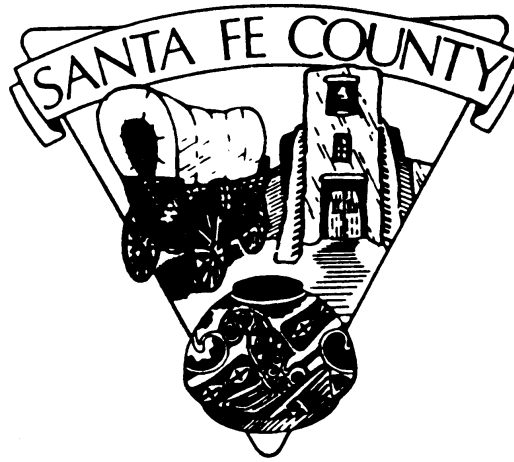


**SANTA FE COUNTY
PUBLIC WORKS DEPARTMENT**

INVITATION FOR BIDS



**INSTALLATION OF ROADWAY
GUARDRAILS, BARRIER CABLE &
COMPONENTS**

IFB #2018-0288-PW/MAM

AUGUST 2018

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ADVERTISEMENT

INVITATION FOR BIDS

**SANTA FE COUNTY
IFB# 2018-0288-PW/MAM
INSTALLATION OF ROADWAY
GUARDRAILS, BARRIER CABLES & COMPONENTS**

The Santa Fe County Public Works Department is requesting bids for the purpose of procuring licensed and qualified contractors for the installation of roadway guardrails, barrier cables and components. 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/or timely delivery.

Bids may be held for ninety (90) days subject to all action by the County. Santa Fe County reserves the right to reject any and all bids in part or in whole. A completed bid package shall be submitted in a sealed container indicating the IFB title and number along with the Offeror's name and address clearly marked on the outside of the container. **All bids must be received by 2:00 PM (MDT) on Wednesday, September 19, 2018 at the Santa Fe County Purchasing Division, 142 W. Palace Avenue (Second Floor), Santa Fe, NM 87501.** By submitting a bid for the requested services/items each Bidder is certifying that its bid complies with regulations and requirements stated within the Invitation for Bid.

A Pre-Bid Conference will be held on Wednesday, 29, 2018 at 11:00AM (MDT) at the Santa Fe County Public Works Department located at 424 NM 599 (Frontage Road), Santa Fe, N.M. 87506. *Attendance at the Pre-Bid Conference is not mandatory but attendance is strongly encouraged.*

Invitation for Bid packages will be available by contacting Michelle A. Marmion, Santa Fe County, Purchasing Division, 142 W. Palace Avenue (Second Floor), Santa Fe, NM 87501, or by telephone at (505) 992-6753, or by email at mmarmion@santafecountynm.gov or on our website at http://www.santafecountynm.gov/services/current_solicitations

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

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

Santa Fe County
Purchasing Division
Publish: August 19&20, 2018

BID INSTRUCTIONS

1. All bids shall be submitted on the Santa Fe County “Invitation for Bids” forms provided herein.
2. A Pre-Bid conference will be held on **Wednesday, August 29, 2018, at 11:00AM (MDT)** at 424 New Mexico 599 Frontage Rd., Santa Fe, N.M. 87506. Attendance at the pre-bid conference is not mandatory but is strongly encouraged
3. All bids must be received no later than **2:00 PM (MDT) on Wednesday, September 19, 2018** at the Santa Fe County Purchasing Division, 142 W. Palace Avenue (Second Floor), Santa Fe, NM 87501.

Bids should be hand delivered or by courier to:

Michelle A. Marmion
Santa Fe County Purchasing Division
142 W. Palace Avenue (Second Floor)
Santa Fe, New Mexico 87501
Telephone Number (505) 992-6753

4. Bids must be submitted in a sealed envelope or container and be clearly marked with the words: **Sealed Bid Enclosed, IFB #2018-0288-PW/MAM**. Bids that are not submitted in a sealed envelope or container will not be accepted.
5. Filing time marked or stamped on the sealed envelope or container by the Santa Fe County Purchasing Division shall be the official time of receipt of the bid.
6. All bids shall remain sealed until the date and time specified in the “Advertisement” on Page 2 of this bid package.
7. To preclude possible errors and/or misinterpretations, bid prices shall be affixed in ink, legibly written or typed. In case of discrepancy, amounts stated in words shall govern.
8. **Pre-Bid Conference:** A pre-bid conference will be held on **Wednesday, August 29, 2018 at 11:00AM (MDT)** at the Santa Fe County Public Works Department located at 424 NM 599 (Frontage Road), Santa Fe, N.M. 87506. Attendance at the pre-bid conference is not mandatory but attendance is strongly encouraged.
9. Acknowledgement of Receipt Form

Interested bidders should hand deliver or return by facsimile or by registered or certified mail the "Acknowledgement of Receipt Form" that accompanies this document (See “Appendix A”) to have their organization placed on the procurement distribution list. The form should be legibly completed and signed by an authorized representative of the organization, dated and returned by close of business on **August 29, 2018**.

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

10. Campaign Contribution Disclosure Form

Bidders must complete and submit with their bid the Campaign Contribution Disclosure Form, “Appendix B”.

11. Double-sided documents

All submitted bids/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.

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GENERAL TERMS & CONDITIONS

1. **Bid Modification and Withdrawal:** After bid opening, no modifications of bids shall be permitted. A Bidder alleging a material mistake of fact after the opening of bids may be permitted to withdraw its bid upon written request prior to contract award. Bids may be withdrawn upon receipt of written request prior to the scheduled bid opening for the purposes of correction and/or change. Such modifications shall be properly identified and signed or initialed by the Bidders authorized representative or agent. Resubmission of the modified bid must be received within the specified time of bid opening in order to be considered.
2. **Method of Award:** Santa Fe County reserves the right to award a “Multiple Source Award “ pursuant to Section 13-1-153 NMSA 1978, to the bidder(s) who submit the lowest responsive bid(s) meeting or exceeding specifications and terms and conditions for those items.
3. **Notification of Award:** The successful Bidder(s) shall be notified in writing within five (5) working days of agreement award. The successful Bidder(s) will be issued purchase order(s) for goods and/or services as predicated by the Scope of Work, Specifications or Supplemental Agreement, if applicable, prepared by Santa Fe County
4. **Time for Completion; Liquidated Damages:** Time is of the essence for purposes of this solicitation. All damages resulting from late delivery of goods or services shall be the responsibility of the bidder.

All items bid or services are to be delivered F.O.B. Santa Fe County, at a site to be determined by the County at the time a purchase order is released, except specifically set forth herein. In the event of failure of the bidder to deliver in accordance with this requirement, the bidder shall be liable to the County for late delivery liquidated damages in the amount of \$100.00 each day the materials and services are delivered late.

5. **Payment Terms:** All successful Bidders for materials/services bid shall be subject to payment by the County has a period of net thirty (30) days after receipt of the firm’s proper and acceptance invoice(s) by Santa Fe County.
6. **Applicable Taxes:** Bid prices offered by interested bidders shall not include applicable taxes. The County agrees to pay all applicable taxes where required. Santa Fe County is exempt from paying taxes on supplies and goods. The awarded Bidder may request a non-taxable transaction certificate (NTTC) from the Purchasing Division.
7. **Estimated Quantities:** All Bidders understand that any quantities stated in this IFB are estimated quantities of each service needed by the County and actual quantities ordered during the term of the Price Agreement may vary. Santa Fe County assumes no liability in the event actual requirements do not equal the stated estimated quantities. Actual purchases by the County for materials and/or services stated in this IFB are contingent upon available funding.

8. **Inspection and Acceptance:** Final inspection and acceptance of materials and/or services will be made by the County at the point of delivery. Non-conforming materials and/or services shall be rejected by the County and shall be removed by the bidder at its own risk and expense promptly upon notification of the non-conformance.
9. **Warranties:** The Bidder agrees that the goods and/or services furnished under this IFB shall be covered by most favored commercial warranties the Bidder gives to any customer for such goods and/or services and that the rights and remedies provided herein shall extend to the County and are in addition to and do not limit any rights afforded to the County by any other clause in any resulting order. The bidder agrees not to disclaim warranties of fitness for a particular purpose and warranty of merchantability.
10. **Invoice Requirements:** The awarded Contractor(s) invoice shall be submitted in triplicate, duly certified, and contain at a minimum the following information to be acceptable to the County:
- Purchase order number
 - Invoice number
 - Unit/Hourly/Discount prices (include extended totals) Complete descriptions of services and materials rendered
 - Complete descriptions of goods and/or services rendered
 - Separate invoices shall be issued for each completed shipment, project or phase as determined in any purchase order for such goods and/or services.
11. **Rights to Cancel:** The County reserves the right to cancel all or any part of any resulting order without cost to the County if the awarded Contractor(s) fails to meet material provisions of the order, and except as otherwise provided herein, to hold the awarded Contractor(s) liable for any excess costs associated with the contractor's default. The awarded Contractor(s) shall not be liable for any excess costs if failure to perform is due to causes beyond the control of the Contractor and is not due to the Contractor's own negligence. Such causes include, but are not restricted to, acts of God, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and defaults of subcontractors due to any of the above, unless the County can determine that the materials or services to be supplied by the subcontractor were obtainable from other sources in sufficient time to meet the required delivery schedule. The rights and remedies of the County provided in this paragraph shall not be exclusive and are in addition to other rights provided under applicable laws.
12. **Bidders Certification:** In submitting a bid, the Bidder certifies that it has not directly or indirectly entered into actions that may restrict open and effective competition for materials and services subject to this IFB by the County.

13. **Compliance with FCRA:** Bidders submitting bids shall be in compliance with the Federal Civil Rights Act of 1964 and Title VII of the Act (Rev.1979).
14. **Specifications:** The apparent silence of the specification as to any detail or apparent omission from them of detailed description concerning any point shall be regarded as meaning that only the best commercial practice is to prevail and only materials and workmanship of first quality are to be used.
15. **Rejection of Bids:** The County reserves the right to reject any and all bids in part or whole, to waive technicalities, make single or multiple awards without discussions with Bidders and to accept the offer it deems to be in the best interest of Santa Fe County, giving due consideration to prices, quality of goods or services, distribution and delivery facilities available and time of delivery.
16. **Interpretation of Bid Specifications:** Technical expertise may be required to provide materials that will conform to all applicable federal, state and local standards and to function as indicated in these specifications. The awarded bidder shall be responsible for ensuring that goods and/or services offered meet or exceed the stated criteria.

ANY EXCEPTIONS TO THE SPECIFICATIONS SHALL BE CLEARLY NOTED AND EXPLAINED.

17. **Interpretation of Meaning:** No interpretation of the meaning of the specifications or other documents will be made to any Bidder orally. To be given consideration each request must be received at least seven (7) working days prior to the date fixed for the receipt of bids. Each request for interpretations shall be in writing, email or fax to:

Michelle A. Marmion, Senior Procurement Specialist
 Santa Fe County, Purchasing Division
 142 W. Palace Avenue, Second Floor,
 Santa Fe, NM, 87501,
 Email at mmarmion@santafecountynm.gov
 (505) 992-6753

18. **Communication:** Direct communication with the County, other than through the aforementioned individual, may result in the elimination of the bidder's offer from consideration.
19. **IFB Corrections:** Any and all interpretations and supplemental instructions will be in the form of written addenda to the IFB which, if issued, will be e-mailed, faxed or other means determined by the County as reasonable to expedite this process to all prospective bidders prior to the date fixed for the receipt of bids. A new bid opening schedule may be set to allow for modification and resubmission of bids. Failure of any bidder to receive any such addenda or interpretations shall not relieve such bidder from any obligation under their bid as submitted. **All addenda issued shall become part of the contract documents and shall be acknowledged by the bidder on the bid sheet attached hereto.**

20. **Brand Names and Model Numbers, if applicable:** Specifications in this IFB are not meant to be restrictive, but descriptive. Specifications contained herein reflect the minimum acceptable standards and are not intended to restrict competition. No substitute specifications may be included. Exceptions may be made only if required to match existing equipment, or conform to pre-existing conditions which preclude mismatch of sizes, styles or color. Substitutions which would require additional delivery time, expense or modifications of the original design may be rejected.
21. **Item Description(s):** All items on the bid sheets are representative of the desired quantities and as such are intended as guides to potential Bidders in the preparation of bids. Bids of equivalent materials will be considered for award if (1) such materials are clearly identified by manufacturer's name, brand, and model number, if any, in the bidder's bid; (2) descriptive literature or other such data is provided to show that the equivalent materials are equal to the brand name; and (3) the County determines such items to be equal in all material respects to the salient specifications of the materials required.
22. **Compatibility or Brand Name(s):** A Bidder shall clearly indicate that it is offering an "equal" product unless the Bidder is offering the brand name product(s) referenced on the bid sheet. Should any specified materials be listed incorrectly, discontinued or improved, the Bidder shall note such changes in its response and include the pertinent details regarding the change. In the event the item has been discontinued, the Bidder will be allowed to propose comparable goods or services along with the necessary supplemental documentation supporting its position.
23. **Evaluation and Determination of Product(s):** The evaluation of bids and the determination as to equality of the service and materials proposed shall be the responsibility of the County and will be based on information provided in the Bid and/or information reasonably available to the County.
24. **Preferences in Procurement**

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 13-40-2 NMSA 1978, a business or contractor shall submit with its bid or proposal a copy of a valid resident business certificate or valid resident business or 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 NM Department of Taxation and Revenue for the resident veteran business requires the Offeror or Bidder 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.

Additional information about obtaining a certificate of resident contractor may be found at <http://www.tax.newmexico.gov/Businesses/Pages/In-StatePreferenceCertification.aspx>

25. **Two or more identical bids:** If two or more identical low bids are received, the County will apply the process described at Section 13.1.110 NMSA 1978, of the State Procurement Code.
26. **Collusion:** No bidder shall be interested in more than one bid. Collusion among bidders or the submission of more than one bid under different names by any firms or individual shall be cause for rejection of all bids in question without consideration.
27. **Protest Procedure:** Any Bidder who is aggrieved in connection with a procurement may protest to the County Procurement Manager as set forth in Board of County Commissioners Resolution No. 2006-60. A copy of Resolution No. 2006-60 is available upon request.
28. **Consideration of Bids:** Bids received on time will be opened publicly and will be read aloud, and an abstract of the amounts of the Base Bids or Bid Items will be made available to the Bidders. Each Bid shall be open to public inspection.
29. **Bid Security:** Bid Security in the amount of ***two hundred dollars (\$200.00)*** shall accompany the bid. Security may be in the form of a certified check or bank cashier's check made payable to Santa Fe County or a bid bond issued by a surety licensed to conduct

business in the State of New Mexico, or other surety in form satisfactory to the County. The Bid Security of the successful bidder will be retained until the bidder has executed the Agreement, whereupon the bid security will be returned. If the bidder fails to execute and deliver the Agreement within ten (10) days of Notice of Award, the County may cancel the Notice of Award and the Bid Security of that bidder will be forfeited. **The Bid Security of any bidder whom the County believes to have a reasonable chance of receiving the award may be retained by the County until either the seventh day after the executed Agreement is delivered by the County to the Contractor and the required Contract Security is furnished, or the sixty-first day after the bid opening, whichever is earlier. Bid security of other bidders will be returned within thirty (30) days of the bid opening.**

Bid Security in the form of checks, except the Bid Security of the two lowest bidders, will be returned immediately following the opening and checking of the bids. The retained Bid Security of the unsuccessful of the two lowest bidders, if in the form of a check, will be returned within fifteen (15) days following the award of contract. The retained Bid Security of the successful bidder, if in the form of a check, will be returned after a satisfactory contract bond has been furnished and the contract has been executed. Bid Securities in the form of Bid Bonds will be returned only upon the request of the unsuccessful bidder, but will be released by the County Purchasing Agent after the Notice to Award is sent by the County.

30. **Insurance Requirements:** At a minimum upon execution of the Agreement between the County and the Contractor, the Contractor shall furnish to the County, Certificates of Insurance naming Santa Fe County as an additional insured for the insurance coverage set forth in the sample price agreement attached herein.

31. **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 kickbacks.

SUPPLEMENTAL TERMS & CONDITIONS

1. **Intent of Specifications:** The following specifications are intended to describe the requirements by Santa Fe County. The County reserves the right to accept some minor variances in the approved materials and services offered by the bidders if such acceptance is determined to be in the best interest of the County.
2. **Qualified Bidders:** Bids may be accepted from vendors and/or factory authorized dealers who are able and willing to provide responsive service to the County. Bidders must be in a position to offer the lowest cost/highest effectiveness, completely meeting all established state and federal regulations or exceeding the minimum specifications contained herein. When additional equipment (components) are required to complete a bid package which is not usually supplied by the Bidder, such equipment shall be supplied by an authorized equipment supplier, but shall be the full responsibility of the Bidder and all prices shall be consistent with the Price Agreement. All bidders may be required to include reference from three (3) or more places of business that these items were sold to.
3. **Inspection of Work (If Applicable):** Representatives of the Santa Fe County Purchasing Division shall have access, at any reasonable time, to the Bidder's and manufacturer's facilities for the purposes of inspection during the agreement period, to inspect the facility during its normal working hours. The costs associated with such inspection trips shall be borne by the County.
4. **Payment or Acceptance Not Conclusive:** No payment made under this Agreement shall be conclusive evidence of the performance of the Price Agreement, either in whole or in part, and that no payment made for the delivery of the services in whole or in part shall be construed as an acceptance of defective work or improper materials, and shall not relieve the Bidder from the obligations to correct defects. The final acceptance shall not be binding upon the County or conclusive, should it subsequently develop that the Bidder furnished inferior items or departed from the specifications and/or the terms of the Price Agreement. Should such conditions become evident, the County shall have the right, notwithstanding final acceptance and payment, to cause the materials and services to be properly furnished in accordance with the specifications (and drawings, if any) at the cost and expense of the Bidder.
5. **Order of Preference:** In the event of conflict between the Bid Instructions, General Terms and Conditions, Supplemental Terms and Conditions, and sample price agreement, the Supplemental Terms and Conditions shall prevail.
6. **Contract Terms and Conditions:** The Price Agreement between the County and the Contractor shall follow the Terms and Conditions as stated throughout this Invitation for Bid. The County reserves the right to negotiate with a successful Bidder Terms and Conditions in addition to those contained in this IFB. The contents of this IFB, as revised and /or supplemented, the successful contractor's bid, and any additional Terms and Conditions (if applicable) as negotiated shall be accepted by the County and the Contractor as the contractual documents.

Should the bidder object to any of the County’s Terms and Conditions, as stipulated throughout this Invitation, that Bidder must propose specific alternative language. The County may or may not accept the alternative language. General references to the Bidder’s terms and conditions or attempts at complete substitutions are not acceptable to the County and will result in disqualification of the Bidder’s bid. Bidders must provide a brief discussion of the purpose and impact, if any, of each proposed change followed by the specific proposed alternate wording.

7. **Sufficient Appropriation:** The County reserved the right to terminate any Price Agreement awarded as a result of this IFB 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.

8. **Escalation Clause:** In the event of a product cost increase, an escalation request will be reviewed by the County on an individual basis. This measure is not intended to allow any increase in profit margin, only to compensation and actual cost increase.

Effective dates for increase will not be any sooner than thirty days from the date the written request is received by this office. To facilitate prompt consideration, all requests for price increase must include all information listed below:

- Price Agreement Item Number
- Current item Price
- Proposed New Price
- Percentage of Increase
- Mill/Supplier notification of price increase indicating percentage of increase including justification for increase.

If approved and accepted by the County the escalation increase will be terminated as soon as the market stabilizes.

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SPECIFICATIONS

1. OBJECTIVE DESCRIPTION

Santa Fe County is requesting bids from licensed, qualified contractors for the installation of roadway guardrails, barrier cable and components to include labor and materials as specified.

The County reserves the right to award a “multiple source award” pursuant to NMSA 1978 section 13-1-153 to the bidder(s) submitting the lowest, responsive bid(s) meeting or exceeding specifications.

This Agreement shall become effective on the date last written above and shall terminate four (4) years later, unless earlier terminated pursuant to Section 5 (Termination) or Section 6 (Appropriations and Authorizations).

Contract(s) will be awarded on an all-or-none basis: Bidders must bid prices on all bid items listed on the bid sheet.

Prices quoted shall include all labor, equipment and traffic control for standard installation (shoulder work only).

It is understood that the Contractor is responsible for payment of all costs of labor, equipment, tools, materials, federal tax, permits, licenses, fees and any other items necessary to complete the services under the Price Agreement.

The approximate quantities for each item are estimated and are for bidding purposes only. Actual requirements will be as determined by Santa Fe County and quantities may be increased or decreased as necessary to meet actual field requirements. Santa Fe County does not guarantee any amount of work.

A. Guardrails, barrier cable & components specifications for acceptable standards

1. The work shall consist of mobilization, transporting all equipment and personnel to the work site, providing the necessary traffic control in accordance with Manual on Uniform Traffic Control Devices (MUTCD), furnishing all materials necessary, building guardrail and constructing anchors in compliance with current New Mexico Standards and Specifications. All quantities are to be measured by Santa Fe County and shall be considered to be final and all payments for same will be made on this basis.
2. The Contractor shall provide competent supervision and skilled personnel to perform all work required.
3. The Contractor and all subcontractors must have the appropriate license classification for all work performed.

4. The Contractor shall comply with all local, state and federal laws governing safety, health and sanitation. The Contractor shall provide all safeguards, safety devices and protective equipment, and take any other needed actions necessary to protect the life, health and safety of employees on-the-job and the safety of the public and to protect property in connection with the performance of the work.
5. The Contractor shall be responsible for all cleanup work on the project site and at the equipment storage area prior to final inspection and acceptance.
6. All material and installation shall meet or exceed the most current edition of the New Mexico Department of Transportation (NMDOT) Standard Specifications for Highway and Bridge Construction, plus any supplemental or standard specifications and standard (Serial) drawings to the extent they may be pertinent to the work being performed established by NMDOT.
7. All items must have been satisfactorily certified (which may include crash testing and approval) for use on highways by the Federal Highway Administration (FHWA) under the National Cooperative Highway Research Program (NCHRP) Report 350. The certification and crash test results and approval letter must be made available upon request to the Santa Fe County.
8. All items provided and work performed under the Price Agreement must comply with all applicable requirements of the Manual on Uniform Traffic Control Devices (MUTCD) most recent adopted edition.
9. All nuts, bolts, washers, and other fittings shall be galvanized steel in accordance with ASTM A-153, unless otherwise specified.
10. All wood posts and wood blocks shall be treated in accordance with AASHTO M 133, unless otherwise specified.
11. Posts shall be set plumb, by hand, mechanically dug holes, or by driving. The method of driving shall be such as to avoid battering or distorting of posts. Vertical adjustment of post by pulling will not be allowed. In the event vertical adjustment of a post is required, the post shall be removed and re-installed. Driving of wooden posts will not be permitted through the bituminous surfacing unless guide holes are pre-cut or drilled in a manner that does not distress or otherwise disturb the bituminous surfacing. Driving of steel posts will be permitted through the bituminous surfacing provided bulging or other distress of bituminous surfacing does not occur. Should bulging or other distress of the bituminous surfacing occur when driving steel posts, the posts shall be removed and re-installed utilizing guide holes drilled through the bituminous surfacing. After the guide holes have been pre-cut or drilled, if bulging or other distress of the bituminous surfacing occurs during the driving of wood or steel posts and/or either type of post is prevented from being driven to the designated depth, the

driving of the wood or steel posts shall cease. The post(s) shall then be removed and the following procedure shall be utilized:

- a) For Wood Post(s): A hole having the same or slightly less diameter providing a snug fit for a round post(s) or a hole having the diameter equal to the width of the side of a square post(s) shall be drilled to the designated depth and the post(s) installed.
- b) For Steel Post(s): A hole having a diameter equal to the width of the least side shall be drilled to the designated depth and the post(s) installed.

Damaged guardrail, posts and components shall be removed and disposed of by the Contractor.

12. CLASS "A" Concrete Repairs – The contractor shall make necessary patch repairs to any concrete structures such as bridge approach wall, parapets, median barriers or other areas that Santa Fe County shall deem necessary. Areas to be considered shall be those requiring work to improve safety and that are necessary for satisfactory completion of the work. Concrete to be used shall be Class "A" PCC and shall be in accordance with the most current edition of the NMDOT Standard Specifications for Road and Bridge Construction. Payment shall be made on a square foot basis.
13. Rail elements shall be erected in a manner resulting in a smooth, continuous installation. Beams to be erected on a radius of one hundred fifty (150) feet or less shall be shop curved to the appropriate curvature of the installation. Only drilling or cutting necessary for special connections will be permitted in the field. When the galvanizing on guardrail or fittings has been damaged, the coating shall be repaired by galvanizing federal specifications TT-P-641 or MIL-P-24441/20. All bolts except adjustments bolts shall be drawn tight. Bolts shall be of sufficient length to extend beyond the nuts and shall be rust free.
14. The operations of accomplishing this guardrail installation, mobilization and transportation of supplies, equipment and personnel to the site and the furnishing of materials required to be in substantial compliance with the specifications shall be paid per lineal feet or per each as specified.
15. The Contractor shall be notified of exact location, quantity and prioritize by a request for quote and will be issued a purchase order. For routine work, the Contractor will be allowed up to twenty (20) calendar days to begin the work following the receipt of the purchase order. For priority work, the Contractor will be allowed up to fourteen (14) days to begin the work following receipt of the purchase order and for emergency work the Contractor will be allowed up to seventy-two (72) hours to begin the work following the receipt of the purchase order. "Beginning work" is defined as commencing installation in the field. Emergency purchase orders shall be for less than five hundred (500) feet of

guardrail. A ten percent (10%) premium will be afforded to the Contractor for all emergency work issued by Santa Fe County. Should the Contractor fail to perform the entire project (installation completed) within the contract time, the Contractor agrees to the following schedule of *liquidated damages* representing inconvenience and monetary damage to the traveling public:

LIQUIDATED DAMAGES

Cost	Contract Time to Complete Work Work Days	Penalty/Day Over Allowed
\$0 -\$55,000	10	165.00/Work Day Over
\$55,001-\$100,000	20	300.00/Work Day Over
\$100,001-165,000	35	\$495.00/Work Day Over
\$165,001 and over	100	\$495.00/Work Day Over

Should emergency work affect the schedule of priority work or routine work, it will be the Contractor's responsibility to notify Santa Fe County in writing within two (2) working days after emergency work is issued.

16. Upon completion of the work, it shall be the Contractor's responsibility to notify Santa Fe County to request final inspection. Failure to do so will result in the assessment of liquidated damages as indicated above.
17. It will be the responsibility of Santa Fe County to provide the necessary surveys and inspections with the exception of utility clearance surveys.
18. The Contractor shall be responsible for securing utility clearance ("blue staking") prior to construction for all work involving footings, anchors or drive down bases where the possibility of one or more underground utilities may exist. Changes in plans to avoid placement of underground utilities shall require prior Santa Fe County approval. Costs for obtaining utility clearance shall be included in the appropriate bid items.
19. For the purpose of the Price Agreement, a unit for acceptance is defined as a continuous run of guardrail including all anchorages and attachments.
20. Minor additions or changes to the approved plans will be made in writing by Santa Fe County.
21. Proprietary End Treatments included are:
 - a) ET-Plus per Manufacturers recommendations
 - b) Fleet per Manufacturers recommendations
 - c) SKT 350 per Manufacturers recommendations
21. Proprietary Cable Barrier
 - a) Trinity-Cass

- b) Brifen
- c) Safence

22. **Mobilization** is one way, one-time travel per work request as defined as continuous travel within Santa Fe County by the shortest route from Contractor's designated base station, to reach all job sites included in a single installation order and to be based upon map mileages. For requested delivery of removed materials to designated County yard, designated yard will be considered a work site for calculation purposes of the bid item. No payment will be made for Contractor's return to designated base station.
23. **Payments and Invoicing** - Within fifteen (15) days after the date Santa Fe County receives written notice from the Contractor that payment is requested for services, construction or items of tangible personal property delivered on site and received, Santa Fe County shall issue a written certification of complete or partial acceptance or rejection of the services, construction or items of tangible personal property. If Santa Fe County finds that the services, construction or items of tangible personal property is not acceptable, it shall, within thirty (30) days after the date of receipt of written notice from the Contractor that payment is requested, provide to the Contractor, a letter of exception explaining the defect or objection to the services, construction, or delivered tangible personal property along with the details of how the Contractor may proceed to provide remedial action. Upon certification by Santa Fe County that the services, construction, or delivered tangible personal property have been received and accepted, payment shall be tendered to the Contractor within thirty (30) days after the date of certification. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked.
24. **Worker's Compensation Act** - Contractor agrees to comply with state laws and rules pertaining to Worker's Compensation Insurance coverage for its employees. If Contractor fails to comply with the Worker's Compensation Act and applicable rules when required to do so, the Price Agreement may be cancelled effective immediately.
25. **Performance and Material Bonds** – Within three (3) days of issuance of a purchase order, the Contractor shall provide a Performance Bond and a Payment and Materials Bond equal to one hundred percent (100%) of the total contract order. The Performance Bond is to secure the County for losses and damages sustained by reason of default by the contractor. The Materials Bond is to guarantee availability of equipment and acceptance of product.
26. **Public Works Minimum Wage Act** – This is a Public Works contract subject to the provisions of the Public Works Minimum Wage Act, Section 13-4-11 through 13-4-17, et. Seq. NMSA 1978 as amended. Minimum Wage Rates as determined and published by the New Mexico Department of Workforce Solutions, Public Works Bureau, Santa Fe, New Mexico, shall be effect and utilized by the vendor during the life of the Price Agreement. A Wage Rate Decision number must be requested by Santa Fe County for all work over sixty thousand dollars (\$60,000.00) and attached to each purchase order

issued. If the contractor or subcontractor is willfully paying its laborers, mechanics, or operators less than the required wage rates for laborers, mechanics and operators, the contractor or subcontractor may lose its right to proceed with the work.

27. The County shall have the right and authority to reject materials or workmanship by the contractor. Materials and workmanship may be rejected for failure to meet specifications or to perform satisfactorily upon application, or for failure to be delivered or completed at the time specified. Contractor will not be compensated for material or workmanship that is rejected. The County shall not be liable to the contractor in any way for any damages of any nature whatsoever resulting from the rejection of the materials or workmanship. When materials or workmanship are rejected, the contractor shall be informed of the reason for the rejection in writing as soon as practical after the rejection. The contractor agrees to indemnify the County for any and all losses incurred due to delay in shipment or installation, or rejection of material or workmanship.

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BID FORM

Project: Installation of Roadway Guardrails,
Barrier Cable, & Components

IFB No. 2018-0288-PW/MAM

Bidder Information:

This Bid is submitted to:

Name:

Santa Fe County Purchasing Division

Address:

142 W. Palace Ave. (2nd Floor)

Santa Fe, New Mexico 87501

Attn: Michelle A. Marmion

Having read the Santa Fe County Bid Instructions and General Terms and Conditions and examined the specifications sheet(s) for the Invitation for Bids reference **IFB #2018-0288-PW/MAM**, I hereby submit the attached firm offer for which will remain open for a period not to exceed ninety (90) days in accordance with all terms and conditions represented in this solicitation for:

Installation of Roadway Guardrails, Barrier Cable & Components

Signature:

Name (typed or printed):

Title: _____

Firm Name: _____

Telephone: (____) _____

Email Address: _____

Federal ID or Social Security Number: _____

CID License Number: _____

(Attach copy of CID License to Bid)

Resident Preference Number: _____

(Attach copy of Resident Preference Certificate to Bid)

Business License Number: _____

(Attach copy of Business License to Bid)

Campaign Contribution Disclosure Form:

(Complete, sign & attach to Bid)

() Received addenda #'s _____ & _____ & _____ when issued.

() Include Bid Security in the amount of \$200.00

BID SHEETS
INSTALLATION OF ROADWAY GUARDRAILS,
BARRIER CABLE & COMPONENTS
IFB #2018-0288-PW/MAM

Please offer your best price for all bid items based on the unit price indicated below to include all costs for labor, equipment, tools, materials, federal tax, permits, licenses, fees and any other items necessary to complete the services. Be advised that award may be made without discussion with Bidders.

Item	Approx. Qty.	Unit	Article and Description	Unit Price \$	Unit Price Written in Word
1	45	SF	Class A concrete repairs as specified by the Sq. Ft. – Repairs are for chipped-out concrete sections from wingwalls etc.		
2	1500	LF	Metal Barrier, W-Beam Installation		
3	20	LF	Cor-Ten W-Beam Metal Barrier Installation		
4	500	LF	Metal Barrier, Three Beam Installation		
5	20	LF	Cor-Ten Three Beam Metal Barrier Installation		
6	2	EA	Metal Barrier, Anchorage Type “A” Installation		
7	1	EA	Cor-Ten Type “A” Anchor Metal Barrier Installation		
8	2	EA	Type B End Anchorage for curved guardrail installation to include all parts, materials and labor		
9	1	EA	Cor-Ten Type “B” Anchor Metal Barrier Installation		

Item	Approx. Qty.	Unit	Article and Description	Unit Price \$	Unit Price Written in Word
10	1	EA	Metal Barrier, Anchorage Type "D" Installation, Buried in Backslope, per Standard Drawings		
11	100	LF	Curved Guardrail Installation, radius as specified by the County to include all parts, materials and labor		
12	20	LF	Cor-Ten Curved Guardrail Installation; radius as specified by the County to include all parts, materials and labor		
13	10	CY	Earthwork equipment compacting; to be determined by cross sections of excavated area		
14	2	CY	Guardrail Pad Installation		
15	3	EA	ET Plus Guardrail End Treatment-Type 1 50 foot, installed per manufacturer's recommendations and Standard Drawing, including prismatic sheeting on extruder head		
16	1	EA	ET Plus Guardrail End Treatment-Type 1 50 foot, installed per manufacturer's recommendations and Standard Drawing, including prismatic sheeting on extruder head (extruder head finished to match Con-Ten Rail)		
17	3	EA	ET Plus Guardrail End Treatment – Type 2 37 foot 6 inch, installed as per manufacturer's recommendations and Standard Drawings, including prismatic sheeting on extruder head		

Item	Approx. Qty.	Unit	Article and Description	Unit Price \$	Unit Price Written in Word
18	1	EA	ET Plus Guardrail End Treatment – Type 2 37 foot 6 inch, installed per manufacturer’s recommendations and Standard Drawing, including prismatic sheeting on extruder head (extruder head finished to match Cor-Ten rail)		
19	3	EA	Fleat 350 Flared End Treatment – Type 2 installed per manufacturer’s recommendations and Standard Drawing, including prismatic sheeting on extruder head		
20	1	EA	Fleat 350 Flared End Treatment – Type 2 installed per manufacturer’s recommendations and Standard Drawing, including prismatic sheeting on extruder head (extruder head finished to match Cor-Ten rail)		
21	3	EA	SKT 350 Guardrail End Treatment – Type 1 installed per manufacturer’s recommendations and Standard Drawing, including prismatic sheeting on extruder head		
22	1	EA	SKT 350 Guardrail End Treatment –Type 1 installed per manufacturer’s recommendations and Standard Drawing, including prismatic sheeting on extruder head (extruder head finished to match Cor-Ten rail)		
23	500	LF	Installation of W-Beam Metal Barrier provided by Santa Fe County and delivered to site		
24	10	EA	Prismatic Grade Sheeting for Extruder Heads		

Item	Approx. Qty.	Unit	Article and Description	Unit Price \$	Unit Price Written in Word
25	500	LF	Removal of Salvageable Metal Barrier, including posts and components, stockpiled at directed by Santa Fe County		
26	200	LF	Remove and Rebuild existing Metal Barrier, Posts and Components as directed by Santa Fe County		
27	30	Hour	Sequential Flashing Arrows Flashing Directional Arrows as required by Santa Fe County		
28	20	LF	Three-Beam Metal Barriers Installation attaching transitions to Concrete Wall Barrier		
29	20	LF	Three-Beam Metal Barrier Installation attaching transitions to Bridge Railing		
30	25	LF	Nested Three-Beam Metal Barrier Installation		
31	30	LF	W-Beam Metal Barrier Installation attaching transitions to Bridge Railing		
32	500	FT	Wire Rope System Installation with Sleeved Posts (Trinity Cass) per manufacturer's recommendations		
33	8	EA	End Treatment Complete Installation for Wire Rope System with Sleeved Posts (Trinity Cass)		
34	200	FT	Maintenance of Wire Rope System with Sleeved Posts (Trinity Cass)		
35	5	EA	Repair of and Replacement of Damaged Line Post Footing (Trinity Cass)		

Item	Approx. Qty.	Unit	Article and Description	Unit Price \$	Unit Price Written in Word
36	200	FT	Wire Rope System Installation with Sleeved Posts (Brifen) per manufacturer's recommendations		
37	8	EA	End Treatment Complete for Wire Rope System Installation with Sleeved Posts (Brifen)		
38	200	FT	Maintenance of Wire Rope System with Sleeved Posts (Brifen)		
39	5	EA	Repair of and Replacement of Damaged Line Post Footing (Brifen)		
40	200	EA	Wire Rope System Installation with Sleeved Posts (Safence) per manufacturer's recommendations		
41	8	EA	End Treatment Complete for Wire Rope System Installation with Sleeved Posts (Safence)		
42	200	FT	Maintenance of Wire Rope System with Sleeved Posts (Safence)		
43	5	EA	Repair of and Replacement of Damaged Line Post Footing (Safence)		
44	1	EA	Traffic Control – Two Lane Roadway with One-Lane Closure, Flagman and Pilot Car		
45	1	EA	Traffic Control – Inside Lanes/Median, Outside Lanes Operation for Multi-Lane Highways		

Item	Approx. Qty.	Unit	Article and Description	Unit Price \$	Unit Price Written in Word
46	100	Mile	Mobilization – one way, one-time travel mileage per work request as defined as continuous travel within the State of New Mexico by the shortest route from Contractor’s designated base station (or entrance to the state from closest state line in the case of an out-of-state Contractor) to reach all jobsites in a single order and to be based upon map mileages. For requested delivery of removed materials to designated Santa Fe County yard, designated yard will be considered a work site for calculation purposes of the bid item. No payment will be made for Contractor’s return to designated base station.		

All bid item amounts are exclusive of NM gross receipts tax

BID SUBMITTED BY:

COMPANY NAME: _____

NAME: _____

SIGNATURE: _____

TITLE: _____

EMAIL ADDRESS: _____

DATE: _____

APPENDIX A

ACKNOWLEDGEMENT OF RECEIPT FORM

**INSTALLATION OF ROADWAY GUARDRAILS,
BARRIER CABLE & COMPONENTS
IFB #2018-0288-PW/MAM**

In acknowledgement of receipt of this Invitation for Bids the undersigned agrees that he/she has received a complete copy, beginning with the title page, and ending with the contractual documents. Completed forms must be submitted to Michelle A. Marmion no later than **August 29, 2018** to receive any addenda for this solicitation.

The acknowledgement of receipt should be signed and returned to Michelle A. Marmion. Only Bidders that return this form in a timely manner will receive copies of addenda to this IFB.

BIDDER: _____

REPRESENTED BY: _____

TITLE: _____ **PHONE NO:** _____

E-MAIL: _____ **FAX NO:** _____

ADDRESS: _____

CITY: _____ **STATE:** _____ **ZIP CODE:** _____

SIGNATURE: _____ **DATE:** _____

The above name and address will be used for all correspondence related to the IFB. Bidder does / does not (CIRCLE ONE) intend to respond to this IFB.

Michelle A. Marmion
Santa Fe County
Purchasing Division
142. W. Palace Avenue (Second Floor)
Santa Fe, NM 87501
Telephone: (505) 992-6753
Fax: (505) 989-3243
Email: mmarmion@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

Title (Position)

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 allows me the 10% 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 _____, 2018.

NOTARY PUBLIC

My Commission Expires:

APPENDIX D

SANTA FE COUNTY PRICE AGREEMENT FOR THE INSTALLATION OF GUARDRAILS, BARRIER CABLE & COMPONENTS

THIS AGREEMENT is made and entered into this _____ day of _____ 2018 by and between **Santa Fe County**, a New Mexico political subdivision, (hereinafter referred to as “the County”) and _____, located at _____, a corporation authorized to do business in the State of New Mexico, (hereinafter “**Contractor**”).

IT IS MUTUALLY AGREED BETWEEN THE PARTIES:

1. DEFINITIONS

- A. “Using Department or Department” shall mean a Department or elected official’s office of Santa Fe County.
- B. “Purchase Order” shall mean a fully executed Purchase Document issued by the Using Department that specifies the services to be provided by the Contractor under the terms and prices of this Price Agreement.
- C. “Price Agreement” means this indefinite quantity Price Agreement which requires the Contractor to provide installation of guardrails and/or barrier cable and components to a Using Department which issues a Purchase Order.
- D. “Completion Date” means a date certain for completion of the installation of guardrails and/or barrier cable and components by the Contractor as indicated by the Using Department in a Purchase Order.

2. SERVICES TO BE PROVIDED

A. **Materials and Services on Exhibit A.** The Using Department may request Contractor’s services which are the subject of this Price Agreement. **The services ordered must be a service listed as a bid item on Exhibit A to this Agreement and all services must meet the Specifications for Materials and Application which is attached to Exhibit A.** All orders issued hereunder must bear the purchase order number and number of this Price Agreement #2018-0288-PW/MAM.

B. **Quantities.** It is understood that this is an indefinite quantity Price Agreement and the County may purchase any quantity of the services listed on Exhibit A on an as-needed basis. No guarantee or warranty is made or implied, by either the County or the Using Department that any order for any minimum, maximum or otherwise definite quantity will be issued under this Price Agreement. Quantities of service may vary depending on the season. When the Using Department requests services and a Purchase Order is issued, the Contractor is

required to accept the order and furnish and complete the services as requested at the prices listed on Exhibit A, subject to any applicable percentage price reductions or liquidated damages.

C. **Specifications.** The services and materials furnished hereunder shall conform to the requirements of the technical specifications and standards indicated in Attachment A. Orders issued pursuant to this Price Agreement must show the applicable Price Agreement service, quantity and price. Any materials used in providing the services under this Price Agreement must meet or exceed the manufacturer's specifications.

D. **Time for Completion; Liquidated Damages.** Time is of the essence for the purposes of this Price Agreement. In the event the Contractor fails to complete the installation of a guardrail and/or barrier cable and components project by the Completion Date indicated, and as may be amended, by the Using Department, the Contractor shall incur liquidated damages as outlined in Attachment A.

3. COMPENSATION AND INVOICING

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

- 1) County shall pay to the Contractor in full payment for services satisfactorily performed and all costs and expenses shall be in accordance with Exhibit A.
- 2) The total amount payable to the Contractor under this Agreement shall not exceed _____ (\$_____) exclusive of 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. 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. 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.

4. PAYMENT

All payments under this Price Agreement are subject to the following provisions:

A. Inspection. Inspection and acceptance of all materials and services ordered may be made prior to Contractor's commencement of services, during Contractor's performance, or at the completion of Contractor's performance of services. Materials or services rejected for non-conformance with specifications shall be removed at the Contractor's risk and expense promptly after notice of rejection and re-completed, or in the event of non-conforming materials and application, the Using Department may impose a percentage reduction in the price.

B. Acceptance. In accordance with NMSA 1978, Section 13-1-158, the Using Department shall determine if the materials and services meet specifications, and may accept the services if all components of the service meet specifications. No payment shall be made for any service until the completed service has been accepted in writing by the Using Department. Unless otherwise agreed upon between the Using Department and the Contractor, within thirty (30) days from the Contractor's completion of services, the Using Department shall issue a written certification of complete or partial acceptance or rejection of the materials or services. The time period shall begin at the time Contractor notifies the Using Department that services are complete and Contractor has achieved substantial completion. Unless the Using Department gives notice of rejection within the specified time period, the materials and services will be deemed to have been accepted.

C. Issuance of Orders. Only written, signed and properly executed Purchase Orders are valid under this Price Agreement.

D. Invoices. Depending on the number of working days scheduled for completion of a project, the Contractor may submit invoices for payment no more frequently than weekly, monthly, or upon completion of services. The Contractor's invoice shall be submitted in triplicate, duly certified and shall contain the following information: order number; description of supplies and/or services; quantities; unit price; and extended totals. Separate invoices shall be rendered for each project. Invoices must be submitted to the Using Department. All prices and charges by the Contractor shall be consistent with the prices indicated in Exhibit A.

E. Payment of Invoices. Upon written certification from the Using Department that project has been completed and accepted, payment shall be tendered to the Contractor within net thirty (30) days. If the payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. After the thirtieth day from the date that written certification of acceptance is issued, late payment charges shall be paid on the unpaid balance on undisputed amounts due according to the Price Agreement at a rate of 1.5% per month. Payment shall be made to the Contractor's designated mailing address.

F. Taxes. For each invoice submitted to the Using Department, Contractor shall indicate applicable gross receipts taxes or local option taxes on the invoice and tax should be shown as a separate item to be paid. The payment of taxes for any money received under this Agreement shall be the Contractor's federal and State of New Mexico tax identification number(s). If the Using Department is exempt from payment of New Mexico gross receipts tax or local option taxes, the Using Department shall provide the Contractor with written evidence of such exemption.

5. EFFECTIVE DATE AND TERM

This Agreement shall become effective on the date first written above and shall terminate one (1) year later with the option to renew for three (3) additional years for a total contract term of four (4) years, unless earlier terminated pursuant to Section 5 (Termination) or Section 6 (Appropriations and Authorizations).

6. DEFAULT

A. The failure of the Contractor to perform and/or complete services as requested by the Using Department shall constitute a default under this Price Agreement. The County reserves the right to cancel all or any part of any orders placed under this Price Agreement without cost to the County if the Contractor's materials or services fails to meet the specifications or requirements of this Price Agreement. The Contractor may be excused from performance under this Price Agreement if the Contractor's failure to perform or complete services are the result of causes beyond the control and without the fault or negligence of the Contractor, such causes include, but are not limited to, acts of God or public enemy, acts of the County or Federal Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and defaults of subcontractors due to any of the above, unless the County shall determine that the materials or services to be furnished by the subcontractors were obtainable from other sources in sufficient time to permit the Contractor and subcontractor to meet the required schedule.

B. The County shall cancel all or any part of any order without cost to the County if the Contractor fails to meet material provisions of an order.

7. 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 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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.

15. 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.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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.

21. 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 federal and state district courts of New Mexico, located in Santa Fe County.

22. 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.

23. 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.

24. 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.

25. 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
Public Works Department
102 Grant Avenue
Santa Fe, New Mexico 87501

To the Contractor:

26. 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.

27. FACSIMILE SIGNATURES

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

28. NO THIRD-PARTY BENEFICIARIES

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

29. 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. 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.

30. 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.

31. 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.

32. 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.

33. 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.

FEDERAL IDENTIFICATION NUMBER: _____