

**County of Otero Purchasing**

1101 New York Ave.

Alamogordo, NM 88310

(575) 434-0710

FAX (575) 443-2914



Sealed Bid No. 16-032

Drug Screening Services for Otero County

Bid Deadline: Tuesday, May 24, 2016

@3:00 PM

Purchasing Agent: Ginger Herndon

## INVITATION FOR BIDS

THE COUNTY OF OTERO IS REQUESTING COMPETITIVE SEALED BIDS FOR THE FOLLOWING GOODS OR SERVICES:

**TITLE:** DRUG SCREENING SERVICES  
**BID** 16-032  
**OPEN:** Tuesday, May 24, 2016, 3:00 PM. local time

FOR ADDITIONAL INFORMATION CONTACT:

GINGER HERNDON, PURCHASING AGENT \_\_\_\_\_  
PHONE: (575) 434-0710

THE OTERO COUNTY PURCHASING OFFICE, WILL RECEIVE COMPETITIVE SEALED BIDS FOR THE GOODS OR SERVICES DESCRIBED IN THIS BID AT:

**VIA MAIL**

OTERO COUNTY PURCHASING  
1101 NEW YORK AVE. Room 118  
ALAMOGORDO, NM 88310

**HAND CARRIED**

OFFICE OF THE PURCHASING AGENT  
1101 NEW YORK AVE. Room 118  
ALAMOGORDO, NM 88310

ANY BIDS RECEIVED AFTER BID OPENING DATE/TIME WILL BE RETURNED UNOPENED. PLEASE USE THE ENCLOSED MAIL LABEL ON THE OUTSIDE OF YOUR ENVELOPE.

***NOTE: USE OF THE MAIL SERVICE IS AT YOUR OWN RISK FOR PROPER DELIVERY***

## QUOTATION SHEET

DUE DATE: Tuesday, May 24, 2016, at 3:00 PM

Having carefully examined the notice to bidders, general instructions to bidders, terms and conditions, supplemental terms and conditions, and project specifications, addenda(s), the site of the work, the work on the above-named project, the undersigned hereby proposes to furnish all materials, labor, equipment, tools, transportation, services, licenses, fees, permits, etc. (not including New Mexico Gross Receipt Taxes or any additive alternates) required by said documents and to complete all divisions of the work stipulated. The Board reserves the right to reject any or all bids and waive any/all formalities.

**Item**

- | No. | Description  |          |
|-----|--|----------|
| 1.  | Rapid Test (five panel: THC, cocaine, PCP, amphetamines, opiates) .....  | \$ _____ |
| 2.  | Lab confirmation for non-negative results .....  | \$ _____ |
| 3.  | Standard testing NON-DOT (5 panel up to ten panel).....  | \$ _____ |
| 4.  | Alcohol test (breath test).....  | \$ _____ |
| 5.  | DOT drug test (pre-employment, post accident, random, reasonable suspicion follow up test).....  | \$ _____ |
| 6.  | DOT Alcohol test (breath test).....  | \$ _____ |
| 7.  | Third Party Administration fee a year.....   | \$ _____ |
| 8.  | After hours call out fee.....  | \$ _____ |
| 9.  | Ten panel drug test with steroids (as required by the NM Law Enforcement Academy)<br>.....   | \$ _____ |
| 10. | Classes to be offered by Bidder.....   | \$ _____ |
| 11. | Expense Reimbursement this is to include any cost for labor arbitration or court proceeding from any lawful subpoena arising from employee/employer actions arising from the drug or alcohol testing during the contract between awarded Vendor and Otero County.<br>..... | \$ _____ |

**SEE ATTACHED SPECIFICATIONS FOR COMPLIANCE**

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone/Fax \_\_\_\_\_

Email: \_\_\_\_\_

Print Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Turn around date (for results) Maximum Time \_\_\_\_\_

Turn around date (for results) Minimum Time \_\_\_\_\_

Federal ID \_\_\_\_\_

Received addenda numbers \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, when issued.

**In State Preference No.** \_\_\_\_\_

**New Mexico Business license NO.** \_\_\_\_\_

## **SPECIFICATIONS**

**OTERO COUNTY IS REQUESTING A COMPANY TO PROVIDE PROFESSIONAL SERVICES FOR DRUG AND ALCOHOL SCREENING. SERVICES TO BE PROVIDE ARE AS FOLLOWS:**

**MOBILE, ON-SITE, URINE COLLECTION DOT DRUG TESTING, RANDOM EMPLOYEE SELECTION AND NOTIFICATION FOR DOT EMPLOYEES. TO INCLUDE BOTH DRUG AND ALCOHOL TESTING, QUARTERLY AND ANNAUAL REPORTING FOR OTERO COUNTY'S COMPLIANCE WITH THE DEPARTMENT OF TRANSPORATION; AND THIRD PARTY ADMINISTRATION OF THE DRUG AND ALCOHOL-TESTING PROGRAM; PREPARATION OF DEPARTMENT OF TRANSPORTATION DRUG AND ALCOHOL POLICY FOR OTERO COUNTY AS REQUIRED BY TITLE 49 CODE OF FEDERAL REGULATIONS (CFR); NON-DOT AND DOT PRE-EMPLOYMENT; NON-DOT AND DOT POST ACCIDENT, NON-DOT AND DOT REASONABLE SUSPICION, AND TEN PANEL DRUG TEST WITH STEROIDS AS REQUIRED BY THE NM LAW ENFORCEMENT ACADEMY.**

**SERVICES TO BE MADE AVAILABLE TWENTY-FOUR HOURS A DAY, SEVEN DAYS A WEEK WITH NEGATIVE DRUG SCREENING RESULTS PROVIDED IMMEDIATELY.**

**ALL DOT TEST MUST MEET THE FEDERAL REGULATIONS AS THEY APPLY TO DRUG AND ALCOHOL TESTING.**

**UNIT PRICES:** THE UNIT PRICE FOR EACH ITEM OFFERED SHALL BE SHOWN UNLESS OTHERWISE SPECIFIED. IN THE CASE OF A DISCREPANCY BETWEEN THE UNIT PRICE AND THE EXTENDED PRICE, THE UNIT PRICE WILL GOVERN IN DETERMINING THE PRICE USED FOR EVALUATION. UNIT PRICES OFFERED SHOULD BE FOR THE UNITS SPECIFIED.

**DELIVERY TIME:** DELIVERY TIME STATED IN THE SPECIFICATIONS SHALL APPLY, UNLESS OTHERWISE STATED.

**PAYMENT TERMS:** THE INVITATION FOR BIDS FORM PROVIDES SPACE FOR THE BIDDER TO IDENTIFY THE PAYMENT TERMS THAT THE BIDDER IS OFFERING. TERMS OF LESS THAN THIRTY (30) DAYS WILL NOT BE CONSIDERED. THE DISCOUNT TERM SHALL NOT BEGIN UNTIL THE GOODS, SERVICES OR CONSTRUCTION HAS BEEN DELIVERED AND ACCEPTED AND THE CORRECT INVOICE RECEIVED IN THE COUNTY ACCOUNTS PAYABLE OFFICE.

**FREIGHT POLICY:** FREIGHT WILL BE F.O.B. DESTINATION (AS INDICATED ON THE INVITATION FOR BIDS FORM), FREIGHT PREPAID, UNLESS OTHERWISE SPECIFIED IN THIS BID.

**TAXES:** BIDDERS SHALL NOT INCLUDE ANY APPLICABLE GROSS RECEIPTS TAXES IN ITS OFFERED PRICE, UNLESS SPECIFIED OTHERWISE IN THIS BID, AND SUCH OFFER WILL BE CONSTRUED IN THE MANNER. THE COUNTY WILL, UNDER APPROPRIATE CIRCUMSTANCES, FURNISH A NON-TAXABLE TRANSACTION CERTIFICATE. DETERMINATION OF WHETHER THE TAX IS DUE AND PAYMENT OF THE TAX IS THE RESPONSIBILITY OF THE BIDDER. APPLICABLE TAXES ARE TO BE INCLUDED IN EACH INVOICE DUE AND MAY NOT BE BILLED MORE THAN SIXTY (60) DAYS AFTER PROVIDING THE SERVICES TO WHICH THE TAXES APPLY.

**EQUIVALENT BIDS:** WHERE A PRODUCT IS CHARACTERISTIC OF A SOLE MANUFACTURER, OR WHERE A BRAND NAME IS INDICATED IN THE SPECIFICATIONS, IT SHALL BE DEFINED TO MEAN "MINIMUM ACCEPTABLE LEVEL" OR "MINIMUM QUALITY REQUIRED" BY THE COUNTY UNLESS THE SPECIFICATIONS STATE THAT NO SUBSTITUTIONS OR EQUIVALENTS WILL BE ALLOWED. IF THE BIDDER OFFERS AN ITEM OTHER THAN THE ONE SPECIFIED, WHICH THE BIDDER CONSIDERS COMPARABLE, THE MANUFACTURE'S NAME AND MODEL NUMBER OF THAT ITEM MUST BE SPECIFIED IN THE BID AND SUFFICIENT PERFORMANCE SPECIFICATION AND DESCRIPTIVE DATA PROVIDED TO PERMIT A THOROUGH EVALUATION. FAILURE TO PROVIDE THE APPROPRIATE INFORMATION MAY RESULT IN DISQUALIFICATION OF THE BID.

**EXCEPTION TO SPECIFICATIONS:** BIDDERS ARE TO STATE ANY EXCEPTIONS TAKEN TO THIS BID ON THE SPECIFICATIONS EXCEPTION FORM, APPENDIX A. IF NO EXCEPTIONS ARE STATED, THE BIDDER IS REQUIRED TO FURNISH THE ITEMS EXACTLY AS SPECIFIED AND TO COMPLY WITH ALL OTHER REQUIREMENTS OF THIS BID.

**INDEMNITY:** THE BIDDER TO WHOM AN AWARD HAS BEEN MADE AS A RESULT OF THIS BID EXPRESSLY AGREES TO DEFEND, INDEMNIFY AND SAVE HARMLESS THE COUNTY AND ITS OFFICER, AGENTS AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, SUITS, DEMANDS, ACTIONS, OR PROCEEDINGS OF EVERY NATURE AND DESCRIPTION BROUGHT BECAUSE OF ANY INJURY OR DAMAGE RECEIVED OR SUSTAINED BY ANY PERSON, PERSONS, OR PROPERTY ARISING OUT OF THE BIDDER'S PROVIDING THE GOODS, SERVICES FOR CONSTRUCTION PURSUANT TO THE BID OR BY REASON OF ANY ACT OR OMISSION, NEGLIGENCE OR MISCONDUCT OF THE BIDDER, THE AGENTS, EMPLOYEES OR SUBCONTRACTORS OF THE BIDDER OR THE AGENTS OR EMPLOYEES OF ANY SUBCONTRACTOR OF THE BIDDER. THE INDEMNITY REQUIRED HEREIN SHALL NOT BE LIMITED BY REASON OF THE SPECIFICATION OF ANY PARTICULAR INSURANCE COVERAGE.

**PUBLIC INSPECTION:** EACH BID SHALL BE OPEN TO PUBLIC INSPECTION, EXCEPT TO THE EXTENT THE BIDDER DESIGNATES TRADE SECRETS OR OTHER PROPRIETARY DATA TO BE CONFIDENTIAL. MATERIAL SO DESIGNATED SHALL ACCOMPANY THE BID AND EACH PAGE SHALL BE CLEARLY MARKED AND READILY SEPARABLE FROM THE BID IN ORDER TO FACILITATE PUBLIC INSPECTION OF THE NON-CONFIDENTIAL PORTION OF THE BID. PRICES AND MAKES AND MODELS OR CATALOG NUMBERS OF THE ITEMS OFFERED, DELIVERIES AND TERMS OF PAYMENT SHALL BE PUBLICLY AVAILABLE AT THE TIME OF THE OPENING OF THE BID REGARDLESS OF ANY DESIGNATION TO THE CONTRARY. THE COUNTY SHALL ENDEAVOR TO RESTRICT DISTRIBUTION OF THE MATERIAL DESIGNATED AS CONFIDENTIAL TO ONLY THOSE INDIVIDUALS INVOLVED IN THE REVIEW AND ANALYSIS OF THE BIDS. BIDDERS ARE CAUTIONED THAT MATERIALS DESIGNATED CONFIDENTIAL MAY NEVERTHELESS BE SUBJECT TO DISCLOSURE TO ANY NEW MEXICO CITIZEN UNDER THE INSPECTION OF PUBLIC RECORDS ACT (SECTIONS 14-2-1 THROUGH 14-2-3 N.M.S.A. 1978)

**ETHICAL CONDUCT:**

BY SUBMITTING ITS BID IN RESPONSE TO THIS INVITATION, THE BIDDER CERTIFIES THAT: IT HAS NOT OFFERED, GIVEN OR AGREED TO GIVE TO ANY COUNTY EMPLOYEE OR FORMER EMPLOYEE, A GRATUITY OR OFFER OF EMPLOYMENT TO INFLUENCE THE PREPARATION OF OR RECOMMENDATION OF AWARD OF THIS BID; IT HAS NOT RETAINED A PERSON OR SOLICITED OR SECURED A COUNTY CONTRACT FOR A CONTINGENT FEE; IT HAS NOT TAKEN ANY ACTION IN RESTRAINT OF FREE COMPETITIVE BIDDING IN CONNECTION WITH THIS BID; IT HAS NOT IN ANY WAY VIOLATED THE ETHICAL CONDUCT OR OTHER PROVISIONS OF THE COUNTY'S PUBLIC PURCHASES ORDINANCE; AND IT CURRENTLY HAS NO INTEREST AND SHALL NOT ACQUIRE ANY INTEREST, DIRECT OR INDIRECT, WHICH WOULD CONFLICT IN ANY MANNER OR DEGREE WITH ITS PERFORMANCE OF ANY CONTRACT RESULTING FROM THIS BID.

**ADDENDA:**

CHANGES OR AMENDMENTS TO SPECIFICATIONS, CONDITIONS OR PROVISIONS HEREIN MAY BE INITIATED ONLY THROUGH THE PURCHASING DEPARTMENT IN THE FORM OF A WRITTEN ADDENDUM.

ANY ADDENDA SHALL BECOME A PART OF THIS BID AND SHOULD BE ACKNOWLEDGED EITHER BY BEING SIGNED AND RETURNED WITH THE BID OR

THROUGH LETTER OR TELEGRAM THAT ARRIVES PRIOR TO THE OPENING OF THE BID. FAILURE TO DO SO MAY RESULT IN DISQUALIFICATION OF THE BID.

IT IS THE RESPONSIBILITY OF ALL VENDORS CONSIDERING MAKING A BID IN RESPONSE TO THIS INVITATION TO ENSURE THAT THEY HAVE RECEIVED ALL ADDENDA PRIOR TO MAKING A BID. BIDDERS MAY CONTACT THE PURCHASING DEPARTMENT TO OBTAIN INFORMATION REGARDING ANY ADDENDA ISSUED. FAILURE TO OBTAIN AN ADDENDUM SHALL NOT BE GROUNDS FOR OVERTURNING A RECOMMENDATION OF AWARD.

**EQUAL OPPORTUNITY COMPLIANCE/WORKERS' COMPENSATION:**

OTERO COUNTY DOES NOT DISCRIMINATE ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, SEX, RELIGION, AGE, OR DISABILITY IN THE EMPLOYMENT OR THE PROVISIONS OF SERVICES. THE "CONTRACTOR" AGREES TO COMPLY STRICTLY WITH THE POLICIES OF "COUNTY", AS WELL AS ALL FEDERAL AND STATE LAWS PERTAINING TO EQUAL EMPLOYMENT OPPORTUNITY, INCLUDING THE AMERICANS WITH DISABILITIES ACT, AND WILL NOT DISCRIMINATE AGAINST ANY PERSON OR DENY ANY PERSON PARTICIPATION OR BENEFIT FROM THE PERFORMANCE OF THIS AGREEMENT AS A RESULT OF ANY DISCRIMINATORY ACTION. THE "CONTRACTOR" AGREES TO COMPLY WITH STATE LAWS AND RULES APPLICABLE TO WORKERS' COMPENSATION BENEFITS FOR ITS EMPLOYEES. IF THE "CONTRACTOR" FAILS TO COMPLY WITH THE WORKERS' COMPENSATION ACT AND APPLICABLE RULES WHEN REQUIRED TO DO SO, THE "COUNTY" MAY TERMINATE THIS AGREEMENT.

**WITHDRAWAL OF BIDS:**

A BID MAY BE WITHDRAWN IN PERSON AT ANY TIME BEFORE THE SCHEDULED OPENING OF BIDS, PROVIDED A RECEIPT FOR THE WITHDRAWN BIDS IS SIGNED BY THE BIDDER OR THE BIDDER'S AUTHORIZED REPRESENTATIVE. THE COUNTY RESERVES THE RIGHT TO REQUEST PROOF OF AUTHORIZATION TO WITHDRAW A BID.

**OPENING OF BIDS:**

TIME AND PLACE: BIDS WILL BE OPENED BY THE PURCHASING DEPARTMENT AT THE TIME AND PLACE IDENTIFIED IN THIS BID. OPENINGS ARE OPENED TO THE PUBLIC. BIDDERS ARE ENCOURAGED TO ATTEND.

**REJECTION/CANCELLATION OF BIDS:**

ANY SOLICITATION, PRIOR TO OPENING OR AFTER OPENING, MAY BE CANCELED OR ANY OR ALL BIDS MAY BE REJECTED IN WHOLE OR IN PART WHEN IT IS IN THE BEST INTEREST OF THE COUNTY.

**MINOR OR TECHNICAL IRREGULARITIES:**

MINOR OR TECHNICAL IRREGULARITIES IN A BID, WHEN THERE IS NO EFFECT ON PRICE, QUALITY OR QUANTITY MAY BE WAIVED AND CLERICAL ERRORS IN A BID MAY BE CORRECTED, IF PERMITTED BY THE PURCHASING OFFICER AND ARE IN THE BEST INTEREST OF THE COUNTY.

**BID ANALYSIS:**

THE COUNTY RESERVES THE RIGHT TO ANALYZE, EXAMINE AND INTERPRET ANY BID FOR A MINIMUM PERIOD OF SIXTY (60) CONSECUTIVE CALENDAR DAYS, AFTER THE SCHEDULED TIME FOR THE OPENING OF BIDS. BIDS MAY NOT BE RESCINDED DURING THIS PERIOD EXCEPT FOR GOOD CAUSE AND WITH THE WRITTEN APPROVAL OF THE PURCHASING OFFICER. IN THOSE SITUATIONS WHERE THE ANALYSIS/EVALUATION EXCEEDS THE SIXTY (60) CALENDAR DAYS, BIDDERS MAY WITHDRAW THEIR BIDS FROM CONSIDERATION.

**AWARD OF CONTRACT:**

WHEN AWARD OCCURS: THE AWARD OF A CONTRACT OCCURS WHEN A PURCHASE ORDER IS ISSUED OR OTHER EVIDENCE OF ACCEPTANCE BY THE COUNTY IS PROVIDED TO THE BIDDER. A RECOMMENDATION OF AWARD DOES NOT CONSTITUTE AWARD OF CONTRACT.

**AWARD:**

IF A CONTRACT IS AWARDED, IT SHALL BE AWARDED TO THE RESPONSIVE AND RESPONSIBLE BIDDER WHOSE BID IS LOWEST IN TOTAL PRICE AND IS THE MOST ADVANTAGEOUS TO THE COUNTY, SPECIFICATIONS AND OTHER FACTORS CONSIDERED. THIS WILL BE A ONE (1) YEAR CONTRACT WITH THE OPTION TO RENEW THREE (3) ADDITIONAL YEARS NOT TO EXCEED TOTAL OF FOUR (4) YEARS.

**BASIS OF AWARD:**

THE COUNTY RESERVES THE RIGHT TO AWARD A CONTRACT BASED ON THIS BID IN TOTAL OR BY GROUP OF ITEMS, ON THE BASIS OF INDIVIDUAL ITEMS, OR ANY COMBINATION OF THESE, WHICH IN THE JUDGMENT OF THE PURCHASING OFFICER, BEST SERVES THE INTERESTS OF THE COUNTY, UNLESS OTHERWISE STATED IN THIS BID.

**INCREASE OF QUANTITIES:**

THE COUNTY RESERVES THE RIGHT TO INCREASE THE QUANTITIES OF ITEMS OF TANGIBLE PERSONAL PROPERTY, SERVICES OR CONSTRUCTION TO BE PROVIDED WITHIN A TWELVE (12) MONTH PERIOD, UNDER THE TERMS OF THE CONTRACT, AT THE SAME PRICES, WITH THE CONSENT OF THE CONTRACTOR.

**DECREASE OF QUANTITIES:**

THE COUNTY RESERVES THE RIGHT TO DECREASE THE QUANTITIES OF ITEMS OF TANGIBLE PERSONAL PROPERTY, SERVICES OR CONSTRUCTION TO BE PROVIDED UNDER THE TERMS OF THE CONTRACT. HOWEVER, THE CONTRACTOR SHALL BE OFFERED AN OPPORTUNITY TO CANCEL THE PORTION OF THE CONTRACT AFFECTED BY SUCH A DECREASE IF THE CONTRACTOR IS NOT ABLE TO MEET THE CONTRACTED PRICES BY DELIVERING THE DECREASED AMOUNT. THIS CLAUSE SHALL NOT HAVE EFFECT IF THE CONTRACT WAS ORIGINALLY AWARDED BASED ON ESTIMATED QUANTITIES.

**CONTRACT CHANGES:**

IN NO CASE SHALL A CONTRACT BE CHANGED WITHOUT THE PRIOR WRITTEN APPROVAL OF THE PURCHASING OFFICER.

TO QUALIFY FOR THE FIVE PERCENT (5%) IN STATE RESIDENT PREFERENCE, THE BIDDER MUST PROVIDE THEIR ASSIGNED RESIDENT CERTIFICATION NUMBER WITH THEIR BID (AN APPROPRIATE PLACE IS DESIGNATED IN THE BID FORM). IF A BIDDER DOES NOT PROVIDE THEIR ASSIGNED RESIDENT CERTIFICATION NUMBER WITH THEIR BID, THE BID SHALL NOT BE CONSIDERED AS MADE BY A RESIDENT BUSINESS OR A RESIDENT MANUFACTURER AND NO PREFERENCE SHALL BE APPLIED DURING THE ANALYSIS OF THAT BID.

**NOTE:** YOUR STATE TAX NUMBER IS NOT YOUR RESIDENT CERTIFICATION NUMBER.

**PROTEST PROCESS:**

ANY BIDDER WHO IS AGGRIEVED IN CONNECTION WITH A SOLICITATION OR AWARD OF AN AGREEMENT MAY PROTEST TO THE COUNTY OF OTERO PURCHASING AGENT IN ACCORDANCE WITH THE REQUIREMENTS OF THE COUNTY OF OTERO'S PROCUREMENT REGULATIONS AND THE STATE PROCUREMENT CODE. THE PROTEST SHOULD BE MADE IN WRITING WITHIN 24 HOURS AFTER THE FACTS OR OCCURRENCES GIVING RISE THERETO, BUT IN NO CASE LATER THAN 15 CALENDAR DAYS AFTER THE FACTS OR OCCURRENCES GIVING RISE THERETO. IN THE EVENT OF A TIMELY PROTEST UNDER THIS SECTION, THE PURCHASING AGENT AND THE COUNTY OF OTERO SHALL NOT PROCEED FURTHER WITH THE PROCUREMENT UNLESS THE PURCHASING AGENT MAKES A DETERMINATION THAT THE AWARD OF AGREEMENT IS NECESSARY TO PROTECT SUBSTANTIAL INTERESTS OF THE COUNTY OF OTERO (13-1-173 NMSA 1978). THE PURCHASING AGENT OR HIS DESIGNEE SHALL HAVE THE AUTHORITY TO TAKE ANY ACTION REASONABLY NECESSARY TO RESOLVE A PROTEST OF AN AGGRIEVED BIDDER CONCERNING PROCUREMENT. THIS AUTHORITY SHALL BE EXERCISED IN ACCORDANCE WITH ADOPTED REGULATIONS, BUT SHALL NOT INCLUDE THE AUTHORITY TO AWARD MONEY DAMAGES OR ATTORNEY'S FEES (13-1-174 NMSA 1978). THE PURCHASING AGENT OR HIS DESIGNEE SHALL PROMPTLY ISSUE A DETERMINATION RELATING TO THE PROTEST. THE DETERMINATION SHALL:

- 1) STATE THE REASONS FOR THE ACTION TAKEN; AND
- 2) INFORM THE PROTESTANT OF THE RIGHT TO JUDICIAL REVIEW OF THE DETERMINATION PURSUANT TO 13-1-183 NMSA 1978. A COPY OF THE DETERMINATION ISSUED UNDER 13-1-175 NMSA 1978 SHALL IMMEDIATELY BE MAILED TO THE PROTESTANT AND OTHER BIDDERS INVOLVED IN THE PROCUREMENT (13-1-176 NMSA 1978).

**INSPECTIONS:**

- A. PRIOR TO ACCEPTANCE OF DELIVERY: ALL ITEMS OF TANGIBLE PERSONAL PROPERTY, SERVICES OR CONSTRUCTION SHALL BE PROVIDED EXACTLY AS OFFERED, AND MAY BE INSPECTED PRIOR TO ACCEPTANCE OF DELIVERY BY THE COUNTY.
- B. INFERIOR MATERIALS, ETC.: ALL ITEMS OF TANGIBLE PERSONAL PROPERTY, SERVICES OR CONSTRUCTION FOUND INFERIOR TO THE

QUALITY SPECIFIED IN THIS BID, DEFICIENT OR INCORRECT IN WEIGHT, MEASUREMENT, WORKMANSHIP, HANDICRAFT OR OTHERWISE, MAY BE REJECTED AS A WHOLE OR IN PART AND THEN SHALL BE REMOVED BY THE CONTRACTOR AT THE CONTRACTOR'S OWN RISK AND EXPENSE PROMPTLY AFTER NOTICE OF REJECTION. THE CONTRACTOR SHALL ASSUME RESPONSIBILITY FOR TAKING THE NECESSARY ACTION TO CORRECT OR REPLACE THE REJECTED ITEMS, WITHIN THE TIME FRAME SPECIFIED IN THE NOTICE OF REJECTION.

**INVOICE AND PAYMENTS:**

THE CONTRACTOR SHALL SUBMIT AN ACCURATE INVOICE, IN DUPLICATE, FOR EACH PURCHASE. INVOICES SHALL REFER TO THE PURCHASE ORDER NUMBER, THE RELEASE FORM NUMBER IF APPLICABLE, AND SHALL BE ITEMIZED UNLESS OTHERWISE SPECIFIED IN THIS BID. INVOICES ARE TO BE MAILED TO: OTERO COUNTY ACCOUNTS PAYABLE, 1101 NEW YORK AVE, ALAMOGORDO, NEW MEXICO 88310. INVOICES MAILED OR PROVIDED TO ANY OTHER ENTITY WILL RESULT IN A DELAY IN MAKING PAYMENT. OFFERORS ARE ENCOURAGED TO INQUIRE IF PAYMENTS DUE ARE NOT RECEIVED WITHIN THIRTY (30) DAYS AFTER DELIVERY OF GOODS/SERVICES AND SUBMITTAL OF INVOICE BY CONTACTING THE ACCOUNTS PAYABLE AT (505) 437-7427

**DEFAULT/TERMINATION FOR CAUSE:**

IF, THROUGH ANY CAUSE, THE CONTRACTOR FAILS TO FULFILL THE CONTRACTOR'S OBLIGATIONS UNDER ANY CONTRACT RESULTING FROM THIS BID IN A TIMELY AND PROPER MANNER, OR IF THE CONTRACTOR VIOLATES ANY OF THE COVENANTS, AGREEMENTS OR STIPULATIONS OF SUCH CONTRACT, THE COUNTY SHALL NOTIFY THE CONTRACTOR OF SUCH VIOLATIONS IN WRITING AND ALLOW THE CONTRACTOR A REASONABLE TIME, SET OUT IN THE NOTICE, TO CORRECT THE DEFAULT. IF THE DEFAULT IS NOT CORRECTED WITHIN THE SPECIFIED TIME PERIOD THE COUNTY SHALL HAVE THE RIGHT TO CANCEL THE CONTRACT AND ANY OR ALL OTHER CURRENT CONTRACTS WITH THE CONTRACTOR, AND, IF APPLICABLE, TO PURCHASE THE REQUIRED GOODS OR SERVICES FROM ANOTHER SOURCE OR SOURCES. THE COUNTY SHALL PROVIDE WRITTEN NOTICE TO THE CONTRACTOR SPECIFYING THE EFFECTIVE DATE OF CANCELLATION. THE NOTICE OF CANCELLATION MAY BE CONTAINED IN THE NOTICE OF DEFAULT.

IF A CONTRACT RESULTING FROM THIS BID IS CANCELED, THE CONTRACTOR SHALL NOT BE RELIEVED OF LIABILITY TO THE COUNTY FOR DAMAGES CAUSED BY ITS BREACH OF THE CONTRACT. THE COUNTY RESERVES THE RIGHT TO RECOVER SUCH DAMAGES, INCLUDING BUT NOT LIMITED TO ANY EXCESS COST INCURRED IN HAVING TO PURCHASE CONTRACT GOODS/SERVICES FROM OTHER SOURCES BY A DEDUCTION FROM AN UNPAID BALANCE DUE TO THE CONTRACTOR, COLLECTION AGAINST A PERFORMANCE OR LABOR AND MATERIALS PAYMENT BOND, A COMBINATION OF THESE REMEDIES, OR ANY OTHER LEGAL METHOD AVAILABLE. IN ADDITION, THE CONTRACTOR MAY BE REMOVED FROM THE PURCHASING OFFICE VENDOR LIST OR DETERMINED TO BE INELIGIBLE TO RESPOND TO FUTURE SOLICITATIONS, AS BEING NOT RESPONSIBLE.

**TERMINATION FOR THE CONVENIENCE OF THE COUNTY:**

THE COUNTY MAY TERMINATE ANY CONTRACT RESULTING FROM THIS BID AT ANY TIME BY GIVING AT LEAST THIRTY (30) DAYS' NOTICE IN WRITING OF SUCH TERMINATION TO THE CONTRACTOR. IN SUCH EVENT, THE CONTRACTOR SHALL BE PAID UNDER THE TERMS OF THE CONTRACT FOR ALL GOODS/SERVICES PROVIDED TO AND ACCEPTED BY THE COUNTY, IF ORDERED OR ACCEPTED BY THE COUNTY PRIOR TO THE EFFECTIVE DATE OF TERMINATION.

**TERMINATION FOR LACK OF APPROPRIATIONS:**

FUNDING FOR THE CONTRACT RESULTING FROM THIS BID HAS BEEN APPROPRIATED BY THE COUNTY COMMISSION FOR THE COUNTY'S CURRENT FISCAL YEAR. NOTWITHSTANDING ANY OTHER PROVISIONS IN THE CONTRACT RESULTING FROM THIS BID, ITS CONTINUATION BEYOND THE END OF THE ANY FISCAL YEAR IS CONTINGENT ON THE COUNTY COMMISSION MAKING THE APPROPRIATIONS NECESSARY TO FUND THE CONTRACT. IF SUFFICIENT APPROPRIATIONS ARE NOT MADE THE CONTRACT MAY BE TERMINATED AT THE END OF THE COUNTY'S THEN CURRENT FISCAL YEAR UPON WRITTEN NOTICE GIVEN BY THE COUNTY TO THE CONTRACTOR. SUCH TERMINATION SHALL NOT CONSTITUTE A DEFAULT. ALL PAYMENT OBLIGATIONS OF THE COUNTY AND ALL OF ITS INTEREST IN THE CONTRACT WILL CEASE UPON THE DATE OF TERMINATION. THE COUNTY'S DECISION AS TO WHETHER SUFFICIENT APPROPRIATIONS ARE AVAILABLE SHALL BE ACCEPTED BY THE CONTRACTOR AND SHALL BE FINAL.

**OTERO COUNTY PURCHASING  
TERMS & CONDITIONS  
UNLESS OTHERWISE SPECIFIED.**

1. **BIDS ARE TO COMPLY WITH ALL INSTRUCTIONS AND PROVIDE THE INFORMATION REQUESTED. FAILURE TO DO SO MAY DISQUALIFY YOUR BID.** All bid items are to be NEW and of most current production, unless otherwise specified.
2. Samples of items, when required, must be furnished free of expense prior to the opening of bids and if not destroyed, will, upon request, be returned at the bidders expense.
3. Prices should be stated in units or quantity specified, with packing included. All deliveries will be F.O.B. Alamogordo, NM unless otherwise specified.
4. Time or proposed delivery must be stated in definite terms. If time varies for different items, the bidder should so state.
5. Time of delivery shall be stated as the number of calendar days following receipt of the order either verbally or in writing, whichever is received first by the vendor, to receipt of the goods or services by Otero County.
6. Time of delivery may be a consideration in the award.
7. **Envelopes containing bids must be sealed and marked with name, address of the bidder, due date, and bid number.**
8. **IMPORTANT:** Bids not received in the office of the Purchasing Agent at the time of opening are disqualified and will be returned unopened.
9. Corrections and/or modifications received after the opening time specified will not be accepted.
10. Where an item is specified by brand name and numbers these are used in these specifications as a matter of convenience to indicate quality, type, and features desired. Accordingly demonstrably equal merchandise will be given full consideration and the bidder is invited to offer such, except where it is clearly stated that such brand names and/or models are specified for the purpose of standardization. Any "or equal" items offered must be substantially equal to the appearance, design, dimensions, approximate cost of the item specified, and must be of equivalent materials, function, and sturdiness of construction of the item specified. Any deviation from specifications must be clearly itemized by the bidder.  
When offering substitutions, please specify, and include descriptive literature.
11. When brand, number, or level of quality is not stated by the bidder, it is understood the offer is exactly as specified.
12. Otero County is exempt from paying sales tax for materials and federal excise taxes. Do not include those taxes in bid. A nontaxable transaction certificate will be provide when payment is made. Services and tax on labor only are not exempt.
13. If your bid is accepted, you will receive notification either verbally or in writing by an issuance of a Purchase Order Number authorizing you to make delivery. Only the accepted bidder will be notified of awards.
14. **ATTENTION BOOKKEEPING & AUDITING DEPARTMENTS:** Complete payment will be made only when entire order is filled, with the exception of "Open Order Purchases", unless otherwise stated on purchase order. **EXCEPTION: Partial payments will be allowed upon written notification and approval if order cannot be completed in a single shipment.** Payment terms are Net 30 days unless otherwise stated.
15. All addenda so issued shall become part of the bid documents.
16. Pricing shall remain effective for a minimum of thirty  
(30) days after bid opening date.

**CONDITIONS**

1. The Purchasing Agent reserves the right to reject any and all bids, to waive any informality in bids, and **unless** otherwise specified to the bidder, to accept any item on the bid.
2. In case of error in the extension of prices in the bid, the unit price will govern.
3. Prompt payment discounts will not be considered in computing the low bid. Otero County will take advantage of cash discounts offered wherever possible.
4. Time in connection with discount offered will be computed from date of delivery or from date correct invoice is received, whichever is later.
5. Final inspection and acceptance will be made at the destination. Supplies rejected at the destination for non-conformance with specifications shall be removed at the vendor's risk and expense, promptly after notice of rejection.
6. Otero County requires vendor certification be the New Mexico State Purchasing Agent before the 5% in-state bidding preference can be extended. Bidders claiming this preference must show certification number on bid and must be prepared to show evidence of certification for the commodity being bid. In-state vendors: failure to secure above will result in non-considerations of any preference for in-state bidders. This will not apply when Federal funds are used, Chapter 13-1-21.
7. Otero County reserves the right to award by item, group of items, or total bids; to reject any and all bids in whole or in part if, in the judgment of the Purchasing Agent, the best interests of Otero County will be served.
8. The Otero County Purchase Order Number shall be shown on all packing, delivery tickets, and other correspondence in connection with the shipment. The user's count will be accepted by the Vendor as final and conclusive on all shipments not accompanied by a packing ticket.

The Vendor's invoice shall be submitted and contain the following information: order number, description of supplies or services, quantities, unit prices, and extended totals. Separate invoices shall be rendered for each and every complete shipment.

9. Otero County reserves the right to cancel all or any part of this order without cost to the County, if the Vendor fails to meet the provisions of this order and, except as otherwise provided herein, to hold the Vendor liable for any excess cost occasioned by the County due to the Vendor's default. The Vendor shall not be liable for any excess costs if failure to perform the order arises out of cause beyond the control and without the fault or negligence of the Vendor, such causes include, but are not restricted to, acts of God or of the public enemy, acts of the State or of the Federal Government, fires, goods, epidemics, quarantine restrictions, strikes, freight embargo's, unusually severe weather, and defaults of subcontractors due to any of the above, unless Otero County shall determine that the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Vendor to meet the required delivery scheduled. The rights and remedies of the county provided in this paragraph shall not be exclusive and are in addition to any other rights now being provided by law or under this order.
10. In signing this bid or accepting Purchase Order, the Vendor certifies he/she has not, either directly or indirectly, entered into action in restraint of free competitive bidding in connection with this proposal submitted to Otero County Purchasing Agent.
11. Sections 13-1-28 through 13-1-199 NMSA 1978, imposes civil and criminal penalties for its violation. The New Mexico criminal statutes impose felony penalties for bribes, gratuities, and kickbacks.

**12. THIS BID/AWARD IS CONTINGENT UPON AVAILABLE FUNDING.**

(terms)

rev 05/96

## 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)

## 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 ONLY ONE STATEMENT FROM THE FOUR (4) STATEMENT LISTED BELOW**

\_\_\_\_\_ I declare that my firm is ineligible to receive New Mexico Resident Veterans Preference

**The following three (3) checkboxes are applicable to ONLY those vendors eligible to receive New Mexico Resident Veterans Preference AND who have included a valid New Mexico Resident Veterans Preference certificate with their sealed response. No preference will be extended unless a valid certificate is included in your sealed response. Submitted certificates shall be validated by Otero County with New Mexico Tax & Revenue**

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

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

I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is more than \$5M allowing me the 7% preference discount on this bid or proposal. 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, when 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 for 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 termination of an award if the statements are proven to be incorrect.*

**NON-COLLUSION AFFIDAVIT**

STATE OF \_\_\_\_\_)

County OF \_\_\_\_\_)

\_\_\_\_\_ (name) being first duly sworn, deposes and says

that he/she is

(title) \_\_\_\_\_

of (organization) \_\_\_\_\_

who submits herewith to the County of Otero, proposal; That all statements of fact in such proposal are true; That said proposal was not made in the interest of or on behalf of any undisclosed person, partnership, company, association, organization or corporation;

That said bidder has not, directly or indirectly by agreement, communication or conference with anyone attempted to induce action prejudicial to the interest of the County of Otero, or of any bidder of anyone else interested in the proposed contract; and further,

That prior to the public opening and reading of proposal, said bidder;

1. Did not directly or indirectly, induce or solicit anyone else to submit a false or sham proposal
2. Did not directly or indirectly collude, conspire, connive or agree with anyone else that said bidder or anyone else would submit a false or sham proposal, or that anyone should refrain from bidding or withdraw his proposals;
3. Did not in any manner, directly or indirectly, seek by agreement, communication or conference with anyone to raise or fix the proposal price of said bidder or of anyone else, or to raise or fix any overhead, profit or cost element of their proposal price, or of that of anyone else;
4. Did not directly or indirectly, submit his proposed price or any breakdown thereof, or the contest thereof, or divulge information or data relative thereto, to any corporation, partnership, company, association organization, bid depository or to any member or agent thereof, or to any individual of group of individuals, except that County of Otero, or to any person or persons who have a partnership or other financial interests with said bidder in his business.

By: \_\_\_\_\_

Title: \_\_\_\_\_

SUBSCRIBED and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Notary Public: \_\_\_\_\_

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

## PROPOSAL CHECKLIST

### Did You:

- Fill out the Quotation Sheet
- Sign and notarize the “Non-Collusion Affidavit” form.
- Fill Out and sign the Resident Veterans Preference form
- Fill Out and Sign the Campaign Contribution Form
- Acknowledge all addenda
- Fill out and Sign the Signature form
- Deliver your sealed proposal to Otero County Purchasing Department, 1101 New York Ave, Room 118, Alamogordo, New Mexico 88310 before **Tuesday May 24, 2016 @ 3:00 pm (local time)**.
- Clearly mark your proposal with **Bid 16-032 DRUG SCREENING CONTRACT OPEN 05/24/16 @ 3:00 PM**, on the front of the envelope.

**\* If not completed as required, your bid may be deemed non-responsive.**

Contact the Purchasing Department immediately if any portion is missing. This form is for your information only and does not need to be submitted with your proposal

BID NO: 16-032

CONTRACT NO:

**OTERO COUNTY**  
**PROFESSIONAL**  
**SERVICES CONTRACT**

THIS AGREEMENT made and entered into this \_\_\_\_ day of \_\_\_\_ by and between Otero County hereinafter referred to as "County" and, \_\_\_\_\_ hereinafter referred to as "Contractor".

**IT IS MUTUALLY AGREED BETWEEN THE PARTIES:**

1. Scope of Work. The Contractor will render the following professional services to the County:

Provide services in strict accordance to sealed bid # \_\_\_\_, hereby incorporated by reference.

2. Coordination. That the Contractor will devote the necessary hours each week to the performance of such duties that may be assigned to him by the County. Contractor shall secure all licenses, permits, fees, etc., required for the performance of this work.

A. That the Contractor will serve the County diligently and faithfully, and according to his best ability and in all respects, will use his utmost endeavors to promote the interest to the County in accordance to County Terms and Conditions.

B. That the Contractor will maintain records indicating date and length of time such services are rendered. These records shall be subject to inspection by the designated agent of the County.

3. Compensation:

A. That the services rendered by the Contractor shall be at the location of \_\_\_\_\_ or where the County shall designate.

B. That for the services rendered satisfactorily as per paragraphs one through three, supra the County agrees to pay the Contractor compensation at the rate of \$ AS PER BID AGREEMENT # by the County upon receipt of a signed invoice. The Contractor will pay the New Mexico Gross Receipts Tax levied on the amounts payable under this contract, **THE COUNTY SHALL PAY APPLICABLE TAXES.**

C. Payment shall be made on a monthly basis upon receipt of a detailed, certified statement of account, which shall include dates and hours reported for the period covered by the regular statement. These records shall be subject to inspection by the County and designated Auditor. The County shall have the right to audit billings both before and after payment; payment under this Agreement shall not foreclose the right of the County to recover excessive or illegal payments.

4. Status of Contractor: The Contractor is an independent contractor performing professional service for the County and is not an employee of the County. The Contractor shall not accrue leave, retirement, insurance, or any other benefits afforded to employees of the County as a result of this contract.

5. Term: That the terms of this contract are contingent on sufficient appropriations and authorization being made by the County for the performance of this contract. The County's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. This Agreement shall begin on \_\_ and renewable on an annual basis and terminated on \_\_ unless terminated by either of the parties hereto upon written notice delivered to the other party at least sixty (60) days prior to the intended date of termination. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination.

6. 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 prior written approval of the County.

7. Subcontracting: The Contractor may not subcontract any portion of the services to be performed under this Agreement.

8. Conflict of Interest: The Contractor warrants that he presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement.

9. Indemnification: The Contractor shall hold harmless and indemnify the County against all civil actions, suits, demands, losses, or expenses, including attorney fees, which may be threaten or incurred at any time by reason out of Contractor's services provided pursuant to this Agreement.

10. Amendment: This Agreement shall not be altered, changed, or amended except by instrument in writing executed by the parties thereto.

11. Scope of Agreement: This Agreement incorporates all the Agreements, covenants, and understandings between the parties thereto concerning the subject matter hereof, and all such covenants, Agreements, and understandings have been merged into this written Agreement. No prior Agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

12. Notice: This Agreement shall be governed by the laws of the State of New Mexico. The Procurement Code, Sections 13-1-28 through 13-1-199 NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statues impose felony penalties for illegal bribes, gratuities, and kick-backs. Receiving a bribe by a public officer of public employee (Section 30-24-2 NMSA, 1978) it is a fourth-degree felony to commit the offense of soliciting or receiving illegal kickbacks (Section 30-41-1, NMSA, 1978; it is a fourth-degree felony to commit offense or offering or paying illegal kickbacks (Section 30-41-2, NMSA, 1978).

13. Signing Agreement: In signing this agreement the parties certify that each is aware of the proscriptions and requirements contained in the State of New Mexico Governmental Conduct Act (NMSA 1978 10-16 through 10-16-18) and that the act is applicable to this agreement and the conduct for the parties pursuant to the terms of this agreement. In signing this agreement, the Contractor certifies that this agreement is not the result of, or affected by, any unlawful act of collusion with any other person or company engaged in the same line of business or<sup>4</sup> commerce, or any other fraudulent act punishable under New Mexico or United States.

**IN WITNESS THEREOF**, the parties have executed this Agreement the day and year as above written.

**COUNTY:**

By: \_\_\_\_\_  
Chairperson, Susan Flores

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

**CONTRACTOR:**

By: \_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
NAME; TYPE OR PRINT

MAILING ADDRESS:

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

Attorney: \_\_\_\_\_  
Lisa Jenkins

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

New Mexico Business license # \_\_\_\_\_

TELEPHONE: (     ) \_\_\_\_\_

FAX-(     ) / \_\_\_\_\_ -

**ATTEST:**

\_\_\_\_\_  
Denise Guerra Clerk

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

