

**SANTA FE COUNTY  
GROWTH MANAGEMENT DEPARTMENT**

**REQUEST FOR PROPOSALS**



**“ON-CALL” SLDC  
FACILITATION SERVICES**

**RFP 2016-0361-GM/RM**

**JUNE 2016**

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**I. ADVERTISEMENT**

**REQUEST FOR PROPOSALS  
Santa Fe County Growth Management Department**

**“ON-CALL SLDC FACILITATION SERVICES  
RFP #2016-0361-GM/RM**

The Santa Fe County Growth Management Department is requesting proposals from qualified Offerors for facilitation services to provide land use facilitation as a means of communication between an applicant proposing a development and persons who would be impacted by the proposed development giving an opportunity for the applicant and residents to exchange information, ask questions, and discuss concerns. Pursuant to the Procurement Code, Sections 13-1-153 and 13-1-154, Santa Fe County reserves the right to issue a “Multiple Source Award” to obtain the items or services listed.

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 complete 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 July 20, 2016, at the Santa Fe County Purchasing Division, 142 W. Palace Avenue, Second Floor, Santa Fe, New Mexico 87501.** By submitting a proposal for the requested services, each Offeror is certifying that its proposal complies with requirements stated in the Request for Proposals.

**A non-mandatory Pre-Proposal Conference shall be held on July 6, 2016, at 2:00 PM at the Finance Conference Room located at 142 W. Palace Avenue, Second Floor, Santa Fe, NM 87501 for all interested Offerors to review and discuss the proposal packet.**

**EQUAL OPPORTUNITY EMPLOYMENT:** All qualified Offerors will receive consideration of contract(s) without regard to race, color, religion, sex or national origin.

Request for Proposals are available by contacting Rose Moya, Procurement Specialist Senior at 142 W. Palace Avenue, Second Floor, Santa Fe, New Mexico 87501, or by telephone at (505) 992-6753, or by email at [rmoya@santafecountynm.gov](mailto:rmoya@santafecountynm.gov) or on the county’s website at [http://www.santafecountynm.gov/asd/current\\_bid\\_solicitations](http://www.santafecountynm.gov/asd/current_bid_solicitations)

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

Santa Fe County  
Purchasing Division  
June 26, 2016

## II. CONTRACT OBJECTIVES

### A. BACKGROUND AND PURPOSE OF THIS REQUEST FOR PROPOSAL

Santa Fe County has adopted the 2015 Sustainable Land Development Code (SLDC). Section 4.4.8 of the SLDC provides for Land Use Facilitation to provide a means of communication between an applicant proposing a development, and persons that would be impacted by the proposed development. Land use facilitation provides an opportunity for the applicant and residents to exchange information, ask questions, and discuss concerns about the proposed development.

Land use facilitation uses a professional facilitator to assist the applicant and residents to discuss issues related to the proposed development, identify and achieve goals and complete tasks in a mutually satisfactory manner. The process uses a facilitator, who will focus on the process and assist and guide the participants in principles of dispute resolution and decision-making. The facilitator is impartial to the issues being discussed, has no advisory role in the content of the meeting, and has no interest in the outcome of the meeting.

In general, any application which presents controversy, in which residents have questions or concerns, or that the applicant feels is appropriate for facilitation, may be referred to facilitation.

Pursuant to the Procurement Code, Sections 13-1-153 and 13-1-154, Santa Fe County reserves the right to issue a “Multiple Source Award” to obtain the items or services listed. Multiple awards are recommended to ensure availability and timely delivery.

### B. SCOPE OF WORK

Santa Fe County (hereinafter referred to as “County”) wishes to procure the services of multiple facilitators to provide Land Use Facilitation Services (hereinafter referred to as “Services”). These services will be provided on an on-call basis. The Contractor (hereinafter referred to as “Contractor”) will perform the required Services in a manner that satisfies quality, cost and professionalism requirements, as determined by the County.

This is not an exclusive contract and the County reserves the right to contract with any other individuals and/or firms based on any conflicts regarding the applications. This agreement does not guarantee the payment of any amount or that services will be required by the County under this Agreement.

General Process for Land Use Facilitation (Chapter 4.4.8.4 of the SLDC):

- 1. Referral.** An application may be referred to a land use facilitation by the Administrator or the applicant. A matter may also be referred to land use facilitation following the TAC meeting but, more likely, will be referred to land use facilitation coincidentally with the finding of completeness.

**2. Assignment of a Land Use Facilitator.** The Administrator shall assign a case referred to facilitation to a land use facilitator contracted or employed by the County. Any facilitator selected for a given case shall have no interest in the case and shall not be an employee of Santa Fe County.

**3. Initiation of Process.** The facilitator shall contact the applicant and relevant persons affected by the proposed development to determine the level of interest in a facilitated meeting. If the Administrator is aware of a Community Organization or Registered Organization in the vicinity of the proposed development, the facilitator shall contact the Community Organization or Registered Organization. If there is no interest in a land use facilitation or if there is no person affected by the proposed development, the facilitator shall generate a “no facilitation held” report and refer the matter back to the Administrator.

**4. Facilitation.** If interest exists, the facilitator shall schedule a facilitation. During the facilitation, the applicant shall present the proposed project, followed by a presentation (if any) of residents or homeowners associations, followed by a discussion among the participants. The facilitator shall record comments, questions, concerns and areas of agreement among the parties.

**5. Report and Completion of Process.** Following the facilitation, the facilitator shall generate a complete and neutral report on the facilitation. All areas of agreement shall be highlighted, and areas of severe disagreement also noted. The report shall be distributed to the Administrator and all participants in the facilitation. Areas in which agreement was reached during the facilitation shall be reported as resolved in the staff report to the decision maker.

**6. Timeline.** The facilitation described in this subsection shall be completed no later than thirty (30) days from the date of referral, unless waived by the applicant.

**7. Costs of Facilitation.** All the costs of facilitation shall be paid by the applicant. Following completion of the facilitation, the Administrator shall present a invoice to the applicant.

## C. QUALIFICATIONS

Qualified consultants must have the ability to:

1. Prepare a report on the facilitation.
2. Provide experience of previous facilitation services.
3. Provide professional experience and background in amicable facilitation services.
4. Deal with highly controversial facilitation
5. Assist the applicant and residents to discuss issues related to the proposed development, identify and achieve goals and complete tasks in a mutually satisfactory manner.
6. Be impartial-No conflict of interest

7. The facilitation described in this subsection as well as the facilitation report, shall be completed within thirty (30) days after the notice to proceed
8. Demonstrate familiarity with the Sustainable Land Development Code and the ability to read and understand the requirements of the SLDC.

**D. INSURANCE REQUIREMENTS**

The insurance required by Offeror are listed below.

1. General Conditions. 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.
2. General Liability Insurance, Including Automobile. 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 \$1,000,000 combined single limits of liability for bodily injury, including death, and property damage for any one occurrence. Said policies of insurance shall include coverage for all operations performed for County by 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. County of Santa Fe shall be a named additional insured on the policy.
3. 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), Contractor shall increase the maximum limits of any insurance required herein.

**E. 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:

Rose Moya, Procurement Specialist Senior  
Santa Fe County Purchasing Division  
142 W. Palace Avenue (Second Floor)  
Santa Fe, New Mexico 87501  
Phone (505) 992-6753, Fax (505) 989-3243  
[rmoya@santafecounty.org](mailto:rmoya@santafecounty.org)

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.

## F. DEFINITION OF TERMINOLOGY

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

**“BCC”** means the elected Board of County Commissioners.

**“Close of Business”** means 5:00 PM Mountain Standard Time 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.

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

**“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.

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

**“Offeror”** is any person, corporation, or partnership who chooses to submit a proposal. **“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. Material respects of a request for proposals include, but are not limited to, price, quality, quantity or delivery requirements.

**THIS SECTION LEFT BLANK INTENTIONALLY**

### 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. Issuance of RFP	Purchasing Division	June 26, 2016
2. <b>Pre-Proposal Conference</b>	<b>Owner/Offerors/ Purchasing</b>	<b>July 6, 2016, 2:00 pm</b> <i>Finance Conference Room, 142 W. Palace Ave., (2<sup>nd</sup> Floor) Santa Fe, NM 87501</i>
3. Acknowledgement of Receipt Form Due	Offerors	July 6, 2016, 5:00 pm
4. Deadline to Submit Additional Questions	Offerors	July 8, 2016, 5:00 pm
5. Response to Written Questions	Purchasing Division	July 11, 2016, 5:00 pm
6. <b>Submission of Proposal (2:00PM – MST)</b>	<b>Offerors</b>	<b>July 20, 2016, 2:00 pm</b> <i>SF County Purchasing Division, 142 W. Palace Ave., (2<sup>nd</sup> Floor) Santa Fe, NM 87501</i>
7. Proposal Evaluation	Evaluation Committee	<b>July 21, 2016, 11:30 am</b> <i>Finance Conference Room, 142 W. Palace Ave., (2<sup>nd</sup> Floor) Santa Fe, NM 87501</i>
8. Selection of Finalists	Evaluation Committee	<b>July 28, 2016, 9:00 -12:00 pm</b> <i>Finance Conference Room, 142 W. Palace Ave., (2<sup>nd</sup> Floor) Santa Fe, NM 87501</i>
9. Best and Final Offers from Finalists (if applicable)	Offerors	August 2016
10. Oral Presentation by Finalists (if applicable)	Offerors	August 2016
11. Contract Negotiations	County, Offeror	August 2016
12. Contract Award	Purchasing Division	August 2016

**Note:** *If the Evaluation Committee makes a selection at the Selection of Finalist, Events 9-10 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. Issuance of RFP**

This RFP is being issued by the Santa Fe County Growth Management Department and Purchasing Division.

### **2. Pre-Proposal Conference**

A Pre-Proposal Conference is scheduled to be held on the date indicated in the "Sequence of Events" at Section III.A. Questions may be submitted at the Pre-Proposal Conference and after up until the date indicated in the "Sequence of Events" at Section III.A. A public log will be kept of the names of potential Offerors who attend the pre-proposal conference.

### **3. Acknowledgement of Receipt Form Due**

A potential Offeror should hand-deliver, return by facsimile or e-mail the "Acknowledgement of Receipt Form" provided as Appendix A to have its name and 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.

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

### **4. 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. All written questions must be addressed to the Procurement Manager, listed in Section II, Paragraph E and sent via facsimile or e-mail.

### **5. 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, to all potential Offerors whose names appear on the procurement distribution list.

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

**6. Submission of Proposal**

**ALL OFFEROR PROPOSALS MUST BE RECEIVED FOR REVIEW AND EVALUATION BY THE PROCUREMENT MANAGER OR DESIGNEE NO LATER THAN 2:00 P.M. (MOUNTAIN STANDARD TIME) ON WEDNESDAY, JULY 20, 2016. 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, E. 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 for "On-Call" SLDC Facilitation Services for RFP# 2016-0361-GM/RM.** Proposals submitted by facsimile or other electronic means will not be accepted.

***Proposals must be delivered to:***

Rose Moya, Senior Procurement Specialist  
 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 Offerors who submit proposals. Pursuant to NMSA 1978, Section 13-1-116, the contents of any proposal shall not be disclosed so as to be available to competing Offerors during the negotiating process.

**7. Proposal Evaluation**

The evaluation of proposals will be performed by an Evaluation Committee appointed by the Procurement Manager. This process will take place during the timeframe indicated in the "Sequence of Events" at III.A. 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 Offerors.

**8. Selection of Finalists**

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. Only Finalists will be invited to participate in the subsequent steps of the procurement, if the Finalist process is used.

**9. 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.

**10. Oral Presentation by Finalists (If Applicable)**

Finalist Offerors may be required to present their proposals to the Evaluation Committee. The Procurement Manager will schedule the time for each Offeror presentation. All Offeror presentations will be held at the Santa Fe County Purchasing Division, 142 W. Palace Avenue (Second Floor), Santa Fe, New Mexico. Each presentation will be limited to one (1) hour in duration.

**11. Contract Negotiations**

Contract will be finalized with the most advantageous Offeror during the timeframe indicated in the "Sequence of Events" at Section III.A. 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.

**12. Contract Award**

The County anticipates awarding the contract on the date in the "Sequence of Events" at Section III.A. 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.

**13. Right to Protest**

Any protest by an Offeror must be timely and in conformance with NMSA 1978, Section 13-1-172 and applicable procurement regulations. 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:

Bill Taylor, Procurement Manager  
Santa Fe County Purchasing Division  
142 W. Palace Avenue, 2<sup>nd</sup> 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 Chapter 13, NMSA 1978, NMAC 1.4.1 and the 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 contract template attached hereto as Appendix D.

**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. Prime Contractor Responsibility**

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

**4. Subcontractors**

Use of subcontractors must be clearly explained in the proposal, and major 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**

After award, proposals, except contents for which the Offeror has made a written request for confidentiality, shall be open to public inspection. 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, 57-3A-1 to 57-3A-7, NMSA 1978. The price of products offered or the cost of services proposed shall not be designated as proprietary or confidential information.

If a request is received for disclosure of data for which an Offeror has made a written request for confidentiality, the Santa Fe County Procurement Manger 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. Legal Review**

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

**13. Governing Law**

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

**14. Basis for Proposal**

Only information supplied by the County in writing through the Procurement Manager 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 the Contractor will follow the format specified by the County and contain the terms and conditions set forth in Appendix D.

However, the County reserves the right to negotiate with a successful Offeror provisions in addition to those contained in this RFP.

If an Offeror objects to any of the County's terms and conditions as contained in this Section or in Appendix D, that Offeror must propose specific alternative language. The County may or may 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.

**16. 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.

**17. Contract Deviations**

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

**18. Offeror Qualifications**

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

**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 doing so does not otherwise materially affect the procurement. This right is at the sole discretion of the Evaluation Committee, subject to approval by the Procurement Manager.

**20. Change in Contractor Representatives**

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

**21. Notice**

The Procurement Code, Sections 13-1-28 through 13-1-199, NMSA 1978, 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.

**22. County Rights**

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

**23. Right to Publish**

Throughout the duration of this procurement process and contract term, potential 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.

**24. 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.

**25. Electronic Mail Address**

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

**26. Preference in Procurement by Santa Fe County**

**a. *New Mexico Resident Business Preference***

New Mexico law, Section 13-1-21 NMSA 1978, provides a preference in the award of a public works contract for an “**in-state resident business.**” Application of a resident business preference for any Offeror requires the Offeror to provide a copy of a valid and current certificate as a resident business. Certificates are issued by the state taxation and revenue department.

If an Offeror submits with its proposal a copy of a valid and current in-state resident business 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.

Certification by the department of taxation and revenue for the resident contractor takes into consideration such activities as the business or

contractor's payment of property taxes or rent in the state and payment of unemployment insurance on employees who are residents of the state.

**OR**

**b. New Mexico Resident Veteran Business Preference**

New Mexico law, Section 13-1-22 NMSA 1978, provides a preference in the award of a public works contract for an **“in-state 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 who wants the veteran contractor preference to be applied to its proposal is required to submit with its proposal the certification from the NM Department of Taxation and Revenue and the sworn affidavit attached hereto as Appendix C.

If an Offeror 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 Offeror's score, depending on the business' annual revenue.

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

**AND**

**c. Santa Fe County Business 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 Resident Business, Resident Veteran Business or Santa Fe County Business preferences do not apply to procurement of services or goods involving federal funds or federal grant funds.*

**27. Double-Sided Documents**

All submitted bid / proposal documents shall be double-sided, pursuant to Santa Fe County Resolution 2013-7, Adopting Sustainable Resource Management Principles, Section 2. A. Waste Reduction and Reuse...”all documents are to be double-sided, including those that are generated by outside entities using County funds and by consultants and contractors doing business with the County”.

**28. Living Wage**

Contractor shall comply with the requirements of Santa Fe County Ordinance No. 2014-1 (Establishing a Living Wage).

**THIS SECTION LEFT BLANK INTENTIONALLY**

#### **IV. 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 one (1) original and four (4) identical copies of their proposal to the location specified in Section II, Paragraph E, on or before the closing date and time for receipt of proposals.

##### **C. PROPOSAL FORMAT**

All proposals shall be limited to twenty (20) pages, with exception to professional licenses and certifications, which shall be added as appendices. The document shall be typewritten on standard 8 1/2 x 11 paper, with a font no smaller than 12 pt. pitch, with nominal 1” margins and normal line spacing. Proposals shall be 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) Response to Mandatory Evaluation Factors
- e) Response to County Terms and Conditions
- f) Offeror's Additional Terms and Conditions

Within each section of their proposal, Offerors should address the items in the order in which they appear in this RFP under Section V., Paragraph B. Mandatory Evaluation Factors. All forms provided in the RFP must be thoroughly completed and included in the appropriate section of the proposal.

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

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 feel 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.
- h) Acknowledge and accept the terms and conditions of the Agreement attached as Appendix D.

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## V. SPECIFICATIONS

Offerors should respond in the form of a thorough narrative to each evaluation criteria. The narratives together with required supporting materials will be evaluated and assigned points according.

### A. INFORMATION

#### Time Frame

The contract is scheduled to begin in or around August 2016. Santa Fe County intends on awarding a contract with a term of one (1) year with three (3) renewal periods, not to exceed a total of four (4) years.

### B. MANDATORY EVALUATION FACTORS

Brief explanations of each evaluation factor are listed below. Offerors are encouraged to fully address each factor, as points are available for the Offeror's response to each.

#### 1. Professional Competence and Specialized Experience

- Provide an overview of current and prior experience in work comparable to the Scope of Work required in this RFP;
- Include background, qualifications, education, training and years of experience.
- Provide information about any specialized experience with providing facilitation services for projects of similar scope that demonstrate competence to successfully complete the project;

#### 2. Evidence of Understanding Scope of Work

- Provide an in-depth response and understanding of the requested scope of work;
- Include an itemized description of services to be provided that correlates to the scope of work;
- Discuss challenges that might be expected based on type of project, including existing conditions, location, site, or other factors;
- Include all information for any subcontractor or consultant that the Offeror has indicated to be part of the project team including what areas of work they will perform;
- Any services that cannot be provided should also be noted.

#### 3. Capacity and Capability

- Provide qualifications and capabilities, years of experience, level of experience, licenses, certification(s) and training(s) of all key personnel to be assigned to this project, their specific roles, experience, background including any special skills or strengths;

- Describe the Offeror's capacity and capability to perform the work, including any specialized services to be offered within the time limitations.
- Include information about Offeror's approach in providing the required services and capacity to implement the services and deliverables in a timely manner;
- Include any licensure and insurance requirements, if needed.

**4. Past Record of Performance**

- Demonstrate through contracts and other agreements with government agencies or private industry with respect to such factors as character, background, quality of work and ability to meet schedules;
- Include a list of three (3) external references from clients who received similar services. The minimum information to be included is:
  - a) Name of individual or company where services were provided;
  - b) Address of individual or company;
  - c) Name of contact person;
  - d) Telephone number and email address of contact person;
  - e) Type of services and dates services were provided.

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**VI. EVALUATION**

**A. EVALUATION SCORING**

The County will evaluate responsive proposals and assign a numerical score in each category, not to exceed the maximum allowed score for that category, as determined through the Offeror’s attention to the factor detailed in the following sections. The amount of discussion to be applied to each listed topic is an individual choice of the Offeror; however, discussion should be detailed enough to inform and educate the Evaluation Committee Members.

Proposals will be scored based upon a comparison of the information submitted by each Offeror against the evaluation factors outlined below. Each Evaluation Factor is assigned the following points:

- 1. Professional Competence and Specialized Experience ..... 250 points**
- 2. Evidence of Understanding Scope of Work ..... 250 points**
- 3. Capacity and Capability ..... 300 points**
- 4. Past Record of Performance ..... 200 points**
  
- TOTAL POINTS ..... 1000 points**

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## **PREFERENCES**

If a proposal contains New Mexico Resident Business Certificate or New Mexico Resident Veterans Business Certificate and/or Santa Fe County Business Certificate, the applicable preference will be applied in accordance with Section 13-1-21-NMSA 1978, and the County Purchasing Regulations.

- |            |  |                             |
|------------|--|-----------------------------|
| 6.         | Proposal contains a valid N.M. Resident Business Certificate.....        | <b>50 points</b>            |
| <b>OR</b>  |  |                             |
| 7.         | Proposal contains valid N.M. Resident Veteran Business Certificate ..... | <b>70, 80 or 100 points</b> |
| <b>AND</b> |  |                             |
| 8.         | Proposal contains a valid Santa Fe County Business Certificate.....      | <b>50 points</b>            |

## **B. EVALUATION PROCESS**

The evaluation process will follow the steps listed below:

1. All Offeror proposals will be reviewed for compliance with the mandatory specifications 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.B.7.
3. The Evaluation Committee may use other sources of information to perform the evaluation as specified in Section III.C.18.
4. Responsive proposals will be evaluated on the factors in Section V that have been assigned a point value. The responsible Offerors with the highest scores will be selected as finalist Offerors ‘shortlisted’ based upon the proposals submitted. If an oral presentation is recommended, the ‘shortlisted’ firms will be provided questions by the Selection Committee for their “Oral Presentations.” Each presentation will be evaluated by the Selection Committee. The oral presentation that receives the highest points and is most advantageous to the County, taking into consideration the evaluation factors in Section V, will be recommended for contract award as specified in Section III.B.11. Only the Oral Presentation points will be calculated for the most & highest qualified Offeror. Points from the “shortlisted” evaluations will only be used if there is a tie resulting from the Oral Presentations. 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**  
**“On-Call” SLDC Facilitation Services**  
**RFP # 2016-0361-GM/RM**

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

The acknowledgement of receipt should be signed and returned to the Procurement Manager no later than close of business on **Wednesday, July 6, 2016**. 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 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.

Rose Moya  
Santa Fe County Purchasing Division  
142 W. Palace Avenue (Second Floor)  
Santa Fe, New Mexico 87501  
(505) 992-6753  
(505) 989-3243  
rmoya@santafecounty.org

## APPENDIX B

### CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Pursuant to the Procurement Code, Sections 13-1-28, et seq., NMSA 1978 and NMSA 1978, § 13-1-191.1 (2006), as amended by Laws of 2007, Chapter 234, any prospective contractor 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 may cancel a solicitation or proposed award for a proposed contract pursuant to Section 13-1-181 NMSA 1978 or a contract that is executed may be ratified or terminated pursuant to Section 13-1-182 NMSA 1978 of the Procurement Code if: 1) a prospective 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.

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

**THIS FORM MUST BE INCLUDED IN THE REQUEST FOR PROPOSALS AND 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 statewide or local office. “Campaign Contribution” includes the payment of a debt incurred in an election campaign, but does not include the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate or political committee, nor does it include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee.

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

**“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.

**“Prospective contractor”** means a person or business that 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 or business 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.

Name(s) of Applicable Public Official(s) if any: \_\_\_\_\_  
(Completed by State Agency or Local Public Body)

**DISCLOSURE OF CONTRIBUTIONS BY PROSPECTIVE CONTRACTOR:**

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

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

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)

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

SIGNED AND SEALED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2012.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:

\_\_\_\_\_

## APPENDIX D

### SAMPLE PROFESSIONAL SERVICE AGREEMENT BETWEEN SANTA FE COUNTY AND CONTRACTOR'S NAME

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2016, by and between SANTA FE COUNTY, hereinafter referred to as the "County" and [CONTRACTOR'S NAME], whose principal address is [CONTRACTOR'S ADDRESS] hereinafter referred to as the "Contractor".

WHEREAS, the [BACKGROUND OR DESCRIPTION OF THE COUNTY'S NEEDS AND REQUIREMENTS]; and

WHEREAS, the [BACKGROUND/BRIEF DESCRIPTION OF THE CONTRACTOR'S ABILITIES/QUALIFICATIONS]; and

WHEREAS, [GENERAL PURPOSE OF THIS AGREEMENT]; and

WHEREAS, pursuant to [PROCUREMENT DELIVERY METHOD USED PURSUANT TO PROCUREMENT CODE, COUNTY PURCHASING REGULATIONS/POLICIES]; and

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

NOW, THEREFORE, it is agreed between the parties:

#### 1. SCOPE OF WORK

Santa Fe County (hereinafter referred to as "County") wishes to procure the services of multiple facilitators to provide Land Use Facilitation Services (hereinafter referred to as "Services"). These services will be provided on an on-call basis. The Contractor (hereinafter referred to as "Contractor") will perform the required Services in a manner that satisfies quality, cost and professionalism requirements, as determined by the County.

This is not an exclusive contract and the County reserves the right to contract with any other individuals and/or firms based on any conflicts regarding the applications. This agreement does not guarantee the payment of any amount or that services will be required by the County under this Agreement.

General Process for Land Use Facilitation (Chapter 4.4.8.4 of the SLDC):

**A. Referral.** An application may be referred to land use facilitation by the Administrator or the applicant. A matter may also be referred to land use facilitation following the TAC meeting but, more likely, will be referred to land use facilitation coincidentally with the finding of completeness.

**B. Assignment of a Land Use Facilitator.** The Administrator shall assign a case referred to facilitation to a land use facilitator contracted or employed by the County. Any facilitator selected for a given case shall have no interest in the case and shall not be an employee of Santa Fe County.

**C. Initiation of Process.** The facilitator shall contact the applicant and relevant persons affected by the proposed development to determine the level of interest in a facilitated meeting. If the Administrator is aware of a Community Organization or Registered Organization in the vicinity of the proposed development, the facilitator shall contact the Community Organization or Registered Organization. If there is no interest in land use facilitation or if there is no person affected by the proposed development, the facilitator shall generate a “no facilitation held” report and refer the matter back to the Administrator.

**D. Facilitation.** If interest exists, the facilitator shall schedule facilitation. During the facilitation, the applicant shall present the proposed project, followed by a presentation (if any) of residents or homeowners associations, followed by a discussion among the participants. The facilitator shall record comments, questions, concerns and areas of agreement among the parties.

**E. Report and Completion of Process.** Following the facilitation, the facilitator shall generate a complete and neutral report on the facilitation. All areas of agreement shall be highlighted, and areas of severe disagreement also noted. The report shall be distributed to the Administrator and all participants in the facilitation. Areas in which agreement was reached during the facilitation shall be reported as resolved in the staff report to the decision maker.

**F. Timeline.** The facilitation described in this subsection shall be completed no later than thirty (30) days from the date of referral, unless waived by the applicant.

**G. Costs of Facilitation.** All the costs of facilitation shall be paid by the applicant. Following completion of the facilitation, the Administrator shall present a invoice to the applicant.

## **2. DELIVERABLES**

**A.** Contractor agrees to provide facilitation services on an “as needed” basis, as requested and assigned by the County via the Growth Management Department.

**B.** Contractor shall provide a complete and neutral report on the facilitation. All areas of agreement shall be highlighted, and areas of severe disagreement also noted. The report shall be distributed to the Administrator and all participants in the facilitation.

C. Invoicing and recordkeeping for each facilitation session shall be provided by the Contractor.

D. The Contractor shall accept assignments only when Contractor can serve impartially, without conflict of interest and with full professional and ethical competence.

E. The Contractor may be required to attend and provide testimony at the Hearing Officer, Planning Commission and/or Board of County Commission meetings in regards to the facilitation that was conducted. In the event that an application continues on through a litigation process, the Contractor may also be required to provide testimony in court.

F. All Parties understand and agree that the County reserves the rights to:

- 1) standardize reporting methods and forms used;
- 2) provide feedback to the contractor on conduct and invoicing;
- 3) revise excessive hours on invoices; and
- 4) select and/or revise lead and co-facilitators as needed.

### 3. ADDITIONAL SERVICES

A. The parties agree that all tasks set forth in Section 1 (Scope of Work) of this Agreement shall be completed in full, to the satisfaction of the County, in accordance with professional standards and for the amount set forth in Section 4 (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.

### 4. COMPENSATION, INVOICING AND SET-OFF

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

- 1) County shall pay to the Contractor for services performed to the satisfaction of County as follows:

- **<ENTER SPECIFIC TYPE OF PAYMENT/INVOICING>**

- 2) The total amount payable to the Contractor under this Agreement shall not exceed **[WRITTEN WORD]** dollars **[\$XX,XXX.XX]** *exclusive* of New Mexico gross receipts tax. Any New Mexico gross receipts tax levied on the amounts payable under this Agreement shall be paid by the County to the Contractor.

- 3) 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. The County will 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 in writing.

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.

- 1) The County's representative for certification of acceptance or rejection of contractual items and services shall be **[USER AGENCY NAME / INDIVIDUAL]**, or such other individual as may be designated in the absence of the office representative.
- 2) 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 services or deliverables.
- 3) Within thirty (30) days of the issuance of a written certification accepting the services or deliverables, the County shall tender payment for the accepted items or services. 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.

## **5. EFFECTIVE DATE AND TERM**

The contract is scheduled to begin in or around August 2016. Santa Fe County intends on awarding a contract with a term of one year with the option to renew for two additional one-year terms, not to exceed a total of three years in duration.

## **6. 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 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 30 days, the breaching party shall have a reasonable time to cure the breach, provided that, within 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 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 standards 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.

## **7. 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.

## **8. 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.

## **9. 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.

## **10. 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.

## **11. 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.

## **12. 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.

## **13. 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.

## **14. 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 is a work made for hire. 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.

## **15. 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.

**16. 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.

**17. 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.

**18. 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.

**19. 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.

**20. 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. Contractor shall comply with the requirements of Santa Fe County Ordinance 2014-1 (Establishing a Living Wage).

C. 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 state district courts of New Mexico, located in Santa Fe County.

## **21. 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 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 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.

## **22. 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.

## **23. 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.

## 24. 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

To the Contractor:            **[CONTRACTOR'S NAME AND ADDRESS]**

## 25. CONTRACTOR'S REPRESENTATIONS AND WARRANTIES

The Contractor hereby represents and warrants that:

A. 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.

B. This Agreement and Contractor's obligations hereunder do not conflict with Contractor's corporate agreement or any statement filed with the New Mexico Secretary of State on Contractor's behalf.

C. Contractor is legally registered and is properly licensed by the New Mexico State to do the work anticipated by this Agreement and shall maintain such registration and licensure in good standing throughout the duration of the Agreement.

## 26. FACSIMILE SIGNATURES

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

## 27. NO THIRD-PARTY BENEFICIARIES

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

## **28. 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 \$1,000,000.00 combined single limits of liability for bodily injury, including death, and property damage for any one occurrence. 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. Professional Liability Insurance. The Contractor shall procure and maintain during the life of this Agreement a Professional Liability Insurance.

E. 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.

## **29. 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.

## **30. 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.

## **31. 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.



**CONTRACTOR:**

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_