general contract bidders may secure copies of the proposed Contract Documents from **Albuquerque Reprographics, Inc.:** (505) 884-0862.

1. Copies of the Specifications and Construction Documents can be obtained upon payment of a \$150/set deposit, made out to Roosevelt County, completely refundable if returned to Albuquerque Reprographics, postpaid, in satisfactory condition, within (10) calendar days after bid opening.
2. No partial sets will be issued.
3. Electronic copies may be obtained from Albuquerque Reprographics for a fee.

The Owner reserves the right to reject any or all bids and to waive irregularity in the bids and in the bidding.

### **C. PROCUREMENT OFFICER**

1. Roosevelt County has assigned a Procurement Officer who is responsible for the conduct of this procurement whose name, address, telephone number and e-mail address are listed below:

Name: Liliana Rivera Certified Procurement Officer  
Address: Roosevelt County  
109 W. First St.  
Portales, NM 88130  
Telephone: (575) 356-5307  
Fax: (575) 356-8307  
Email: lriviera@rooseveltcountry.com

2. **Any inquiries or requests** regarding this procurement should be submitted, in writing, to the Procurement Officer. Offerors may contact **ONLY** the Procurement Officer regarding this procurement. Other county employees or Evaluation Committee members do not have the authority to respond on behalf of the Roosevelt County. **Protests of the solicitation or award must be delivered by mail to the Protest Manager.** As a Protest Manager has been named in this Request for Proposals, pursuant to NMSA 1978, § 13-1-172, **ONLY** protests delivered directly to the Protest Manager in writing and in a timely fashion will be considered to have been submitted properly and in accordance with statute, rule and this Request for Proposals. Emailed protests will not be considered as properly submitted nor will protests delivered to the Procurement Officer be considered properly submitted.

## D. DEFINITION OF TERMINOLOGY

This section contains definitions of terms used throughout this procurement document, including appropriate abbreviations:

“**Agency**” means Roosevelt County.

“**Award**” means the final execution of the contract document.

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

“**Business Hours**” means 8:00 AM thru 5:00 PM Mountain Standard or Mountain Daylight Time, whichever is in effect on the date given.

“**Close of Business**” means 5:00 PM Mountain Standard or Daylight Time, whichever is in use at that time.

“**Confidential**” means confidential financial information concerning offeror’s organization and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act NMSA 1978 57-3-A-1 to 57-3A-7. See NMAC 1.4.1.45. As one example, no information that could be obtained from a source outside this request for proposals can be considered confidential information.

“**Contract**” or “**Agreement**” means any agreement for the procurement of items of tangible personal property, services or construction.

“**Contractor**” means a successful Offeror who enters into a binding contract.

“**County**” means the County of Roosevelt, State of New Mexico.

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

“**Desirable**” the terms "may", "can", "should", "preferably", or "prefers" identify a desirable or discretionary item or factor.

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

“**Evaluation Committee Report**” means a report prepared by the Procurement Officer and the Evaluation Committee for contract award. It will contain written determinations resulting from the procurement.

“**Finalist**” means an Offeror who meets all the mandatory specifications of this Request for Proposals and whose score on evaluation factors is sufficiently high to merit further consideration by the Evaluation Committee.

“**Hourly Rate**” means the proposed fully loaded maximum hourly rates that include travel, per diem, fringe benefits and any overhead costs for contractor personnel.

“**Local Public Body**” means every political subdivision of the State of New Mexico and the agencies, instrumentalities, school districts and local school boards and municipalities.

“**Mandatory**” – the terms "must", "shall", "will", "is required", or "are required", identify a mandatory item or factor. Failure to meet a mandatory item or factor will result in the rejection of the Offeror’s proposal.

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

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

“**Procurement Officer**” means any person or designee authorized by a state agency or local public body to enter into or administer contracts and make written determinations with respect thereto.

“**Procuring Agency of the County**” means the department or other subdivision of the County of Roosevelt that is requesting the procurement of services or items of tangible personal property.

“**Redacted**” means a version/copy of the proposal with the information considered confidential as defined by NMAC 1.4.1.45 and defined herein and outlined in Section II.C.8 of this RFP blacked out BUT NOT omitted or removed.

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

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

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

“**Sealed**” means, in terms of a non-electronic submission, that the proposal is enclosed in a package which is completely fastened in such a way that nothing can be added or removed. Open packages submitted will not be accepted except for packages that may have been damaged by the delivery service itself. The County reserves the right, however, to accept or reject packages where there may have been damage done by the delivery service itself. Whether a package has been damaged by the

delivery service or left unfastened and should or should not be accepted is a determination to be made by the Procurement Officer. By submitting a proposal, the Offeror agrees to and concurs with this process and accepts the determination of the Procurement Officer in such cases.

**“Statement of Concurrence”** means an affirmative statement from the Offeror to the required specification agreeing to comply and concur with the stated requirement(s). This statement shall be included in Offeror’s proposals. (E.g. “We concur”, “Understands and Complies”, “Comply”, “Will Comply if Applicable” etc.)

**“Unredacted”** means a version/copy of the proposal containing all complete information including any that the Offeror would otherwise consider confidential, such copy for use only for the purposes of evaluation.

**“Written”** means typewritten on standard 8 ½ x 11 inch paper. Larger paper is permissible for charts, spreadsheets, etc.

## **E. PROCUREMENT LIBRARY**

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

New Mexico Procurement Code

Chapter 13 - Public Purchases and Property

<https://nmonesource.com/nmos/nmsa/en/item/4378/index.do#!fragment//BQCwhgziBcwMYgK4DsD WszIQewE4BUBTADwBdoByCgSgBplfTCIBFRQ3AT0otojlzYANkIDCSNNACEyPoTC4EbDtypy FCAMp5SAIW4A1AKIAZIwDUAggDIRR2qTAAjaKWxxq1IArty - NMOneSource.com>

Roosevelt County Purchasing Policy

<https://www.rooseveltcounty.com/wp-content/uploads/2021/06/2021-34PurchasingProcurementPolicy.pdf>



## II. CONDITIONS GOVERNING THE PROCUREMENT

This section of the RFP contains the schedule, description and conditions governing the procurement.

### A. SEQUENCE OF EVENTS

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

<b>B. Action</b>	<b>Responsible Party</b>	<b>Date</b>
1. Issue RFP	Procurement Officer	April 19, 2024
2. Return of “Acknowledgement of Receipt” Form for Distribution List	Potential Offerors	April 26, 2024
3. Deadline to submit Questions	Potential Offerors	April 30, 2024
4. Response to Written Questions	Procurement Officer	May 2, 2024
<b>5. Submission of Proposal</b>	<b>Potential Offerors</b>	<b>May 14, 2024 (Tues.) 2:00 p.m.</b>
6. Proposal Evaluation	Evaluation Committee	May 14-15, 2024
7. Notification of Finalists/ Interviews (if desired)	Evaluation Committee	May 15, 2024
8. Best and Final Offers (if requested)	Finalist Offerors	May 17, 2024
9. Contract Negotiations (if needed)	Finalist Offeror/ County	May 17, 2024
10. Contract Awards*	Finalist Offeror/BCC*	May 21, 2024
11. Protest Deadline	Offerors	June 5, 2024

\*Contract award is subject to approval of the Board of County Commissioners and may be rescheduled if the BOCC regular meeting schedule is adjusted.

### C. EXPLANATION OF EVENTS

The following paragraphs describe the activities listed in the sequence of events shown in Section II. A., above.

#### 1. Issuance of RFP

This RFP is being issued on behalf of Roosevelt County on April 19, 2024.

#### 2. Acknowledgement of Receipt

Potential Offerors should hand deliver, return by facsimile or registered or certified mail the "Acknowledgement of Receipt of Request for Proposals Form" that accompanies this document, APPENDIX A, to have their organization placed on the procurement distribution

list. The form should be signed by an authorized representative of the organization, dated and returned to the Procurement Officer by 2:00 PM MST or MDT on May 14, 2024 via email.

The procurement distribution list will be used for the distribution of written responses to questions. Failure to return the Acknowledgement of Receipt form shall constitute a presumption of receipt and rejection of the RFP, and the potential Offeror's organization name shall not appear on the distribution list.

### **3. Pre-proposal Tours**

There will NOT be a mandatory pre-proposal conference held for this RFP. Potential Offerors wishing to tour the facility prior to the proposal due date may make arrangements by contacting Procurement Officer Liliana Rivera at [lriviera@rooseveltcounty.com](mailto:lriviera@rooseveltcounty.com). A site tour is not mandatory. Any statements made at any site tour are not binding on the County unless confirmed by written addendum.

### **4. Deadline to Submit Written Questions**

Potential Offerors may submit written questions to the Procurement Officer as to the intent or clarity of this RFP until 2:00 PM Mountain Standard Time/Daylight Time as indicated in the sequence of events. All written questions must be addressed to the Procurement Officer as declared in Section I, Paragraph C. Questions shall be clearly labeled and shall cite the Section(s) in the RFP or other document which form the basis of the question.

### **5. Response to Written Questions**

Written responses to written questions will be distributed as indicated in the sequence of events to all potential Offerors whose organization name appears on the procurement distribution list. An e-mail copy will be sent to all Offeror's that provide Acknowledgement of Receipt Forms described in II.B.2 before the deadline. Additional copies will be posted to: <http://www.rooseveltcounty.com>.

### **6. Submission of Proposal**

ALL OFFEROR PROPOSALS MUST BE RECEIVED FOR REVIEW AND EVALUATION BY THE PROCUREMENT OFFICER OR DESIGNEE NO LATER THAN 2:00 PM MOUNTAIN STANDARD TIME/DAYLIGHT TIME ON May 14, 2024. Proposals received after this deadline will not be accepted. The date and time of receipt will be recorded on each proposal.

Proposals must be addressed and delivered to the Procurement Officer at the address listed in Section I, Paragraph C. Proposals must be sealed and labeled on the outside of the package to clearly indicate that they are in response to the Fairgrounds Pavilion ADA Renovations and 2024-08 and marked "DO NOT OPEN". Proposals submitted by facsimile, or other electronic means will not be accepted.

A public log will be kept of the names of all Offeror organizations that submitted proposals. Proposals will not be opened prior to the deadline. Pursuant to NMSA 1978, § 13-1-116, the contents of proposals shall not be disclosed to competing potential Offerors during the negotiation process. The negotiation process is deemed to be in effect until the contract is

awarded pursuant to this Request for Proposals. Awarded in this context means the final required County signature on the contract(s) resulting from the procurement has been obtained.

## **7. Proposal Evaluation**

An Evaluation Committee will perform the evaluation of proposals. This process will take place as indicated in the sequence of events, depending upon the number of proposals received. During this time, the Procurement Officer may initiate discussions with Offerors who submit responsive or potentially responsive proposals for the purpose of clarifying aspects of the proposals. However, proposals may be accepted and evaluated without such discussion. Discussions SHALL NOT be initiated by the Offerors.

## **8. Notification of Finalists**

The Evaluation Committee may select and the Procurement Officer would then notify the finalist Offerors as per schedule Section II. A. Sequence of Events or as soon as possible. Only finalist will be invited to participate in the subsequent steps of the procurement. The Evaluation Committee reserves the right not to utilize the finalist process if they deem it in the best interest of the County.

## **9. Best and Final Offers**

Finalist Offerors may be asked to submit revisions to their proposals for the purpose of obtaining best and final offers by as per schedule Section II. A. Sequence of Events or as soon as possible.

## **10. Finalize Contractual Agreements**

Any Contractual agreement(s) resulting from this RFP will be finalized with the most advantageous Offeror(s) as per schedule Section II. A., Sequence of Events or as soon thereafter as possible. This date is subject to change at the discretion of the County. In the event mutually agreeable terms cannot be reached with the apparent most advantageous Offeror in the time specified, the County reserves the right to finalize a contractual agreement with the next most advantageous Offeror(s) without undertaking a new procurement process.

## **11. Contract Awards**

After review of the Evaluation Committee Report and the signed contractual agreement, the BCC must approve the contract during a public meeting as per the schedule in Section II. A. Sequence of Events or as soon as possible thereafter. This date is subject to change at the discretion of the Procurement Office.

The contract shall be awarded to the Offeror (or Offerors) whose proposals are most advantageous to Roosevelt County, taking into consideration the evaluation factors set forth in this RFP. The most advantageous proposal may or may not have received the most points. The award is subject to appropriate County approval.

## **12. Protest Deadline**

Any protest by an Offeror must be timely and in conformance with NMSA 1978, § 13-1-172 and applicable procurement regulations. As a Protest Manager has been named in this Request

for Proposals, pursuant to NMSA 1978, § 13-1-172, ONLY protests delivered directly to the Protest Manager in writing and in a timely fashion will be considered to have been submitted properly and in accordance with statute, rule and this Request for Proposals.

The 15-calendar day protest period shall begin on the day following the award of contracts and will end at 5:00 PM Mountain Standard Time/Daylight Time on the 15<sup>th</sup> day. Protests must be written and must include the name and address of the protestor and the request for proposal number. It must also contain a statement of the grounds for protest including appropriate supporting exhibits and it must specify the ruling requested from the party listed below. The protest must be delivered to:

Protest Manager  
109 W. First St.  
Portales, NM 88130

Protests received after the deadline will not be accepted.

## **D. GENERAL REQUIREMENTS**

### **1. Acceptance of Conditions Governing the Procurement**

Potential Offerors must indicate their acceptance of the Conditions Governing the Procurement section in the letter of transmittal. Submission of a proposal constitutes acceptance of the Evaluation Factors contained in Section V of this RFP.

### **2. Incurring Cost**

Any cost incurred by the potential Offeror in preparation, transmittal, and/or presentation of any proposal or material submitted in response to this RFP shall be borne solely by the Offeror. Any cost incurred by the Offeror for set up and demonstration of the proposed equipment and/or system shall be borne solely by the Offeror.

### **3. Prime Contractor Responsibility**

Any contractual agreement that may result from this RFP shall specify that the prime contractor is solely responsible for fulfillment of all requirements of the contractual agreement with the County which may derive from this RFP. The County will make payments to only the prime contractor.

### **4. Subcontractors/Consent**

The 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 the entire performance of the contractual agreement whether or not subcontractors are used. Additionally, the prime contractor must receive approval, in writing, from the County before any subcontractor is used during the term of this agreement.

## 5. Amended Proposals

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

## 6. Offeror's Rights to Withdraw Proposal

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

## 7. Proposal Offer Firm

Responses to this RFP, including proposal prices for services, will be considered firm for ninety (90) days after the due date for receipt of proposals or sixty (60) days after the due date for the receipt of a best and final offer, if the Offeror is invited or required to submit one.

## 8. Disclosure of Proposal Contents

- A. Proposals will be kept confidential until negotiations and the award are completed by the County. At that time, all proposals and documents pertaining to the proposals will be open to the public, except for material that is clearly marked proprietary or confidential. The Procurement Officer will not disclose or make public any pages of a proposal on which the potential Offeror has stamped or imprinted "proprietary" or "confidential" subject to the following requirements:
- B. Proprietary or confidential data shall be readily separable from the proposal in order to facilitate eventual public inspection of the non-confidential portion of the proposal.
- C. Confidential data is restricted to:
  1. confidential financial information concerning the Offeror's organization;
  2. and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, NMSA 1978 § 57-3A-1 to 57-3A-7.
  3. PLEASE NOTE: 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 Procurement Officer 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 continuing prohibition on the disclosure of confidential data.

## 9. No Obligation

This RFP in no manner obligates Roosevelt County to the use of any Offeror's services until a valid written contract is awarded and approved by appropriate authorities.

## **10. Termination**

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

## **11. Sufficient Appropriation**

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

## **12. Legal Review**

The Agency requires that all Offerors agree to be bound by the General Requirements contained in this RFP. Any Offeror's concerns must be promptly submitted in writing to the attention of the Procurement Officer.

## **13. Governing Law**

This RFP and any agreement with an Offeror which may result from this procurement shall be governed by the laws of the State of New Mexico.

## **14. Basis for Proposal**

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

## **15. Contract Terms and Conditions**

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

## **16. Offeror's Terms and Conditions**

Offerors must submit with the proposal a complete set of any additional terms and conditions they expect to have included in a contract negotiated with the County. The County may or may not accept the additional language, at the County's sole discretion. Please see Section II.C.15 for requirements.

## **17. Contract Deviations**

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

## **18. Offeror Qualifications**

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

## **19. Right to Waive Minor Irregularities**

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

## **20. Notice of Penalties**

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

## **21. County Rights**

The County in agreement with the Evaluation Committee reserves the right to accept all or a portion of a potential Offeror's proposal.

## **22. Ownership of Proposals**

All documents submitted in response to the RFP shall become property of Roosevelt County.

## **23. Confidentiality**

Any confidential information provided to, or developed by, the contractor in the performance of the contract resulting from this RFP shall be kept confidential and shall not be made available to any individual or organization by the contractor without the prior written approval of the County. The Contractor(s) agrees to protect the confidentiality of all confidential information and not to publish or disclose such information to any third party without the procuring County's written permission.

## **24. Electronic mail address required**

A large part of the communication regarding this procurement will be conducted by electronic mail (e-mail). Offeror must have a valid e-mail address to receive this correspondence. (See also Section II.C.5, Response to Written Questions).

## **25. Use of Electronic Versions of this RFP**

This RFP is being made available by electronic means. In the event of conflict between a version of the RFP in the Offeror's possession and the version maintained by the agency, the Offeror acknowledges that the version maintained by the agency shall govern.

## **26. New Mexico Employees Health Coverage**

- A. If the Offeror has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least twenty (20) hours per week over a six (6) month period during the term of the contract, Offeror must agree to have in place, and agree to maintain for the term of the contract, health insurance for those employees if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$250,000 dollars.
- B. Offeror must agree to maintain a record of the number of employees who have (a) accepted health insurance; (b) decline health insurance due to other health insurance coverage already in place; or (c) decline health insurance for other reasons. These records are subject to review and audit by a representative of the state.
- C. Offeror must agree to advise all employees of the availability of State publicly financed health care coverage programs by providing each employee with, as a minimum, the following web site link to additional information  
<http://www.insurenemexico.state.nm.us/>.
- D. For Indefinite Quantity, Indefinite Delivery contracts (price agreements without specific limitations on quantity and providing for an indeterminate number of orders to be placed against it); these requirements shall apply the first day of the second month after the Offeror reports combined sales (from state and, if applicable, from local public bodies if from a state price agreement) of \$250,000.

## **27. Campaign Contribution Disclosure Form**

Offeror must complete, sign, and return the Campaign Contribution Disclosure Form, APPENDIX B, as a part of their proposal. This requirement applies regardless whether a covered contribution was made or not made for the positions of County Commissioners Dennis Lopez, Rodney Savage, Roy Lee Criswell, Tina Dixon, or Paul Grider; Sheriff Javier Sanchez, Treasurer Layle Sanchez, Assessor Stevin Floyd, Clerk Mandi Park, Probate Judge Kendall Terry. Failure to complete and return the signed unaltered form will result in disqualification.

## **28. Letter of Transmittal**

Offeror's proposal must be accompanied by the Letter of Transmittal Form located in APPENDIX D which must be completed and signed by an individual person authorized to obligate the company.

## **29. Performance Bond**

This (performance bond) shall be required on any contract awarded in excess of (\$25,000) twenty-five thousand dollars. The successful offeror shall supply the County with a performance bond executed by a surety company authorized to do business in the State of New Mexico with said surety to be approved by the State Board of Finance in the amount of one-hundred percent (100%) of the total bid price. This bond is required as outline in Section 13-4-18 (1) of NMSA 1978.



### **30. Payment Bond**

This (payment bond) shall be required on any contract awarded in excess of (\$25,000) twenty-five thousand dollars. The successful offeror shall supply the County with a payment bond executed by a surety company authorized to do business in the State of New Mexico with said surety to be approved by the State Board of Finance in the amount of 100% of the total bid price. This bond is for the protection of all persons supplying labor and materials to the contractor or its subcontractors for the performance of the work provided in the contract and is required as outlined in Section 13-4-18 (1) of NMSA 1978.

### III. RESPONSE FORMAT AND ORGANIZATION

#### A. NUMBER OF RESPONSES

Offerors shall submit only one proposal in response to this RFP.

#### B. NUMBER OF COPIES

Offerors shall deliver three (3) identical copies of their proposal to the location specified on or before the closing date and time for receipt of proposals. The original copy should be clearly marked "Original" on the front cover and shall contain original signatures.

#### C. PROPOSAL FORMAT

All proposals must be submitted as follows:

Hard copies must be typewritten on standard 8 ½ x 11 inch paper (larger paper is permissible for charts, spreadsheets, etc.) and placed within binders with tabs delineating each section.

##### 1. Proposal Content and Organization

Direct reference to pre-prepared or promotional material may be used if referenced and clearly marked. Promotional material should be minimal. The proposal must be organized and indexed in the following format and must contain, at a minimum, all listed items in the sequence indicated.

##### Technical Proposal (Binder):

- Signed Letter of Transmittal
- Table of Contents
- Proposal Summary (Optional)
- Response to Contract Terms and Conditions
- Offeror's Additional Terms and Conditions
- Response to Specifications (**except cost information which shall be included in Cost Proposal Separate SEALED and labeled envelope**)
  1. Organizational Experience
  2. Organizational References
  3. Other Supporting Material
- Signed Campaign Contribution Form
- Other Supporting Material (If applicable)

##### Cost Proposal:

Completed Cost Response Form **in a sealed and labeled envelope.** Within each section of the proposal, Offerors should address the items in the order indicated above. All forms provided in this RFP must be thoroughly completed and included in the appropriate section of the proposal. All discussion of proposed costs, rates or expenses must occur only in a separate sealed envelope on the cost response form.

## IV. SPECIFICATIONS

Offerors should respond in the form of a thorough narrative to each specification, unless otherwise instructed. The narratives, including required supporting materials will be evaluated and awarded points accordingly.

### A. INFORMATION

#### 1. Response to Requirements

Each mandatory requirement in sections IV.B.1 through IV.B.5, below, requires a vendor response, as indicated. Failure to respond to, or properly comply with, a mandatory requirement may result in the disqualification of the Offeror's proposal. Each desirable requirement in sections IV.B.7 through IV.B.8, below may be answered at the Offeror's discretion. Failure to respond to a desirable requirement will result in a score of zero (0) being assigned for that requirement.

### B. MANDATORY REQUIREMENTS

#### 1. Statement of Qualifications (15 Points)

Offeror to provide a brief company profile, years in business under present and previous names and must have prior experience with proven effectiveness in constructing ADA renovated building. What makes your organization stand out in the industry? This shall include government facilities of similar size and rural location.

#### 2. Capability and Agreement to Perform (0 Points)

Offeror certifies that they are capable and qualified to provide the services required by this RFP and as specified in the architectural documents. A statement of concurrence is required.

#### 3. Insurance (0 Points)

The Contractor shall secure insurance coverage to meet the specifications outlined in the General Requirements contract. All insurance policies of the Contractor shall be endorsed to waive all rights of subrogation against Roosevelt County. Contractor shall require all of its subcontractors, if allowed under the contract, to provide the coverage listed below as well as any other coverage that the Contractor might consider necessary. Any deficiency in the coverage or policy limits of the subcontractors will be the sole responsibility of the Contractor.

The Contractor shall provide the County original certificates of such coverage and receive notification of approval of those certificates by the County Manager prior to engaging in any activities under this contract. The successful Contractor shall furnish to the County the certification or proof of insurance required by the provisions set forth above, within five (5) days after notification of award of contract. The certificates must list the County as an additional named insured and shall have no less than thirty (30) days written notice of cancellation or material change. The certification or proof of insurance must contain a provision for notification to the County thirty (30) days in advance of any material change in coverage or cancellation.

#### 4. Cost (20 Points)

Offeror must complete and submit the Cost Response Form, at Appendix D, providing for accomplishing the scope of work. State gross receipts and local option taxes (if any) shall not

be included in the proposed cost. Such taxes shall be separately reimbursed to the contractor by the County.

## **5. Desirable Specification**

### **A. Renovations Timeline**

Offeror should provide detailed timeline of renovations to include expected start and finish date. Offeror should also specify if this project can be substantially completed by Aug. 2, 2024.

### **B. References (15 Points)**

Offeror should provide names and current contact information for at least three (3) local public bodies or private companies for which your firm has provided similar services. Offeror must also describe the type of service provided to each, when the service was performed and the duration of the service.

## **C. BUSINESS SPECIFICATIONS**

### **1. Letter of Transmittal Form**

The Offeror's proposal **must** be accompanied by the Letter of Transmittal Form located in APPENDIX D. The form **must** be completed and must be signed by the person authorized to obligate the company.

### **2. Campaign Contribution Disclosure Form**

The Offeror must complete an unaltered Campaign Contribution Disclosure Form and submit a signed copy with the Offeror's proposal. This must be accomplished whether or not an applicable contribution has been made. (See APPENDIX B)

## V. EVALUATION

### A. EVALUATION POINT SUMMARY

The following is a summary of evaluation factors with point values assigned to each. These weighted factors will be used in the evaluation of individual potential Offeror proposals by sub-category.

REF.	REQUIREMENT	POINTS AVAIL.
IV.B.1	Statement of Qualifications	15
IV.B.3	Capability and Agreement to Perform	0*
IV.B.4	Insurance	0*
IV.B.5	Cost	20
IV.B.7	References	15
IV.D.1	Letter of Transmittal Form	0*
IV.D.2	Campaign Contribution Disclosure Form	0*
TOTAL		50

\*Pass/Fail only.

Points will be awarded based on the evaluation factors found in V.A.1 through V.C.3, below, as indicated.

### B. REFERENCES

Based upon the initial evaluation and ranking, references will be contacted for the top ranked offerors

### C. INTERVIEWS

Based upon the initial evaluation and ranking, offerors may be invited to attend interviews on a date to be announced. Offerors selected for an interview will be notified as soon as possible.

### D. NEGOTIATIONS

County reserves the right to seek clarification of each proposal, and the right to negotiate a final contract which is in the best interests of the County, considering cost effectiveness and the level of time and effort required for the project. Contract negotiations with the offeror with the highest ranked proposal shall be directed toward obtaining written agreement on:

1. Contract tasks, staffing and performance;
2. A maximum, not-to-exceed contract price which is consistent with the proposal and fair and reasonable to the County, taking into account the estimated value, scope, complexity, and nature of the Services.

Negotiations may be formally terminated if they fail to result in a contract within a reasonable time. Negotiations will then ensue with the offeror with the second highest ranked proposal. If the second, or if necessary, a third round of negotiations fails to result in a contract within a reasonable amount of time, the RFP may be formally terminated.

## **E. EVALUATION FACTORS**

### **1. Letter of Transmittal**

Pass/Fail only. No points assigned.

### **2. Campaign Contribution Disclosure Form**

Pass/Fail only. No points assigned.

## **F. EVALUATION PROCESS**

1. An Evaluation Committee selected by the County Manager will review, evaluate and rank the proposals.
2. All Offerors' proposals will be reviewed for compliance with the requirements and specifications stated within the RFP. Proposals deemed non-responsive will be eliminated from further consideration.
3. The Procurement Officer may contact the Offeror for clarification of the response as specified in Section II. B.7.
3. The Evaluation Committee may use other sources to perform the evaluation as specified in Section II. D. 18.
4. Responsive proposals will be evaluated on the factors in Section IV, which have been assigned a point value. The responsible Offerors with the highest scores will be selected as finalist Offerors, based upon the proposals submitted. The responsible Offerors whose proposals are most advantageous to the County taking into consideration the evaluation factors in Section IV will be recommended for award. Please note, however, that a serious deficiency in the response to any one factor may be grounds for rejection regardless of overall score.

## **APPENDIX A**

### **ACKNOWLEDGEMENT OF RECEIPT FORM**

**APPENDIX A**

**REQUEST FOR PROPOSAL**

Fairgrounds Pavilion ADA Renovations  
2024-08

**ACKNOWLEDGEMENT OF RECEIPT FORM**

In acknowledgement of receipt of this Request for Proposal the undersigned agrees that s/he has received a complete copy, beginning with the title page and table of contents, and ending with APPENDIX G.

The acknowledgement of receipt should be signed and returned to the Procurement Officer no later than 2:00 PM April 26, 2024 via email. Only potential Offerors who elect to return this form completed with the indicated intention of submitting a proposal will receive copies of all Offeror written questions and the written responses to those questions as well as RFP amendments, if any are issued.

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

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

TITLE: \_\_\_\_\_ PHONE NO.: \_\_\_\_\_

E-MAIL: \_\_\_\_\_ FAX NO.: \_\_\_\_\_

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

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

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

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

Firm does/does not (circle one) intend to respond to this Request for Proposal.

Liliana Rivera, Certified Procurement Officer  
Roosevelt County  
109 W. First St.  
Portales, NM 88130  
E-mail: lrivera@rooseveltcountry.com



**APPENDIX B**

**CAMPAIGN CONTRIBUTION DISCLOSURE FORM**

## **Campaign Contribution Disclosure Form**

Pursuant to NMSA 1978, § 13-1-191.1 (2006), any person seeking to enter into a contract with any state agency or local public body for professional services, a design and build project delivery system, or the design and installation of measures the primary purpose of which is to conserve natural resources must file this form with that state agency or local public body. This form must be filed even if the contract qualifies as a small purchase or a sole source contract. The prospective contractor must disclose whether they, a family member or a representative of the prospective contractor has made a campaign contribution to an applicable public official of the state or a local public body during the two (2) years prior to the date on which the contractor submits a proposal or, in the case of a sole source or small purchase contract, the two years prior to the date the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor, a family member or a representative of the prospective contractor to the public official exceeds two hundred and fifty dollars (\$250) over the two (2) year period.

Furthermore, the state agency or local public body shall void an executed contract or cancel a solicitation or proposed award for a proposed contract if: 1) a prospective contractor, a family member of the prospective contractor, or a representative of the prospective contractor gives a campaign contribution or other thing of value to an applicable public official or the applicable public official's employees during the pendency of the procurement process or 2) a prospective contractor fails to submit a fully completed disclosure statement pursuant to the law.

**THIS FORM MUST BE FILED BY ANY PROSPECTIVE CONTRACTOR WHETHER OR NOT THEY, THEIR FAMILY MEMBER, OR THEIR REPRESENTATIVE HAS MADE ANY CONTRIBUTIONS SUBJECT TO DISCLOSURE.**

The following definitions apply:

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

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

“Family member” means spouse, father, mother, child, father-in-law, mother-in-law,

daughter-in-law or son-in-law.

“Pendency of the procurement process” means the time period commencing with the public notice of the request for proposals and ending with the award of the contract or the cancellation of the request for proposals.

“Person” means any corporation, partnership, individual, joint venture, association or any other private legal entity.

“Prospective contractor” means a person who is subject to the competitive sealed proposal process set forth in the Procurement Code or is not required to submit a competitive sealed proposal because that person qualifies for a sole source or a small purchase contract.

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

**DISCLOSURE OF CONTRIBUTIONS:**

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

Relation to Prospective Contractor: \_\_\_\_\_

Name of Applicable Public Official: \_\_\_\_\_

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

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

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

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

(Attach extra pages if necessary)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title (position)

—OR—

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title (Position)



## **APPENDIX D**

### **LETTER OF TRANSMITTAL FORM**

**APPENDIX D**  
**Letter of Transmittal Form**

**RFP#:** \_\_\_\_\_

**Offeror Name:** \_\_\_\_\_ **FED ID#** \_\_\_\_\_

Items #1 to #7 EACH MUST BE COMPLETED IN FULL Failure to respond to all seven items WILL RESULT IN THE DISQUALIFICATION OF THE PROPOSAL!

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

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

2. For the person authorized by the organization to contractually obligate on behalf of this Offer:

Name \_\_\_\_\_

Title \_\_\_\_\_

E-Mail Address \_\_\_\_\_

Telephone Number \_\_\_\_\_

3. For the person authorized by the organization to negotiate on behalf of this Offer:

Name \_\_\_\_\_

Title \_\_\_\_\_

E-Mail Address \_\_\_\_\_

Telephone Number \_\_\_\_\_

4. For the person authorized by the organization to clarify/respond to queries regarding this Offer:

Name \_\_\_\_\_

Title \_\_\_\_\_

E-Mail Address \_\_\_\_\_

Telephone Number \_\_\_\_\_

5. Use of Sub-Contractors (Select one)

No sub-contractors will be used in the performance of any resultant contract OR

The following sub-contractors will be used in the performance of any resultant contract:

\_\_\_\_\_  
(Attach extra sheets, as needed)

6. Please describe any relationship with any entity (other than Subcontractors listed in (5) above) which will be used in the performance of any resultant contract.

\_\_\_\_\_  
(Attach extra sheets, as needed)

7.  On behalf of the submitting organization named in item #1, above, I accept the Conditions Governing the Procurement as required in Section II. C.1.

I concur that submission of our proposal constitutes acceptance of the Evaluation Factors contained in Section V of this RFP.

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

\_\_\_\_\_, 2024  
Authorized Signature and Date (Must be signed by the person identified in item #2, above.)

## **APPENDIX E**

### **SAMPLE AGREEMENT**



**APPENDIX E**  
**AGREEMENT FOR FAIRGROUNDS PAVILION ADA RENOVATIONS**

**THIS AGREEMENT** is made and entered into by and between ROOSEVELT COUNTY (hereinafter, "County") and \_\_\_\_\_. (hereinafter, "Vendor"), on this 15th day of April, 2024.

**WHEREAS**, the County has issued RFP2024-08 requesting proposals for the renovation of the Fairgrounds Pavilion to include ADA restrooms and covered patio area; and,

**WHEREAS**, the parties above desire to enter into an agreement for the Vendor to construct the renovations at the Fairgrounds Pavilion as described herein; and,

**WHEREAS**, the County is authorized to enter into this Agreement pursuant to Section 13-1-97 et seq. NMSA 1978 and pursuant other applicable state law.

**NOW THEREFORE**, for good and valuable consideration it is hereby understood and agreed by and between the parties hereto as follows:

**1) SCOPE OF SERVICE**

Vendor shall renovate, demolish and renovate existing restrooms to meet current ADA specifications and construct a covered accessible patio area for Roosevelt County which will be located at 725 East Lime Street, Portales, New Mexico 88130 for a total cost of \_\_\_\_\_ as outlined in the proposal (Form C attached) pursuant to the terms and conditions set forth herein. **Construction shall be substantially complete by Aug. 2, 2024 due to funding/grant requirements.**

**2) VENDOR WARRANTIES AND REPRESENTATIONS**

Vendor warrants and certifies that it holds the appropriate State of New Mexico contractor's license in all aspects of this construction project. Vendor warrants it shall fully comply with all applicable State and local building codes throughout the construction. Vendor further certifies and warrants that it shall pay for all required building permits, stamped building plans and all other legal requirements of both State and local authorities. Vendor certifies that it shall provide a copy of the building permit to the County before a Notice to Proceed shall be given. Vendor shall notify both verbally and in writing the State of New Mexico Building Inspectors when the construction begins, and vendor should copy the County on any and all correspondence with the Building Inspectors. Vendor certifies and warrants that throughout the construction, it will be required to provide construction updates to the County Commission during their regular meetings as deemed necessary by the County Manager.

If requested, the vendor shall provide electrical, plumbing and mechanical equipment submittals during contract negotiations. Vendor certifies that if requested, it will participate in weekly onsite project meetings.

Vender certifies it will indemnify and hold County harmless from any such lien claims filed by any sub-contractor it elects to use during such construction. Vendor warrants and certifies that it shall provide the County with a turn key project consisting of fully renovated ADA restrooms and a covered patio area, shall follow the requested layout for the project as reflected in the qualification requirements and scope of work according to Drawings and Specifications prepared by NCA ARCHITECTS, LLC, as described below.

### **3) CONTRACT SPECIFICATIONS**

Vendor shall provide Roosevelt County with fully functional ADA restrooms and a covered patio area, which shall include the scope of work according to Drawings and Specifications prepared by NCA ARCHITECTS, LLC, and described in general below, **and are specifically incorporated into the terms of this Agreement.**

**Engineering/Architect Contact:**

John Layman, Principal/Sr. VP  
NCA Architects, P.A.  
1306 Rio Grande Blvd., NW  
Albuquerque, NM 87104  
(505) 255-6400 o.  
(505) 280-4632 c.  
jlayman@nca-architects.com

The scope of work consists of demolition of toilet rooms and second floor deck and finish. Remove existing concrete slab as required installation of new plumbing fixtures and accessories as shown on drawings and installation of new flooring and finish as shown on drawings. Construct new metal stud walls with gypsum board each side and finishes as scheduled. Mechanical rerouting of ductwork and diffusers/return air grilles, lighting and electrical work as noted and shown on plans.

Construction of wood beam and column entry structure and roof assembly as shown on drawings. This structure is to match existing entry structure at the Pavilion.

**\*\*The County must sign off with written approval of the formal facility design prior to any building permit submission.**

---

### **4) TIME FOR PERFORMANCE**

Vendor agrees to strive diligently to obtain materials, to commence and maintain construction of the project and to complete construction of the project in strict accordance with this Agreement, within 60 calendar days including Saturdays, Sunday's and legal holidays once the Notice to Proceed is issued. The Contractor shall have ten (10) days from the date of this contract award to submit the required permit applications to the State and/or City of Portales.

In the event of snow, rain, or wind which makes it impracticable to preform any construction, then Vendor shall obtain approval in writing from the County Manager that the time of completion set out above will be extended, but such determination shall be left to the sole and sound discretion of the County Manager whose decision shall be final.

5) **PUBLIC WORKS PROJECT**

The Fairgrounds Pavilion ADA Renovations is a public works project and the approved Wage Decision Number is RO-24-\_\_\_\_\_ - \_\_\_. Current Wage Rates were enclosed in the documentation and also attached to the Contract as Exhibit B and Vendor will comply with all State reporting requirements for this public works project.

6) **PERFORMANCE BOND**

This (performance bond) shall be required on any contract awarded in excess of (\$25,000) twenty-five thousand dollars. The Vendor shall supply the County with a performance bond executed by a surety company authorized to do business in the State of New Mexico with said surety to be approved by the State Board of Finance in the amount of fifty percent (50%) of the total bid price, less gross receipts taxes. This bond is required as outline in Section 13-4-18 of NMSA 1978 and shall be provided to the County prior to the commencement of work onsite. Failure to provide the bond would be considered grounds for immediate termination of this agreement.

7) **PAYMENT BOND**

This (payment bond) shall be required on any contract awarded in excess of (\$25,000) twenty-five thousand dollars. The Vendor shall supply the County with a payment bond executed by a surety company authorized to do business in the State of New Mexico with said surety to be approved by the State Board of Finance in the amount of fifty percent 50% of the total bid price, less gross receipts taxes. This bond is for the protection of all persons supplying labor and materials to the contractor or its subcontractors; for the performance of the work provided in the contract, and is required as outlined in Section 13-4-18 of NMSA 1978 and shall be provided to the County prior to the commencement of work onsite. Failure to provide the bond would be considered grounds for immediate termination of this agreement.

8) **LIQUIDATED DAMAGES**

**Delay Liquidated Damages.** The Parties agree that it would be extremely difficult and impracticable under presently known and anticipated facts and circumstances to ascertain and fix the actual damages County would incur if the project is not substantially completed by the Vendor within ninety (90) days from the start of the project. In the event Vendor fails to substantially complete the project within ninety (90) days, it shall pay County liquidated damages of \$500.00 per day, or such portion thereof until substantial completion of the project has occurred. County shall further be entitled to such other damages or remedies as may be allowed by law.

**9) APPROPRIATIONS**

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

**10) NOTICES AND INVOICES**

Invoices shall be mailed to County's Accounts Payable Office, 109 W. 1<sup>st</sup> Street, Portales, New Mexico, 88130. All other correspondence shall be submitted jointly to:

**COUNTY:**

Roosevelt County  
Amber Hamilton  
County Manager  
109 W. 1<sup>st</sup> Street  
Portales, NM 88130  
575-356-5307

**VENDOR:**

Owner/Contractor

**11) ASSIGNMENT OF CLAIMS**

The Vendor shall not assign, sublease, or delegate any interest in this Agreement or transfer any interest or assign any claims for money due or to become due under this Agreement, without the written consent of the County.

**12) SUBCONTRACTING**

The Vendor shall not subcontract any portion of the services to be performed under this Agreement without prior written approval of the County. Vendor shall be fully responsible for all of its participating Affiliates, subcontractors and vendors. Vendor shall ensure that each subcontract contains all applicable Specifications and obligations needed to fully comply with this Agreement. Vendor shall indemnify, defend and hold harmless Roosevelt County and its Affiliates, distributors, dealers, agents and customers from and against any and all claims and liabilities, including all costs and expenses, arising out of or in any way connected with any actual or alleged action or failure to act by Vendor's Affiliates, subcontractors or vendors.

**13) SOVEREIGN IMMUNITY**

By entering into this Agreement, the County and its "public employees" as defined in the New Mexico Tort Claims Act, NMSA 1978, Sections 41-4-1 through 41-4-29, as amended, do not waive sovereign immunity, do not waive any defense, and do not waive any limitations of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act, supra.

#### **14) INDEMNIFICATION AND HOLD HARMLESS AGREEMENT**

The Vendor shall indemnify, defend and hold harmless County, and its public officers, agents and employees as defined in the New Mexico Tort Claims Act, supra against and from any and all claims, losses, fines, demands judgments, damages, liabilities, lawsuits, arbitrations, and proceedings of any nature arising from or out of, connected with, resulting from or related to the Vendor's provision of services under this Agreement. The County shall hold the Vendor harmless from any and all claims and/or actions of any kind and nature resulting from or relating to the County's or its employees' negligence or intentional acts, errors and omissions in the County's performance under this Agreement. The agreements in this Section shall not be affected or terminated by the cancellation, expiration of the term or any renewal or any other modification of the Agreement for any reason and shall survive the cancellation or expiration of the term or any renewal or any other modification of the Agreement, for negligence, acts, errors or omissions occurring during the term of this Agreement.

#### **15) INSURANCE**

Vendor shall, in performance of work, agree to fully comply with all applicable federal, state and local laws, rules and regulations. The Vendor will be required to carry the following minimum insurance coverage with Roosevelt County named as additional insured on all policies:

- a. General and professional liability insurance in the amount of \$1,050,00 single limit, and \$2,000,000 aggregate.
- b. Workers' Compensations insurance as required by state statute.

#### **16) TERMINATION**

Either party may terminate this Agreement with or without cause by providing written notice to the other party sixty (60) days in advance of the termination. In the event of contract termination, the Vendor shall be paid for any unpaid invoices issued to County prior to the effective date of termination upon submittal of the final payment request.

#### **17) CONFLICT OF INTEREST**

The Vendor warrants that it presently has no interest, and shall not acquire any interest during the term of this Agreement, which would have the potential to conflict with the performance of the services required under this Agreement. In the event such a conflict arises, it shall be brought to the attention of the County and appropriate action acceptable to the County shall be taken. The Vendor's failure to inform the County of the existence of a potential conflict of interest constitutes default and shall be grounds for immediate termination of Agreement by the County.

## **18) INDEPENDENT CONTRACTOR**

Nothing in this Agreement is intended, or should be construed in any way, to create or establish a partnership relationship between the parties or to establish the Vendor as an agent, representative or employee of the County for any purpose or any manner whatsoever. Vendor and its employees shall not accrue leave, retirement, insurance, or any other benefits afforded to employees of the County. Vendor is an independent contractor of the County. The Vendor, its officers, directors, employees, servants, agents, or representatives are not and shall not be deemed employees of the county and shall not bind the County in any respect.

## **19) COMPLIANCE WITH GOVERNING LAWS**

This Agreement is to be performed in the State of New Mexico and the County of Roosevelt, and shall be construed under the Laws of the State of New Mexico and Roosevelt County. The Vendor shall keep fully informed of and shall also comply with all applicable federal, state, and local laws, ordinances, and regulations and all orders and decrees of bodies or tribunals having any jurisdiction or authority, which in any manner affect those engaged or employed, or the work, or which in any way affect the conduct of the work. By way of illustration, but not of limitation, the Vendor shall comply with laws relating to employment eligibility including: the Immigration Reform and Control Act of 1986 and the Immigration Act of 1990 regarding employment verification and retention of verification forms for any individual(s) hired on or after November 6, 1986, that will perform any labor or services under this Agreement. The Vendor shall comply with all federal statutes relating to non-discrimination including, but not limited to: Title VII of the Civil Rights Act of 1964 (Public Law 88-352), which prohibits discrimination on the basis of race, color, or national origin; Title IX of the Education Amendments of 1972, as amended [20 U.S.C.A. Section 504 of the Rehabilitation Act of 1973 (Public Law 93-112)], which prohibits discrimination on the basis of handicaps; the Age Discrimination in Employment Act; the Americans with Disabilities Act of 1990 (Public Law 101-336); and all amendments to each, and all requirements imposed by the regulations issued pursuant to these acts, especially 45 CFR part 80 (relating to race, color, and national origin), 45 CFR part 84 (relating to handicap), 45 CFR part 86 (relating to sex), and 45 CFR Part 91 (relating to age).

## **20) PROCUREMENT CODE**

The Procurement Code, § 13-1-25 through § 13-1-199, NMSA 1978 as amended, imposes civil and criminal penalties for its violation. In addition, New Mexico Criminal Statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

As per the Procurement Code, § 13-1-129, NMSA 1978 as amended, Vendor hereby agrees to allow other County entities to procure the items provided for in this contract under this existing contract for the specified quantities. As such, Counties other than the contracting County of Roosevelt can utilize the price agreement that this contract allows without complying with certain competitive bid requirements.

## **21) CONFLICTS UNDER THE GOVERNMENT CONDUCT ACT**

Vendor represents to County that the services to be provided to County pursuant to this Agreement are not in violation of or contrary to the terms and the provisions of the New Mexico Governmental Conduct Act, Sections 10-16-1 through 10-16-18, NMSA 2008. Vendor also agrees that in the performance of this Contract shall comply with those terms and conditions set forth in said Governmental Conduct Act that apply or may apply to those services provided by Vendor to County pursuant to this Agreement.

## **22) PERA NOTICE**

If Vendor is a retired member of the New Mexico Employee Retirement Benefit Plan (PERA), then, Vendor shall have the obligation and shall be solely responsible for complying with administrative Rule 2.80.1100.40, NMAC, 2010. It shall be Vendor's sole responsibility to notify PERA of the terms and conditions of this Contract and the compensation payable to Vendor. Vendor shall also have the responsibility to notify County that it is a retired PERA member; however, Vendor shall have sole responsibility for complying with Rule 2.80.1100.40B, NMAC with regard to PERA benefits.

## **23) PENALTIES FOR VIOLATION UNDER LAW**

In addition to the Governmental Conduct Act, 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.

## **24) FORCE MAJEURE**

Neither party will be liable to the other for any delay or interruption in performance as to any obligation hereunder resulting from governmental emergency orders, judicial or governmental action, emergency regulations, fires, floods, sabotage, riots, wars, vandalism, labor strikes or disputes, acts of God, fires, electrical failure, major computer hardware or software failures, equipment delivery delays, acts of third parties, or delays or interruptions in performance beyond its reasonable control.

## **25) BREACH**

In the event Vendor breaches any obligation contained in this Contract, prior to instituting any action, County shall give Vendor written notice of such breach. In the event Vendor fails to remedy the breach within five (5) working days of receiving such written notice, County, at its sole discretion, without any obligation to do so and in addition to other remedies available under applicable law, may remedy Vendor's breach and recover any and all costs and expenses including its reasonable attorney's fees in so doing from Vendor.

## **26) SEVERABILITY**

If any clause or provision of this Agreement is held to be illegal, invalid or unenforceable, then it is the intention of the parties hereto that the remainder of the Agreement shall remain in full force and effect.

However, in the event that either party can no longer reasonably perform pursuant to the remaining Agreement terms, or if the purpose of the Agreement can no longer be carried out by either party, the Agreement is void and no damages shall accrue to either party.

**27) ATTORNEY'S FEES**

County shall be entitled to recover its attorney's fees if required to enforce any provision in the Contract.

**28) WAIVER**

Any waiver by the County of any breach of any covenant, term, or condition in this Agreement to be kept and performed by Vendor shall not be deemed or considered as a continuing waiver and shall not operate to bar or prevent the County from declaring a default for any succeeding breach either of the same covenant, term, or condition or another. All remedies afforded in this Agreement shall be taken and construed as cumulative, that is, in addition to every other remedy provided herein or by law.

**29) AMENDMENTS**

This Agreement shall not be altered, changed or amended except by written instrument signed by both parties.

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed in their official acts by their respective representative, each of which is duly authorized to execute the same.

**AGREED TO AND ACCEPTED AS STATED ABOVE:**

**ROOSEVELT COUNTY**

**VENDOR**

\_\_\_\_\_  
Amber Hamilton, County Manager

\_\_\_\_\_  
, Owner/Contractor

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

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

Approved as to form:

\_\_\_\_\_  
Michael I. Garcia, County Attorney