

**SANTA FE COUNTY
FINANCE DIVISION**

REQUEST FOR PROPOSALS



**COST SEGREGATION STUDY AND NM GROSS
RECEIPTS TAX REFUND CLAIM**

RFP #2013-0230-FI/BT

JANUARY 2013

TABLE OF CONTENTS

	<u>Page No.</u>
I. ADVERTISEMENT.....	4
II. INTRODUCTION.....	5
A. PURPOSE OF THIS REQUEST FOR PROPOSALS	5
B. SCOPE OF WORK.....	5
C. SCOPE OF PROCUREMENT	8
D. PROCUREMENT MANAGER	8
E. DEFINITION OF TERMINOLOGY.....	9
III. CONDITIONS GOVERNING THE PROCUREMENT	
A. SEQUENCE OF EVENTS.....	11
B. EXPLANATION OF EVENTS	12
1. Issue of RFP.....	12
2. Acknowledgement of Receipt Form Due.....	12
3. Deadline to Submit Additional Questions.....	12
4. Response to Written Questions/RFP Amendments.....	12
5. Submission of Proposal.....	12
6. Proposal Evaluation.....	13
7. Selection of Finalists (If Applicable)	13
8. Best and Final Offers from Finalists (If Applicable).....	13
9. Finalize Contract.....	13
10. Contract Award.....	14
11. Right to Protest.....	14
C. GENERAL REQUIREMENTS	
1. Acceptance of Conditions Governing the Procurement.....	14
2. Incurring Cost.....	15
3. Prime Contractor Responsibility	15
4. Subcontractors	15
5. Amended Proposals	15
6. Offeror's Rights To Withdraw Proposal.....	15
7. Proposal Offer Firm.....	15
8. Disclosure of Proposal Contents.....	15
9. No Obligation.....	16
10. Termination.....	16
11. Sufficient Appropriation.....	16
12. General Requirements.....	16
13. Basis for Proposal.....	17
14. Contract Terms and Conditions.....	17
15. Offeror's Terms and Conditions.....	17
16. Contract Deviations.....	17
17. Offeror Qualifications	17
18. Right To Waive Minor Irregularities.....	18

	19. Change in Contractor Representatives.....	18
	20. Notice.....	18
	21. County Rights.....	18
	22. Right To Publish.....	18
	23. Ownership of Proposals.....	18
	24. Electronic Mail Address Required.....	18
IV.	RESPONSE FORMAT AND ORGANIZATION	
	A. NUMBER OF RESPONSES.....	19
	B. NUMBER OF COPIES	19
	C. PROPOSAL FORMAT	19
	1. Proposal Organization.....	19
	2. Letter of Transmittal	20
V.	SPECIFICATIONS	
	A. INFORMATION	21
	Time Frame	21
	B. MANDATORY SPECIFICATIONS	
	1. Experience.....	21
	2. Marketing	21
	3. Funding Structures	21
	4. Security Structure.....	21
	5. Cost Proposal	22
	6. Other Supporting Material.....	22
	7. Business Registration.....	22
VI.	EVALUATION	
	A. EVALUATION POINT SUMMARY.....	23
	B. EVALUATION FACTORS.....	23
	C. EVALUATION PROCESS.....	24

APPENDICES:

- A. Acknowledgement of Receipt Form
- B. Campaign Contribution Disclosure Form
- C. Resident Veterans Preference Certification
- D. Sample Agreement

I. ADVERTISEMENT
REQUEST FOR PROPOSALS
COST SEGREGATION STUDY AND NM GROSS RECEIPT TAX CLAIM
RFP #2013-0230-FI/BT

Santa Fe County is requesting proposals from certified public accountants approved by the New Mexico Office of the State Auditor for the purpose of procuring tax recovery services regarding certain gross receipts tax paid by the County. All proposals submitted shall be valid for ninety (90) days subject to action by the County. Santa Fe County reserves the right to reject any and all proposals in part or in whole. A completed proposal shall be submitted in a sealed container indicating the proposal title and number along with the Offeror's name and address clearly marked on the outside of the container. **All proposals must be received by 2:00 PM (Mountain Standard Time) on Wednesday January 23, 2013 at the Santa Fe County Purchasing Division (Second Floor), 142 W. Palace Ave, Santa Fe, New Mexico 87501.** By submitting a proposal for the requested services each Offeror is certifying that its proposal complies with regulations and requirements stated within the Request for Proposals.

EQUAL OPPORTUNITY EMPLOYMENT: All qualified Offerors will receive consideration of contract(s) without regard to race, color, religion, sex or national origin, ancestry, age, physical and mental handicap, serious medical condition, disability, spousal affiliation, sexual orientation or gender identity.

Request for Proposals will be available by contacting Bill Taylor, Procurement Manager, 142 W. Palace Avenue, Santa Fe, New Mexico 87501, or by telephone at (505) 986-6373, or by email at wtaylor@santafecountynm.gov or on our website at http://www.santafecounty.org/about_us/current_bid_solicitations.php.

PROPOSALS RECEIVED AFTER THE DATE AND TIME SPECIFIED ABOVE WILL NOT BE CONSIDERED AND WILL BE REJECTED BY SANTA FE COUNTY.

Santa Fe County
Finance Department
Publish January 9, 2013

II. INTRODUCTION

A. PURPOSE OF THIS REQUEST FOR PROPOSALS

Santa Fe County is requesting proposals from certified public accountants (CPAs) that have been approved by the New Mexico Office of the State Auditor to conduct a Cost Segregation Study for the County's various construction projects. Interested Offerors must be certified public accountants who have a current permit to practice in the State of New Mexico and who are registered with the New Mexico State Board of Public Accountancy.

B. SUMMARY SCOPE OF WORK

The selected Contractor shall conduct a New Mexico Gross Receipts Tax (NMGRT) Cost Segregation Study of certain County construction projects and will provide services to assist the County with its tax recovery efforts.

1. SCOPE OF WORK

The Contractor will provide services including, but not limited to the following:

A) Cost Segregation Program

- 1) Meet with the County Finance Director/Staff to identify certain construction projects (buildings) to be analyzed for potential tax exemption.
- 2) Provide the County with process requirements and cost segregation principles pursuant to NM Taxation and Revenue Department (NMTRD) Regulation NMAC 3.2.1.11.K.
- 3) Perform cost segregation analysis, for NMGRT purposes, incurred with respect to Santa Fe County building construction projects.
- 4) Produce a report from the cost segregation analysis study that will provide a breakdown of recommended items subject to a refund of NMGRT.
- 5) As directed by the County Finance Department Staff, utilize the results of the cost segregation study to determine the intended use of the property and apply Federal cost segregation principles to identify qualifying property in order to prepare the NMGRT refund claim.
- 6) Prepare the NMGRT refund claim, pursuant to review and approval from the County Finance Department, submit to the NMTRD.

- 7) Serve as the County's representative and point of contact with the NMTRD to coordinate all communications and conferences between the County and NMTRD.
- 8) Respond to requests from the NMTRD for additional information and documentation, which may require additional research and analysis of published guidance and/or gathering additional documentation to support the refund claims position.

B) Delivery

In order to meet the delivery terms of this Contract, the Contractor shall deliver to the County Finance Department the following reports and documentation:

- 1) A detailed report that explains the principles and requirements of the NMTRD associated with the Cost Segregation Analysis Study and NMGRD exemptions.
- 2) Provide the reports in an organized, bound and paginated hard copy of the Cost Segregation Analysis Study with a breakdown of items and amounts subject to a refund by the NMTRD;
- 3) A completed and comprehensive NMGRD refund claim for County review and approval.
- 4) Prepare additional supporting information and documentation that may be required by the NMTRD.
- 5) Engage with the Department in the NMGRD refund claim process as representative of the County.
- 6) If required, provide a presentation to the Santa Fe County Board of County Commissioners.
- 7) Monthly status reports with information detailing contractors hours and tasks accomplished for the month.

All work must be performed in accordance with New Mexico State Tax Laws and all applicable professional standards.

C. SCOPE OF PROCUREMENT

The initial contract(s) is anticipated to begin in February 2013 or as soon as possible thereafter. Santa Fe County reserves the option of renewing the contract for two (2) additional years pursuant to Section 13-1-150 NMSA 1978 and NMAC 2.2.2.8.B(2) AUDIT RULE 2010 REQUIREMENTS FOR CONTRACTING AND CONDUCTING AUDITS OF AGENCIES. In no event will the contract, including all renewals thereof, exceed a total of three (3) years.

D. PROCUREMENT MANAGER

The County has designated a Procurement Manager who is responsible for the conduct of this procurement whose name, address and telephone number is listed below. All deliveries via express carrier should be addressed as follows:

Bill Taylor, Procurement Manger
Santa Fe County Purchasing Division
142 W. Palace Avenue, Second Floor
Santa Fe, NM 87501
(505) 986-6373
wtaylor@santafecountynm.gov

Any inquiries or requests regarding this procurement should be submitted to the Procurement Manager in writing. Offerors may contact ONLY the Procurement Manager regarding the procurement. Other County employees do not have the authority to respond on behalf of the County.

E. DEFINITION OF TERMINOLOGY

This section contains definitions and abbreviations that are used throughout this procurement document.

“BCC” means the elected Board of County Commissioners of Santa Fe County.

“Close of Business” means 5:00 PM Mountain Standard or Mountain Daylight Time, whichever is in effect on the date given.

“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 Santa Fe County.

“Determination” means the written documentation of a decision by the Procurement Manager including findings of fact supporting a decision. A determination becomes part of the procurement file.

The terms “may”, “can”, “should”, “preferably”, or “prefers” identify a desirable or discretionary item or factor.

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

“Finalist” is defined as 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.

The terms “must”, “shall”, “will”, “is required”, or “are required”, identify a mandatory item or factor.

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

“Procurement Manager” means the person or designee authorized by the County to manage or administer a procurement requiring the evaluation of competitive sealed proposals.

“Purchasing Division” means the Santa Fe County Purchasing Division, Administrative Services Department.

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

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

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

THIS SECTION INTENTIONALLY LEFT BLANK

III. CONDITIONS GOVERNING THE PROCUREMENT

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

A. SEQUENCE OF EVENTS

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

	<u>Action</u>	<u>Responsibility</u>	<u>Date</u>
1.	Issue of RFP	Purchasing Division	January 11, 2013
2.	Acknowledgement of Receipt Form	Offerors	January 15, 2013
3.	Pre-Proposal Conference	Purchasing Division	N/A
	Deadline to Submit Questions	Offerors	January 17, 2013
4.	Response to Written Questions	Purchasing Division	January 18, 2013
5.	Submission of Proposal (2:00 PM - Mountain Daylight Time)	Offerors	January 23, 2013
6.	Proposal Evaluation	Evaluation Committee	January 23, 2013
7.	Selection of Finalists (If Applicable)	Evaluation Committee	thru January 28, 2013
8.	Selection Interviews (If Applicable)	Offeror	February 12, 2013
9.	Best and Final Offer (if applicable)	County, Offeror	February 15, 2013
10.	Contract Award	Purchasing Division	March 1, 2013

Note: If the Evaluation Committee makes a selection at the Selection of Finalists, events 7-9 will not apply

B. EXPLANATION OF EVENTS

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

1. Issue RFP

This RFP is being issued by the Santa Fe County Finance Division and the Purchasing Division.

2. Acknowledgement of Receipt Form Due

Potential Offerors should hand deliver or return by facsimile or by registered or certified mail the "Acknowledgement of Receipt Form" provided as Appendix A to have their name and/or firm placed on the procurement distribution list. The form should be signed by an authorized representative of the organization, dated and returned by close of business on the date indicated in the "Sequence of Events" at Section III.A, above.

The procurement distribution list will be used for the distribution of written responses to questions and any RFP addenda.

3. Deadline to Submit Additional Written Questions

Potential Offerors may submit written questions regarding this RFP until the close of business on the date indicated in the "Sequence of Events" at Section III.A, above. All written questions must be addressed to the Procurement Manager, listed in Section II, Paragraph D and sent via e-mail.

4. Response to Written Questions

Written responses to written questions and any RFP addenda will be distributed on the date indicated in the "Sequence of Events" at Section III.A, above, to all potential Offerors whose name appears on the procurement distribution list.

Additional written requests for clarification of distributed answers and/or addenda must be received by the Procurement Manager no later than one (1) day after the answers and/or addenda were issued.

5. Submission of Proposal

ALL OFFEROR PROPOSALS MUST BE RECEIVED FOR REVIEW AND EVALUATION BY THE PROCUREMENT MANAGER OR DESIGNEE NO LATER THAN 2:00 PM, Wednesday January 23, 2013 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

Manager at the address listed in Section II, Paragraph D. Proposals must be sealed and labeled on the outside of the package to clearly indicate that they are in response to the County's Request for Proposals #2013-0230-FI/BT and refer to the RFP number. Proposals submitted by facsimile or other electronic means will not be accepted.

Proposals must be delivered to:

Bill Taylor, Procurement Manager
 Santa Fe County Purchasing Division
 142 W. Palace Avenue (Second Floor)
 Santa Fe, New Mexico 87501

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

6. Proposal Evaluation

The evaluation of proposals will be performed by an Evaluation Committee appointed by County Management. This process will take place during the timeframe indicated in the "Sequence of Events" at III.A, above. During this time, the Procurement Manager may initiate discussions with Offerors who submit responsive or potentially responsive proposals for the purpose of clarifying aspects of the proposals, but proposals may be accepted and evaluated without such discussion. Discussions SHALL NOT be initiated by the Offerors.

7. Selection of Finalists (If Applicable)

The Evaluation Committee may select and the Procurement Manager may notify the Finalist Offerors on the date indicated in the "Sequence of Events" at Section III.A, above. Only Finalists will be invited to participate in the subsequent steps of the procurement if the Finalist process is used.

8. Best and Final Offers from Finalists (If Applicable)

Finalist Offerors may be asked to submit revisions to their proposals for the purpose of obtaining best and final offers by the date indicated in the "Sequence of Events" at Section III.A, above.

9. Finalize Contract

The contract will be finalized with the most advantageous Offeror during the timeframe indicated in the "Sequence of Events" at Section III.A, above. In the event that mutually agreeable terms cannot be reached within the time specified, the County reserves the right to finalize a contract with the next most advantageous Offeror without undertaking a new procurement process.

10. Contract Award

The County anticipates awarding the contract on the date in the "Sequence of Events" in Section III.A, above. These dates are subject to change at the discretion of the Santa Fe County Purchasing Manager.

The contract shall be awarded to the offeror or offerors whose proposal is most advantageous to the County, taking into consideration the evaluation factors set forth in the RFP. The most advantageous proposal may or may not have received the most points.

11. Protest Deadline

Any protest by an offeror must be timely and in conformance with NMSA 1978, Section 13-1-172 and applicable procurement regulations. The fifteen (15) day protest period for responsive offerors shall begin on the day following the contract award. Protests must be written and must include the name and address of the protestor and the request for proposals number. It must also contain a statement of grounds for protest including appropriate supporting exhibits. The protests must be delivered to the Santa Fe County Purchasing Division:

Santa Fe County
Attn: Bill Taylor, Procurement Manager
142 W. Palace Avenue (Second Floor)
Santa Fe, New Mexico 87501

Protests **will not** be accepted by facsimile or other electronic means. Protests received after the deadline will not be accepted.

C. GENERAL REQUIREMENTS

This procurement will be conducted in accordance with State Procurement Code, NMSA 1978, Sections 13-1-28 through 13-1-199 and Santa Fe County Procurement Regulations.

1. Acceptance of Conditions Governing the Procurement

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 VI of this RFP.

2. Incurring Cost

Any cost incurred by the offeror in preparation, transmittal, presentation of any proposal or material submitted in response to this RFP shall be borne solely by the offeror.

3. Contractor Responsibility

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

4. Subcontractors

Use of subcontractors must be clearly explained in the proposal, and subcontractors must be identified by name. The prime contractor shall be wholly responsible for the entire performance whether or not subcontractors are used.

5. Amended Proposals

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

6. Offerors' Rights to Withdraw Proposal

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

7. Proposal Offer Firm

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

8. Disclosure of Proposal Contents

The proposals will be kept confidential until a contract is awarded. At that time, all proposals and documents pertaining to the proposals will be open to the public, except for the material that is proprietary or confidential. The Procurement Manager 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 non-confidential portion 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, NMSA 1978, 57-3A-1 to 57-3A-7. 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 Santa Fe County Procurement Manager 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 procurement in no manner obligates Santa Fe County or any of its departments to the use of any proposed professional services until a valid written contract is awarded and approved by the 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 County determines such action to be in the best interest of the County.

11. Sufficient Appropriation

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

12. General Requirements

The County requires that all offerors agree to be bound by the General Requirements contained in this RFP. Any offeror concerns must be promptly brought to the attention of the Procurement Manager.

13. Basis for Proposal

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

14. Contract Terms and Conditions

The contract between the County and the Contractor will contain the terms and conditions set forth in Appendix B. However, the County reserves the right to negotiate with a successful offeror provisions in addition to those contained in this RFP.

Should an offeror object to any of the County's terms and conditions, as contained in this Section or in Appendix B, that offeror must propose specific alternative language. The County generally does not accept the alternative language. General references to the offeror's terms and conditions or attempts at complete substitutions are not acceptable to the County and will result in disqualification of the offeror's proposal.

Offerors must provide a brief discussion of the purpose and impact, if any, of each proposed change followed by the specific proposed alternate wording.

15. Offeror's Terms and Conditions

Offerors must submit with the proposal a complete set of any additional terms and conditions which they expect to have included in a contract negotiated with the County.

16. Contract Deviations

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

17. Offeror Qualifications

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

18. 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 mandatory requirements and/or doing so does not otherwise materially affect the procurement. This right is at the sole discretion of the Evaluation Committee.

19. 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.

20. Notice

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

21. County Rights

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

22. 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.

23. Ownership of Proposals

All documents submitted in response to this Request for Proposals shall become the property of the County. However, any technical or user documentation submitted with the proposals of non-selected offerors shall be returned after the expiration of the protest period.

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 correspondence.

25. Santa Fe County Preferences

A. *New Mexico In-state Preference.*

To receive a resident business preference pursuant to Section 13-1-21 NMSA 1978 or a resident contractor preference pursuant to Section 13-4-2 NMSA 1978, a business or contractor shall submit with its bid or proposal a copy of a valid resident business certificate or valid resident contractor certificate issued by the NM Department of Taxation and Revenue.

If an Offeror or Bidder submits with its proposal or bid a copy of a valid and current in-state resident business/contractor certificate, 5% of the total weight of all evaluation factors used in the evaluation of proposals may be awarded or added to the Offerors score and in the event of a Bidder, the bid will be 5% lower than the bid actually submitted.

Certification by the NM Department of Taxation and Revenue for the resident business or resident contractor takes into consideration such activities as the business or contractor's payment of property taxes or rent in the state.

OR

B. *New Mexico Resident Veteran Preference.*

New Mexico law, Section 13-1-22 NMSA 1978, provides a preference in the award of a public works contract for a "**resident veteran business**". Certification by the department of taxation and revenue for the resident veteran business requires the Offeror to provide evidence of annual revenue and other evidence of veteran status.

An Offeror or Bidder who wants the veteran business preference to be applied to its proposal is required to submit with its proposal the certification from the department of taxation and revenue and the sworn affidavit attached hereto as Appendix C.

If an Offeror or Bidder submits with its proposal a copy of a valid and current veteran resident business certificate, 10%, 8% or 7% of the total weight of all the evaluation factors used in the evaluation of proposals may be awarded or added to the Offerors score, depending on the business' annual revenue or 10%, 8% or 7% of the bid will be lower than the bid actually submitted.

The resident business preference is not cumulative with the resident veteran business preference.

AND

C. *Santa Fe County Preference*

Santa Fe County Ordinance 2012-4 provides for a **County preference** for a “Santa Fe County business.” Application of the County preference in procurement requires an Offeror to obtain and provide a Santa Fe County Business Certificate issued by the Santa Fe County Procurement Manager. Certification by the Procurement Manager takes into consideration the business’ corporate standing in the state, business licensure or registration, the duration of the business’ primary office location and the payment of taxes.

If an Offeror submits with its proposal a copy of its Santa Fe County Business Certificate issued by the Purchasing Manager, 5% of the total weight of all the evaluation factors used in the evaluation of proposals may be awarded to the Offerors score.

The in-state, veteran or County preferences do not apply to procurement of services or goods involving federal funds or federal grant funds.

Additional information about obtaining the certificate as a resident contractor and resident veteran contractor may be found at: <http://www.tax.newmexico.gov/Businesses/Pages/In-StatePreferenceCertification.aspx> and information about the Santa Fe County business Certificate at www.santafecounty.org (Quicklink Ordinances and Resolutions).

IV. RESPONSE FORMAT AND ORGANIZATION

A. NUMBER OF RESPONSES

Offerors shall submit only one response to this RFP.

B. NUMBER OF COPIES

Offerors shall deliver one (1) original and five (5) identical copies of their proposal to the location specified in Section II, Paragraph D on or before the closing date and time for receipt of proposals.

C. PROPOSAL FORMAT

All proposals must be typewritten on standard 8 1/2 x 11 paper (larger paper is permissible for charts, spreadsheets, etc.), not to exceed fifteen (15) pages, and placed within a binder with tabs delineating each section.

1. Proposal Organization

The proposal must be organized and indexed in the following format and must contain, as a minimum, all listed items in the sequence indicated.

- a) Letter of Transmittal
- b) Table of Contents
- c) Proposal Summary (optional)
- d) Qualifications and Submittal Requirements
- e) Response to Mandatory Specifications
- f) Other Supporting Material

Within each section of their proposal, offerors should address the items in the order in which they appear in this RFP. All forms provided in the 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 the cost response form.

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

The 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 materials that they believe may improve the quality of their responses. However, these materials should be included as items in a separate appendix.

2. Letter of Transmittal

Each proposal must be accompanied by a letter of transmittal. The letter of transmittal MUST:

- a) Identify the submitting organization;
- b) Identify the name and title of the person authorized by the organization to contractually obligate the organization;
- c) Identify the name, title and telephone number of the person authorized to negotiate the contract on behalf of the organization;
- d) Identify the names, titles and telephone numbers of persons to be contacted for clarification;
- e) Explicitly indicate acceptance of the Conditions Governing the Procurement stated in Section III, Paragraph C.1;
- f) Be signed by the person authorized to contractually obligate the organization;
- g) Acknowledge receipt of any and all amendments to this RFP.

THIS SECTION LEFT INTENTIONALLY BLANK

V. SPECIFICATIONS

Offerors should respond in the form of a thorough narrative to each mandatory specification. The narratives along with required supporting materials will be evaluated and awarded points accordingly.

A. **Information**

Time Frame

The contract is scheduled to begin in February 2013. Santa Fe County intends to award a contract with a term not to exceed three (3) years in duration.

B. **Mandatory Specifications**

A brief explanation of each mandatory specification is listed below. Offerors are encouraged to fully address each category completely.

1. **Technical Approach to the Project** – Provide a description of the proposed technical approach of all professional, technical and customary work to be performed. Response shall include, but not limited to, the following:
 - a) The approach to be taken that will identify the costs eligible for tax refund in past, current and future facility projects.
 - b) A listing of data/documentation that would be required from the County in order for the contractor to complete the cost segregation analysis.
 - c) Indicate the firms experience working with construction contractors in this matter.
 - d) The process for submitting the tax refund claim(s), and
 - e) A schedule that defines the process timeline required to complete the tax refunds to the County, beginning from the review of project data through receipt of refund.
2. **Qualifications/competence of project team members to perform project.**
Provide the names of key personnel who will be assigned to work on the project. For each person listed, a description of experience, areas of competence and percent of time assigned to the project.
3. **Capacity and Capability of the firm to perform the project.**
 - a) Description of past contracts similar to the scope herein that have been completed by the firm.
 - b) If applicable, list of subcontractors or consultants, including addresses, qualifications and areas of responsibility.
 - c) Location(s) of office(s) where the work will be performed, and percent of work to be performed in each.
4. **Management structure and approach to the project including time-line, task**

breakdowns and assignments –

Provide the following:

- a) Name, address, telephone number of the principal member/officer of the firm responsible for administration of the contract.
- b) Name, address and New Mexico registration (if applicable) of the professional responsible for and in direct charge of the work.
- c) A project time schedule, operational/management approach, major tasks to be accomplished, and a detailed statement of services to be provided under each task.

5. Past Performance of the firm

Describe your firm's performance with previous clients, based upon quality of the work, control of costs, ability to meet schedules or deadlines, and responsiveness to the client.

- 6. Offeror's proposal contains a valid certificate as an In-state Resident Business, the preference in accordance with §13-1-21 NMSA 1978, will be applied.
- 7. Offeror's proposal contains a valid certificate as a Resident Veteran Business, the preference in accordance with §13-1-21 and §13-1-22 NMSA 1978, will be applied.
- 8. Offeror's proposal contains a valid certificate as a Santa Fe County Business, the preference in accordance with Santa Fe County Ordinance 2012-4, will be applied.

THIS SECTION LEFT INTENTIONALLY BLANK

VI. EVALUATION

A. EVALUATION POINT SUMMARY

The following is a summary of evaluation factors with point values assigned to each. Proposals will be scored based upon a comparison of the information submitted by the Offeror against the evaluation criteria outlined below.

Factor

1. Technical Approach	<u>20</u>
2. Qualifications of Project Team	<u>20</u>
3. Capacity & Capability	<u>20</u>
4. Management Structure & Approach	<u>15</u>
5. Past Performance	<u>10</u>
6. In-State Preference	<u>5-10</u>
7. County Resident Preference	<u>5</u>
TOTAL	100

B. EVALUATION PROCESS

The evaluations will be scored based upon comparison of the information submitted by the Offerors against the evaluation criteria. The evaluation process will follow the steps listed below:

1. All Offeror proposals will be reviewed for compliance with the mandatory requirements stated within the RFP. Proposals deemed non-responsive will be eliminated from further consideration.
2. The Procurement Manager may contact the Offeror for clarification of the response as specified in Section III, Paragraph B.6.
3. The Evaluation Committee may use other sources of information to perform the evaluation as specified in Section III, Paragraph C.17.
4. Responsive proposals will be evaluated on the factors in Section VI that have been assigned a point value. The responsible Offerors with the highest scores will be selected as finalist Offerors based upon the proposals submitted. Finalist Offerors who are asked or choose to submit revised proposals for the purpose of obtaining best and final offers will have their points recalculated accordingly. Points awarded from the oral presentations will be added to the previously assigned points to attain final scores. The responsible Offeror whose proposal is most advantageous to the County, taking into consideration the evaluation factors in Section VI, will be recommended for contract award as specified in Section III, Paragraph B.10. Please note, however, that a serious deficiency in the response to any one factor may be grounds for rejection regardless of overall score.

5. Offeror will provide a detailed cost proposal describing the tasks and activities set forth in the Scope of Work in Section II. The information shall be broken down to include proposed staff, hourly rates. The hourly rates shall include all overhead, and direct or indirect costs associated with the work. Offeror will provide a separate category for proposed travel for reimbursable items.

THIS SECTION INTENTIONALLY LEFT BLANK

APPENDIX A**ACKNOWLEDGEMENT OF RECEIPT FORM**

RFP #2013-0230-FI/BT
COST SEGREGATION AND NM GROSS RECEIPT TAX

In acknowledgement of receipt of this Request for Proposal the undersigned agrees that they have received a complete copy, beginning with the title page and table of contents, and ending with Appendix D.

The acknowledgement of receipt should be signed and returned to the Procurement Manager no later than close of business on _____. 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 County's 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 Proposals.

Bill Taylor
 Santa Fe County Purchasing Division
 142 W. Palace Ave (2nd Floor)
 Santa Fe, NM 87501
 (505) 986-6373
 (505) 989-3243
 btaylor@santafecountynm.gov

APPENDIX B

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 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 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

APPENDIX C

RESIDENT VETERANS PREFERENCE CERTIFICATION

_____ (NAME OF CONTRACTOR) hereby certifies the following in regard to application of the resident veterans' preference to this procurement.

Please check one box only:

☐ I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is less than \$1M allowing me the 10% preference discount on this solicitation. I understand that knowingly giving false or misleading information about this fact constitutes a crime.

☐ I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is more than \$1M but less than \$5M allowing me the 8% preference discount on this solicitation. I understand that knowingly giving false or misleading information about this fact constitutes a crime.

☐ I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is more than \$5M allowing me the 7% preference discount on this solicitation. I understand that knowingly giving false or misleading information about this fact constitutes a crime.

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

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

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

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

(Signature of Business Representative)*

(Date)

*Must be an authorized signatory of the Business.

The representations made by checking the boxes constitutes a material representation by the business. Any finding that the statements are incorrect may result in denial of an award or un-award of the procurement involved.

SIGNED AND SEALED THIS _____ DAY OF _____, 2013.

NOTARY PUBLIC

My Commission Expires:

APPENDIX D
SAMPLE AGREEMENT

**SANTA FE COUNTY
PROFESSIONAL SERVICES AGREEMENT
WITH _____
FOR COST SEGREGATION ANALYSIS AND NM GROSS RECEIPTS TAX REFUND
CLAIM**

THIS AGREEMENT is made and entered into this _____ day of _____, 2013 by and between Santa Fe County, hereinafter referred to as the “County,” a political subdivision of the State of New Mexico (hereinafter referred to as “the County”) and _____ (hereinafter referred to as “the Contractor”).

WHEREAS, the Santa Fe Finance Department requires the services of a certified public accountant (CPA) approved by the New Mexico Office of the State Auditor to complete a Cost Segregation Analysis for certain County construction projects;

WHEREAS, pursuant to NMSA 1978, Section 13-1-112 and 13-1-117, competitive sealed proposals were solicited via a formal request for proposals, RFP #2013-0230-FI/BT, for the procurement of services of a CPA;

WHEREAS, based upon the evaluation criteria established within the RFP for the purposes of determining the most qualified contractor, the County has determined Contractor as the most responsive and highest rated Contractor;

WHEREAS, the County requires these services and the Contractor is qualified and willing to provide these services and both parties wish to enter into this Agreement.

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

1. SCOPE OF WORK

The Contractor will provide services including, but not limited to the following:

- A) Cost Segregation Program
 - 1) Meet with the County Finance Director/Staff to identify certain construction projects (buildings) to be analyzed for potential tax exemption.
 - 2) Provide the County with process requirements and cost segregation principles pursuant to NM Taxation and Revenue Department (NMTRD) Regulation NMAC 3.2.1.11.K.
 - 3) Perform cost segregation analysis, for NMGRS purposes, incurred with respect to Santa Fe County building construction projects.

- 4) Produce a report from the cost segregation analysis study that will provide a breakdown of recommended items subject to a refund of NMGRT.
- 5) As directed by the County Finance Department Staff, utilize the results of the cost segregation study to determine the intended use of the property and apply Federal cost segregation principles to identify qualifying property in order to prepare the NMGRT refund claim.
- 6) Prepare the NMGRT refund claim, pursuant to review and approval from the County Finance Department, submit to the NMTRD.
- 7) Serve as the County's representative and point of contact with the NMTRD to coordinate all communications and conferences between the County and NMTRD.
- 8) Respond to requests from the NMTRD for additional information and documentation, which may require additional research and analysis of published guidance and/or gathering additional documentation to support the refund claims position.

B) Deliverables

The Contractor shall deliver to the County Finance Department the following reports and documentation:

- 1) A detailed report that explains the principles and requirements of the NMTRD associated with the Cost Segregation Analysis Study and NMGRT exemptions.
- 2) Provide the reports in an organized, bound and paginated hard copy of the Cost Segregation Analysis Study with a breakdown of items and amounts subject to a refund by the NMTRD;
- 3) A completed and comprehensive NMGRT refund claim for County review and approval.
- 4) Prepare additional supporting information and documentation that may be required by the NMTRD.
- 5) Engage with the NMTRD in the NMGRT refund claim process as representative of the County.
- 6) If required, provide a presentation to the Santa Fe County Board of County Commissioners.
- 7) Monthly status reports with information detailing the contractors hours and tasks accomplished for the month.

All work must be performed in accordance with New Mexico State Tax Laws and all applicable professional standards.

2. COMPENSATION, INVOICING, AND SET-OFF

A. In consideration of its obligations under this Agreement the Contractor shall be compensated as follows:

- 1) The total amount payable to the Contractor under this Agreement, exclusive of gross receipts tax shall not exceed _____ (\$ _____), exclusive of GRT. Any New Mexico gross receipts tax levied on the amounts payable under this Agreement shall be paid by the County to the Contractor.
- 2) This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. The parties do not intend for the Contractor to continue to provide services without compensation when the total compensation amount is reached. County shall notify the Contractor when the services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for services provided in excess of the total compensation amount without this Agreement being amended.

B. The Contractor shall submit a written request for payment to the County when payment is due under this Agreement. Upon the County's receipt of the written request, the County shall issue a written certification of complete or partial acceptance or rejection of the contractual items or services for which payment is sought. The Contractor acknowledges and agrees that the County may not make any payment hereunder unless and until it has issued a written certification accepting the contractual items or services. Within thirty (30) days of the issuance of a written certification accepting the contractual items or services, the County shall tender payment for the accepted items or services and withhold unacceptable or disputed amounts. In the event the County fails to tender payment within thirty (30) days of the written certification accepting the items or services, the County shall pay late payment charges of one and one-half percent (1.5%) per month, until the amount due is paid in full.

C. In the event the Contractor breaches this Agreement, the County may, without penalty, withhold any payments due the Contractor for the purpose of set-off until such time as the County determines the exact amount of damages it suffered as a result of the breach.

D. Payment under this Agreement shall not foreclose the right of the County to recover excessive or illegal payment.

3. EFFECTIVE DATE AND TERM

This Agreement shall, upon due execution by all parties, become effective as of the date first written above and shall terminate one (1) year later, unless earlier terminated pursuant to Sections 5 (Termination) or 6 (Appropriations) of this Agreement. The County has the option to renew this Agreement for two (2) additional years. The County will exercise this option by submitting a written notice to the Contractor in no less than sixty (60) days prior to the expiration of the initial term of this Agreement. In no event shall the term of this Agreement exceed three (3) years from the effective date of the Agreement without this Agreement being amended in writing.

4. ADDITIONAL SERVICES

A. The parties agree that all tasks set forth in Paragraph 1, SCOPE OF WORK of this Agreement, shall be completed in full, to the satisfaction of the County, for the amount set forth in Section 2, COMPENSATION, INVOICING, AND SET-OFF, of this Agreement, and for no other cost, amount, fee, or expense.

B. The County may from time-to-time request changes in the Scope of Work to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contractor's compensation, which are mutually agreed upon by and between the County and the Contractor, shall be incorporated in written amendments to this Agreement.

5. TERMINATION

A. Termination of Agreement for Cause. Either party may terminate the Agreement based upon any material breach of this Agreement by the other party. The non-breaching party shall give the breaching party written notice of termination specifying the grounds for the termination. The termination shall be effective thirty (30) days from the breaching party's receipt of the notice of termination, during which time the breaching party shall have the right to cure the breach. If, however, the breach cannot with due diligence be cured within thirty (30) days, the breaching party shall have a reasonable time to cure the breach, provided that, within thirty (30) days of its receipt of the written notice of termination, the breaching party began to cure the breach and advised the non-breaching party in writing that it intended to cure.

B. Termination for Convenience of the County. The County may, in its discretion, terminate this Agreement at any time for any reason by giving the Contractor written notice of termination. The notice shall specify the effective date of termination, which shall not be less than fifteen (15) days from the Contractor's receipt of the notice. The County shall pay the Contractor for acceptable work, determined in accordance with the specifications and requirements set forth in this Agreement, performed before the effective date of termination but shall not be liable for any work performed after the effective date of termination.

6. APPROPRIATIONS AND AUTHORIZATIONS

This Agreement is contingent upon sufficient appropriations and authorizations being made for performance of this Agreement by the Board of County Commissioners of the County and/or, if state funds are involved, the Legislature of the State of New Mexico. If sufficient appropriations and authorizations are not made in this or future fiscal years, this Agreement shall terminate upon written notice by the County to the Contractor. Such termination shall be without penalty to the County, and the County shall have no duty to reimburse the Contractor for expenditures made in the performance of this Agreement. The County is expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered and approved for expenditure by the County. The County's decision as to whether sufficient appropriations and authorizations have been made for the fulfillment of this Agreement shall be final and not subject to challenge by the Contractor in any way or forum, including a lawsuit.

7. INDEPENDENT CONTRACTOR

The Contractor and its agents and employees are independent contractors and are not employees or agents of the County. Accordingly, the Contractor and its agents and employees shall not accrue leave, participate in retirement plans, insurance plans, or liability bonding, use County vehicles, or participate in any other benefits afforded to employees of the County. Except as may be expressly authorized elsewhere in this Agreement, the Contractor has no authority to bind, represent, or otherwise act on behalf of the County and agrees not to purport to do so.

8. 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 advance written approval of the County. Any attempted assignment or transfer without the County's advance written approval shall be null and void and without any legal effect.

9. SUBCONTRACTING

The Contractor shall not subcontract or delegate any portion of the services to be performed under this Agreement without the advance written approval of the County. Any attempted subcontracting or delegating without the County's advance written approval shall be null and void and without any legal effect.

10. PERSONNEL

A. All work performed under this Agreement shall be performed by the Contractor or under its supervision.

B. The Contractor represents that it has, or will secure at its own expense, all personnel required to discharge its obligations under this Agreement. Such personnel (i) shall not be employees of or have any contractual relationships with the County and (ii) shall be fully qualified

and licensed or otherwise authorized or permitted under federal, state, and local law to perform such work.

11. RELEASE

Upon its receipt of all payments due under this Agreement, the Contractor releases the County, its elected officials, officers, agents and employees from all liabilities, claims, and obligations whatsoever arising from or under or relating to this Agreement.

12. 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.

13. PUBLICATION, REPRODUCTION, AND USE OF MATERIAL; COPYRIGHT

A. The County has the unrestricted right to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data, or other material prepared under or pursuant to this Agreement.

B. The Contractor acknowledges and agrees that any material produced in whole or in part under or pursuant to this Agreement are deliverables belonging to Santa Fe County. Accordingly, to the extent that any such material is copyrightable in the United States or in any other country, the County shall own any such copyright.

14. CONFLICT OF INTEREST

The Contractor represents that it has no and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of its obligations under this Agreement.

15. NO ORAL MODIFICATIONS; WRITTEN AMENDMENTS REQUIRED

This Agreement may not be modified, altered, changed, or amended orally but, rather, only by an instrument in writing executed by the parties hereto. The Contractor specifically acknowledges and agrees that the County shall not be responsible for any changes to Section 1, "SCOPE OF WORK", of this Agreement unless such changes are set forth in a duly executed written amendment to this Agreement.

16. ENTIRE AGREEMENT; INTEGRATION

This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such agreements, covenants and understandings have been merged into this written Agreement. No prior or contemporaneous

agreement, covenant or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

17. NOTICE OF PENALTIES

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

18. EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE

A. The Contractor agrees to abide by all federal, state, and local laws, ordinances, and rules and regulations pertaining to equal employment opportunity and unlawful discrimination. Without in any way limiting the foregoing general obligation, the Contractor specifically agrees not to discriminate against any person with regard to employment with the Contractor or participation in any program or activity offered pursuant to this Agreement on the grounds of race, age, religion, color, national origin, ancestry, sex, physical or mental handicap, serious medical condition, spousal affiliation, sexual orientation, or gender identity.

B. The Contractor acknowledges and agrees that failure to comply with this Section shall constitute a material breach of this Agreement.

19. COMPLIANCE WITH APPLICABLE LAW; CHOICE OF LAW

A. In performing its obligations hereunder, the Contractor shall comply with all applicable laws, ordinances, and regulations.

B. This Agreement shall be construed in accordance with the substantive laws of the State of New Mexico, without regard to its choice of law rules. Contractor and the County agree that the exclusive forum for any litigation between them arising out of or related to this Agreement shall be the state district court of New Mexico, located in Santa Fe County.

20. RECORDS AND INSPECTIONS

A. To the extent its books and records relate to (i) its performance of this Agreement or any subcontract entered into pursuant to it or (ii) cost or pricing data (if any) set forth in this Agreement or that was required to be submitted to the County as part of the procurement process, the Contractor agrees to (i) maintain such books and records during the term of this Agreement and for a period of six (6) years from the date of final payment under this Agreement; (ii) allow the County or its designee to audit such books and records at reasonable times and upon reasonable notice; and (iii) to keep such books and records in accordance with generally accepted accounting principles (GAAP).

B. To the extent its books and records relate to (i) its performance of this Agreement or any subcontract entered into pursuant to it or (ii) cost or pricing data (if any) set forth in this Agreement or that was required to be submitted to County as part of the procurement process,

the Contractor also agrees to require any subcontractor it may hire to perform its obligations under this Agreement to (i) maintain such books and records during the term of this Agreement and for a period of six (6) years from the date of final payment under the subcontract; (ii) to allow the County or its designee to audit such books and records at reasonable times and upon reasonable notice; and (iii) to keep such books and records in accordance with GAAP.

21. INDEMNIFICATION

A. The Contractor shall defend, indemnify, and hold harmless the County and its elected officials, agents, and employees from any losses, liabilities, damages, demands, suits, causes of action, judgments, costs or expenses (including but not limited to court costs and attorneys' fees) resulting from or directly or indirectly arising out of the Contractor's performance or non-performance of its obligations under this Agreement, including but not limited to the Contractor's breach of any representation or warranty made herein.

B. The Contractor agrees that the County shall have the right to control and participate in the defense of any such demand, suit, or cause of action concerning matters that relate to the County and that such suit will not be settled without the County's consent, such consent not to be unreasonably withheld. If a conflict exists between the interests of the County and the Contractor in such demand, suit, or cause of action, the County may retain its own counsel to represent the County's interest.

C. The Contractor's obligations under this section shall not be limited by the provisions of any insurance policy the Contractor is required to maintain under this Agreement.

22. SEVERABILITY

If any term or condition of this Agreement shall be held invalid or non-enforceable by any court of competent jurisdiction, the remainder of this Agreement shall not be affected and shall be valid and enforceable to the fullest extent of the law.

23. NOTICES

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

To the County: Santa Fe County
 Office of the County Attorney
 102 Grant Avenue
 Santa Fe, New Mexico 87501

 Santa Fe County
 Finance Department
 102 Grant Avenue
 Santa Fe, New Mexico 87501

To the Contractor:

24. CONTRACTOR'S REPRESENTATIONS AND WARRANTIES

The Contractor hereby represents and warrants that:

- A. It is a Corporation duly organized and in good standing under the laws of the State of New Mexico.
- B. This Agreement has been duly authorized by the Contractor, the person executing this Agreement has authority to do so, and, once executed by the Contractor, this Agreement shall constitute a binding obligation of the Contractor.
- C. This Agreement and the Contractor's obligations hereunder do not conflict with the Contractor's articles of incorporation or by-laws or any corporate resolution adopted by the Contractor.
- D. It will maintain throughout the life of this Agreement, its registration and licensure with the State of New Mexico.

25. FACSIMILE SIGNATURES

The parties hereto agree that a facsimile signature has the same force and effect as an original for all purposes.

26. NO THIRD-PARTY BENEFICIARIES

This Agreement was not intended to and does not create any rights in any persons not a party hereto.

27. INSURANCE

A. General Conditions. The Contractor shall submit evidence of insurance as is required herein. Policies of insurance shall be written by companies authorized to write such insurance in New Mexico.

B. General Liability Insurance, Including Automobile. The Contractor shall procure and maintain during the life of this Agreement a comprehensive general liability and automobile insurance policy with liability limits in amounts not less than \$1,050,000.00 combined single limits of liability for bodily injury, including death, and property damage for any one occurrence. Non-hired vehicle insurance coverage will be required for employees, temporary employees, and subcontractor using their personal vehicle. Said policies of insurance shall include coverage for all operations performed for the County by the Contractor; coverage for the use of all owned, non-owned, hired automobiles, vehicles and other equipment, both on and off work; and contractual liability coverage under which this Agreement is an insured contract. The County of Santa Fe shall be a named additional insured on the policy.

C. Workers' Compensation Insurance. The Contractor shall comply with the provisions of the Workers' Compensation Act.

D. Increased Limits. If, during the life of this Agreement, the Legislature of the State of New Mexico increases the maximum limits of liability under the Tort Claims Act (NMSA 1978, Sections 41-4-1 through 41-4-29, as amended), the Contractor shall increase the maximum limits of any insurance required herein.

28. PERMITS, FEES, AND LICENSES

Contractor shall procure all permits and licenses, pay all charges, fees, and royalties, and give all notices necessary and incidental to the due and lawful performance of its obligations hereunder.

29. NEW MEXICO TORT CLAIMS ACT

No provision of this Agreement modifies or waives any sovereign immunity or limitation of liability enjoyed by County or its "public employees" at common law or under the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, et seq.

30. CAMPAIGN CONTRIBUTION DISCLOSURE FORM

The Contractor agrees to compute and submit simultaneous with execution of this Agreement a Campaign Contribution Disclosure Form approved by the County.

31. SURVIVAL

The provisions of following paragraphs shall survive termination of this Contract; INDEMNIFICATION; RECORDS AND INSPECTION; RELEASE, CONFIDENTIALITY, PUBLICATION, REPRODUCTION, AND USE OF MATERIAL; COPYRIGHT; COMPLIANCE WITH APPLICABLE LAW; CHOICE OF LAW; NO THIRD-PARTY BENEFICIARIES; SURVIVAL.

IN WITNESS WHEREOF, the parties have duly executed this Amendment to the Agreement as of the date first written above.

SANTA FE COUNTY

Katherine Miller
Santa Fe County Manager

Date

APPROVED AS TO FORM:

Stephen C. Ross
Santa Fe County Attorney

Date

FINANCE DEPARTMENT APPROVAL:

Teresa C. Martinez
Santa Fe County Finance Director

Date

CONTRACTOR:

Signature

Date

Title

Federal Identification: _____