

**SANTA FE COUNTY  
PUBLIC WORKS DEPARTMENT**

**REQUEST FOR PROPOSALS**



**RFP NO. 2020-0167-PW/MAM**

**INSTALLATION OF HOME-BASED  
COMPOSTING SYSTEMS  
IN SANTA FE COUNTY**

**MARCH 2020**

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**I. ADVERTISEMENT**  
**INSTALLATION OF HOME-BASED**  
**COMPOSTING**  
**SYSTEMS IN SANTA FE COUNTY**

**RFP NO. 2020-0167-PW/MAM**

The Santa Fe County Public Works Department is requesting proposals from qualified offerors to construct and install residential composting systems for users of the County's solid waste convenience centers. All proposals submitted shall be valid for ninety (90) days subject to action by the County. Santa Fe County reserves the right to reject any and all proposals in part or in whole. A completed proposal shall be submitted in a sealed container indicating the proposal title and number along with the offeror's name and address clearly marked on the outside of the container. **All proposals must be received by 2:00 PM on Wednesday, April 15, 2020 at the Santa Fe County Purchasing Division, 142 W. Palace Avenue (Second Floor), Santa Fe, NM 87501.** By submitting a proposal for the requested services each offeror is certifying that its proposal complies with regulations and requirements stated within the Request for Proposals.

A **Pre-Proposal Conference** will be held on **Thursday, March 26, at 4:00 PM** at the Santa Fe County Projects, Facilities & Open Space Division located at 901 West Alameda, Suite 20-C, Santa Fe, New Mexico 87501. Attendance at the Pre-Proposal Conference is not mandatory by highly encouraged.

**EQUAL OPPORTUNITY EMPLOYMENT:** All offerors 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.

Request for proposals will be available by contacting Michelle A. Marmion, Procurement Specialist, 142 W. Palace Avenue (Second Floor), Santa Fe, New Mexico 87501, by telephone at (505) 992-6753 or by email at [mmarmion@santafecountynm.gov](mailto:mmarmion@santafecountynm.gov) or on our 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  
Publish: March 15 & 16, 2020

## II. CONTRACT OBJECTIVES

### A. PROJECT BACKGROUND

The Sustainability Division promotes energy efficiency, renewable energy technologies, water conservation, waste stream reduction, increased recycling, and greater transportation efficiency in the community and in County operations. The program supports sustainable programs in the County's residential and commercial sectors to promote a green economy through job creation and economic development.

One specific County sustainability goal is to reduce the amount of usable solid waste that is transported from the County convenience centers and buried at our regional landfill. The construction and installation of composting systems will turn food scraps and yard waste into a valuable soil amendment material, thus eliminate the need for transport and burial. The residential composting program builds on the success of the 2018 residential composting pilot program.

### B. SCOPE OF WORK

The contractor will install residential, outdoor compost systems – adjustable and scalable to the site location and the interest of the participant to maintain the system. For example, pre-fabricated composting bins may be appropriate for those with adequate room and interest in regularly turning the pile. The contractor's tasks and services under this service agreement shall be completed within one year of contract execution. The scope of services and work to be provided by the contractor are:

1. Install, at no cost to the resident, a composting system at the residence of users of County solid waste convenience centers and provide training regarding the proper use of the composting system.
2. Provide each participant with:
  - a. A small bin for transporting kitchen scraps to the composting system, if applicable;
  - b. If necessary, a shovel or pitchfork if the participant will be turning the compost a pile;
  - c. Sufficient worms (*Eisenia foetida* or *Lumbricus rubellis*) if the participant will be vermicomposting;
  - d. Instructional material that addresses, at a minimum, how to properly maintain the compost, including what organic to add, how frequently to water, how to cover, how to turn, how to harvest finished compost, and how to use the soil product. Instruction material will also provide information on troubleshooting, tips for addressing unwanted visitors and three useful additional (e.g. online) resources.

3. Store any returned materials for the duration of the contract until they are installed at another residence or, upon conclusion of the contract, return the material to the County.

4. Submit a final report to the County that details the work performed, lessons learned, and recommendations for program improvement and a list of participants. The report shall also include photo documentation of each installation.

**C. 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. Workers' Compensation Insurance. Contractor shall comply with the provisions of the Workers' Compensation Act.
4. Professional Liability Insurance. The Contractor shall procure and maintain during the life of this Agreement a Professional Liability Insurance.
5. 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, §41-4-1 through §41-4-29, as amended), Contractor shall increase the maximum limits of any insurance required herein.
6. Professional Liability (Malpractice/Errors and Omissions Insurance). If requested by the County, the Contractor shall procure and maintain during the life of this Agreement professional liability (errors and omissions) insurance with policy limits of not less than \$1,000,000.00 per occurrence, \$2,000,000.00 per aggregate.

**D. PROCUREMENT MANAGER**

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

Michelle A. Marmion  
Santa Fe County Purchasing Division  
142 W. Palace Avenue (Second Floor)  
Santa Fe, New Mexico 87501  
Phone (505) 992-6753  
Fax (505) 989-3243  
[mmarmion@santafecountynm.gov](mailto:mmarmion@santafecountynm.gov)

Any inquiries or requests regarding this procurement should be submitted to the Procurement Manager in writing. Offerors may contact ONLY the Procurement Manager regarding the procurement. Other County employees do not have the authority to respond on behalf of the County. Any contact with other County employees or elected officials during the procurement process (until an agreement has been approved and signed by all parties) may be grounds for disqualification of Offeror's proposal.

**E. DEFINITION OF TERMINOLOGY**

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

“**BCC**” means the Santa Fe County 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 Finance Division.

**“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 its 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 RFP.

**“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.

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### 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 the following schedule:

	<u>Action</u>	<u>Responsibility</u>	<u>Date</u>
1.	Issue of RFP	Purchasing Division	March 15 & 16, 2020
2.	Pre-Proposal Conference	Owner/Purchasing Offerors	March 26, 2020 4:00 p.m.
3.	Acknowledgement Form due	Offerors	March 26, 2020
4.	Deadline to Submit Questions	Offerors	March 31, 2020
5.	Response to Written Questions	Purchasing Division	April 3, 2020
6.	<b>Submission of Proposal</b>	Offerors	<b>April 15, 2020 2:00 p.m.</b>
7.	Proposal Evaluation	Evaluation Committee	April 2020
8.	Selection of Finalists (If Applicable)	Evaluation Committee	April 2020
9.	Oral Presentation and/or Best and Final by Finalists	Offeror	April 2020
10.	Negotiate & Finalize Contract	County, Offeror	May 2020
11.	Contract Award	Purchasing Division	May 2020

**Note:** *If the Evaluation Committee makes a selection at the Selection of Finalists, events 9 will not occur.*

## B. EXPLANATION OF EVENTS

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

### 1. Issue RFP

This RFP is being issued by the Santa Fe County Public Works Department and the Purchasing Division.

### 2. Pre-Proposal Conference

A Pre-Proposal Conference is scheduled to occur on the date indicated in the "Sequence of Events" at Section III.A. Questions may be submitted at the Pre-Proposal Conference and 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 that attended the pre-proposal conference. **Your attendance is highly recommended, however, it is not mandatory.**

### 3. Acknowledgement of Receipt Form Due

Potential offerors 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 *March 26, 2020*.

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

### 4. Deadline to Submit 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 D and sent via facsimile or e-mail. ***Any contact during the procurement process until an award has been made with any elected official or other County staff member other than the Procurement Manager named in this solicitation will be grounds for disqualification.***

### 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 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 PM ON WEDNESDAY, APRIL 15, 2020 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, D. Proposals must be sealed and labeled on the outside of the package to clearly indicate that they are in response to the County's Request for Proposals #2020-0167-PW/MAM. Proposals submitted by facsimile or other electronic means will not be accepted.

Proposals must be delivered to:

Michelle A. Marmion, 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 offeror's who submitted 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 negotiation 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 the offerors.

**8. Selection of Finalists (If Applicable)**

The Evaluation Committee may select and the Procurement Manager may notify the finalist offerors on the date indicated in the Sequence of Events at Section III.A. 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. Finalize Contract**

The contract will be finalized with the most advantageous offeror during the timeframe indicated in the Sequence of Events at Section III.A. 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 the Santa Fe County Purchasing Division:

Santa Fe County  
Attn: Procurement Office  
P.O. Box 276  
Santa Fe, New Mexico 87504

*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 terms and conditions 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. 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 performance of the contract with the County 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 proposal must be a complete replacement of the 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**

Proposals shall not be opened publicly and shall not be open to public inspection until after an offeror has been selected for award of a contract.

An offeror may request in writing non-disclosure of confidential data. 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.

**16. Contract Deviations**

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

**17. Offeror Qualifications**

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

**18. Right to Waive Minor Irregularities**

The Evaluation Committee reserves the right to waive minor technical irregularities. This right is at the sole discretion of the Evaluation Committee subject to the Procurement Manager approval.

**19. Change in Contractor Representatives**

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

**20. 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.

**21. County Rights**

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

**22. Right to Publish**

Throughout the duration of this procurement process and contract term, potential offerors and contractors must secure from the County written approval prior to the release of any information that pertains to the potential work or activities covered by this procurement or the subsequent contract. Failure to adhere to this requirement may result in disqualification of the offeror's proposal or termination of the contract.

**23. Ownership of Proposals**

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

**24. Electronic Mail Address Recommended**

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

**25. Preferences in Procurement by Santa Fe County**



A. ***New Mexico In-state 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 contractor**”. Application of a resident contractor preference for any Offeror requires the Offeror to provide a copy of a valid and current certificate as a resident contractor. 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 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.

Certification by the department of taxation and revenue for the resident contractor takes into consideration such activities as the business’ 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 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 contractor**”. Certification by the department of taxation and revenue for the resident veteran contractor 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 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 contractor certificate, 10% 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 contractor’s annual revenue.

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

**AND**

C. **Santa Fe County Preference**

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

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

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

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## IV. RESPONSE FORMAT AND ORGANIZATION

### A. NUMBER OF RESPONSES

An offeror shall submit 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 fifteen (15) pages, with the exception of 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 bound with tabs delineating each section and shall be printed double-sided.

#### 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 Evaluation Criteria – Evaluation Factors
- e) Campaign Contribution Disclosure Statement
- f) Preference Certificate, if applicable

Within each section of their proposal, offerors should address the items in the order in which they appear in this RFP. All forms provided in the RFP must be thoroughly completed and included in the appropriate section of the proposal.

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 acceptance of the terms and conditions of the Agreement attached as Appendix D.

THIS SECTION LEFT INTENTIONALLY BLANK

## V. EVALUATION CRITERIA

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

### A. TIME FRAME

The contract is scheduled to begin in April 2020 and shall terminate upon completion of the project and delivery of report. Santa Fe County intends on awarding a contract with a term of one (1) year with the option to extend for three (3) additional renewal periods, not to exceed a total of four (4) years.

### B. EVALUATION FACTORS

A brief explanation of each specific evaluation criteria is listed below. Offerors **must** respond to the evaluation criteria, providing the required responses, documentation and assurances, and completing all forms attached. In the Offeror's response to the evaluation criteria, the elements of the Scope of Work (Section II. B.) are to be included and discussed. Offerors are encouraged to fully address each criteria completely, as points are assigned for responses to each.

#### 1. Specialized Design and Technical Competence

- Describe the firm's vision/mission and business philosophy;
- Provide a brief history of Offeror's firm in the State of New Mexico;

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

- Demonstrate a clear understanding of key project elements/goals as outlined in the scope of work;
- Provide proposed approach to accomplishing the project including specific tasks and a description of milestones to be reached relative to the scope of work;

#### 3. Capacity and Capability

- Provide information that demonstrates the ability to provide sufficient professional competence to meet timelines and accommodate cost considerations;
- Indicate key project members and their specific roles, experience and background that will be assigned to this project and include current workload;
- Provide resumes of key staff, consultants or other team members describing specific relevant experience of each proposed staff;
- Demonstrate team organization and working relationships;

- Describe the offerors capacity and capability to perform the work, including any specialized services to be offered within the time limitations.

4. Project plan

- Provide a detailed management approach to the requested Scope of Service. Any services that cannot be provided as required should be noted. The Offeror is particularly encouraged to address all points that will be evaluated as described herein in each point of the evaluation criteria.
- Provide a project schedule – start of work/services through the completion of the deliverables. Provide timelines for each deliverable.

**VI. EVALUATION OF PROPOSALS**

**A. EVALUATION SCORING**

The Evaluation Committee will evaluate proposals as follows:

Each factor below has a maximum number of points that can be assigned to an Offeror’s proposal based on the thoroughness and responsiveness of the proposal and how the Offeror addresses each evaluation factor. The maximum number of points a proposal can receive based on the evaluation factors is **1,000**. This does not include preferences that may be applied.

**Evaluation Factors**

- 1) Specialized Design and Technical Competence ..... **300 points**
- 2) Evidence of Understanding ..... **300 points**
- 3) Capacity and Capability ..... **300 points**
- 4) Project Plan..... **100 points**

**TOTAL POINTS (Before preferences are applied)            1,000**

**B. EVALUATION PROCESS**

The evaluation process will follow the steps listed below:

- 1. All proposals will be reviewed for compliance with the evaluation criteria stated within the RFP. Proposals deemed non-responsive will be eliminated from further consideration.

- 2. The Procurement Manager may contact the Offeror for clarification of the response as specified in Section III, Paragraph B.7.
- 3. The Evaluation Committee may use other sources of information to perform the evaluation as specified in Section III, Paragraph C.18.
  - 3. Responsive proposals will be evaluated using the factors in Section V. The responsible Offerors with the highest scores will be selected as finalist Offerors based upon the proposals submitted. Finalist Offerors who are asked or choose to submit revised proposals for the purpose of obtaining best and final offers will have their points recalculated accordingly. The responsible Offeror whose proposal is most advantageous to the County, taking into consideration the evaluation factors in Section VI, will be recommended for contract award as specified in Section III, Paragraph B.12. Please note, however, that a serious deficiency in the response to any one factor may be grounds for rejection regardless of overall score.

**PREFERENCES**

If a proposal contains an In-State Resident Contractor Certificate or Resident Veterans Contractor Certificate and/or Santa Fe County Business Certificate, the applicable preference will be applied.

- 7) Proposal contains a valid N.M. Resident Contractor Certificate..... **50 points**

**OR**

- 8) Proposal contains a valid Resident Veteran Contractor Certificate ..... **100 points**

**AND**

- 9) Proposal contains a valid Santa Fe County Business Certificate ..... **50 points**

**APPENDIX A**

**ACKNOWLEDGEMENT OF RECEIPT FORM**

**INSTALLATION OF HOME-BASED  
COMPOSTING SYSTEMS IN  
SANTA FE COUNTY**

In acknowledgement of receipt of this Request for Proposal the undersigned agrees that it 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 *March 26, 2020* 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.

Michelle A. Marmion  
Santa Fe County Purchasing Division  
142 W. Palace Avenue (Second Floor)  
Santa Fe, New Mexico 87501  
(505) 992-6753  
(505) 989-3243  
mmarmion@santafecountynm.gov



## 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)

**APPENDIX C**

**Resident Veterans Preference Certification**

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

**Please check one box only:**

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

“I 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 \_\_\_\_\_, 2020.

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

My Commission Expires:  
\_\_\_\_\_

**APPENDIX D**

**SERVICES AGREEMENT  
WITH \_\_\_\_\_ TO PROVIDE  
HOME-BASED COMPOSTING SYSTEMS**

**THIS AGREEMENT** is made and entered into on this \_\_\_\_ day of \_\_\_\_\_, 2020, by and between **Santa Fe COUNTY** (hereinafter referred to as the “County”), a New Mexico political subdivision, and **XXXXX** (hereinafter referred to as the "Contractor”).

**WHEREAS**, based upon the evaluation criteria established within the RFP for the purposes of selecting the most qualified offeror, the County has determined the Contractor as the most responsive and highly rated offeror; and

**WHEREAS**, pursuant to NMSA 1978, Sections 13-1-112 through 13-1-123 of the Procurement Code, a request for proposals was issued and completed through RFP No. 2020-0167-PW/MAM for these services;

**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**

**2. 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 industry standards and the aforementioned statutes, for the amount set forth in Section 3 (Compensation) 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.

**3. 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 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, exclusive of gross receipts tax shall not exceed \_\_\_\_\_ dollars (\$\_\_\_) 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 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. EFFECTIVE DATE AND TERM**

This Agreement shall, upon due execution by all parties, become effective as of the date first written above and shall terminate one year later, unless earlier terminated pursuant to Section 5 (Termination) or Section 6 (Appropriations and Authorizations). The County has the option to extend the contract at the same price, terms and conditions for an additional year upon the approval of Santa Fe County.

## 5. TERMINATION

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

## 6. APPROPRIATIONS AND AUTHORIZATIONS

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

## 7. INDEPENDENT CONTRACTOR

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

## 8. ASSIGNMENT

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the advance written approval of the County. Any attempted assignment or transfer without the County's advance written approval shall be null and void and without any legal effect.

**9. SUBCONTRACTING**

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

**10. PERSONNEL**

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

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

**11. RELEASE**

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

**12. CONFIDENTIALITY**

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

**13. 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.

**14. 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.

#### **15. 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.

#### **16. 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.

#### **17. 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.

#### **18. COMPLIANCE WITH APPLICABLE LAW; CHOICE OF LAW**

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

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

#### **19. 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.

## **20. 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.

## **21. 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.

## **22. 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:

### **23. 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 Public Regulation Commission on Contractor's behalf.
- C. Contractor is legally registered and licensed to operate as a business in New Mexico and to do the work anticipated by this Agreement and shall maintain such registration and licensure in good standing throughout the duration of the Agreement.

### **24. FACSIMILE SIGNATURES**

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

### **25. NO THIRD-PARTY BENEFICIARIES**

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

### **26. 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. 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.

E. Professional Liability [Malpractice/Errors and Omissions Insurance]. The Contractor shall procure and maintain during the life of this agreement professional liability (errors and omissions) insurance, with policy limits of not less than \$1,000,000.00 per occurrence, \$2,000,000.00 per aggregate.

## **27. 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.

## **28. 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, and Section 41-4-1, et seq.

## **29. 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.

## **30. APPOINTMENT OF AGENT FOR SERVICE OF PROCESS, if applicable**

The Contractor hereby irrevocably appoints, \_\_\_\_\_, a New Mexico resident company, located at \_\_\_\_\_, as its agent upon whom process and writs in any action or proceeding arising out of or related to this Agreement may be served. The Contractor acknowledges and agrees that service upon its designated agent shall have the same effect as though the Contractor were actually and personally served within the state of New Mexico.

## **31. SURVIVAL**

The provisions of following paragraphs shall survive termination of this Contract; INDEMNIFICATION; RECORDS AND INSPECTION; RELEASE, CONFIDENTIALITY, PUBLICATION, REPRODUCTION, AND USE OF MATERIAL; COPYRIGHT;

COMPLIANCE WITH APPLICABLE LAW; CHOICE OF LAW; NO THIRD-PARTY BENEFICIARIES; SURVIVAL.

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

**SANTA FE COUNTY:**

_____	_____
Katherine Miller	Date
Santa Fe County Manager	

**Approved as to Form**

_____	_____
Gregory S. Shaffer	Date
Santa Fe County Attorney	

**Finance Division**

_____	_____
Yvonne S. Herrera	Date
Finance Director	

**CONTRACTOR:**

_____	_____
(Signature)	Date

\_\_\_\_\_  
(Print name and title)