***County of Otero* Purchasing**
1101 New York Ave., Room 118
Alamogordo, NM 88310
(575) 434-0710
FAX (575) 443-2914

Sealed Bid 16-034
For Hydraulic Breakers
For the Otero County Road Shop
Bid Deadline: Monday, May 23, 2016,
3:00 P.M.
Purchasing Agent: Ginger Herndon

INVITATION FOR BIDS

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

TITLE: **HYDRAULIC BREAKER**
BID NO.: **16-034**
OPEN: **MONDAY, MAY 23, 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	**HAND CARRIED**
OTERO COUNTY PURCHASING	OFFICE OF THE PURCHASING AGENT
1101 NEW YORK AVE., ROOM 118	1101 NEW YORK AVE.ROOM 118
ALAMOGORDO, NM 88310	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: Monday May 23, 2016 @ 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. HYDRAULIC BREAKER
   DELIVERED PRICE$_____

DELIVERY DATE:_____

SEE ATTACHED SPECIFICATIONS FOR COMPLIANCE

COMPANY NAME:_____

ADDRESS:_____

CITY, STATE, ZIP_____

TELEPHONE:: _____ FAX;_____

EMAIL ADDRESS:_____

RECEIVED ADDENDA NUMBERS _____, _____, _____, WHEN ISSUED.

IN STATE PREFERENCE NO. _____

SPECIFICATIONS

MINIMUM BID SPECIFICATIONS

POINTED BID MOUINTING BRACKET TO BE COMPATIBLE WITH GEIST HYUDRAULIC QUICK CONNECT TOOL TO BE MOUNTED ON A VOLVO EC 21OC

CARRIER WEIGHT CLASS: 37479-63934 lb.

SERVICE WEIGHT: 3307 lb.

OIL FLOW: 31.7- 40.9 gpm

OPERATING PRESSURE: 2320- 2610 psi.

IMPACT RATE: 330- 680 blows/min

WORKING TOOL DIAMETER: 5.32 inch

WORKING LENGTH OF TOOL: 24.8 inch

MAX. HYDRAULIC INPUT POWER: 46Kw

SOUND POWER LEVEL GUARANTEED: 120 Db(A)

SOUND PRESSURE LEVEL (r=10m) * 91dB(A)**

SUPPLEMENTAL TERMS AND CONDITIONS

THESE SUPPLEMENTAL TERMS AND CONDITIONS ARE IN ADDITION TO THE GENERAL INSTRUCTIONS, TERMS AND CONDITIONS AND, IN THE EVENT OF A CONFLICT BETWEEN THE PROVISIONS OF THE GENERAL INSTRUCTIONS, TERMS AND CONDITIONS AND THESE SUPPLEMENTAL TERMS AND CONDITIONS, THE PROVISIONS OF THESE SUPPLEMENTAL TERMS AND CONDITIONS SHALL CONTROL.

DESIGN CONFORMANCE; OSHA
THE DESIGN OF ALL EQUIPMENT PURCHASED AS A RESULT OF A BID MADE IN RESPONSE TO THIS REQUEST SHALL BE IN CONFORMANCE WILL ALL APPLICABLE REGULATIONS OF THE FEDERAL OCCUPATIONAL SAFETY AND HEALTH ACT WHICH ARE IN EFFECT AT THE TIME OF DELIVERY.

ESTIMATED QUANTITIES:
THE ESTIMATED QUANTITIES LISTED DO NOT CONSTITUTE AN ORDER, AND ARE NOT NECESSARILY COMPREHENSIVE; THEY ARE A REPRESENTATIVE SAMPLE OF WHAT IS LIKELY TO BE PURCHASED DURING THE COURSE OF A CONTRACT RESULTING FROM THIS REQUEST AND WILL BE USED ONLY TO EVALUATE BIDS AND AWARD SUCH A CONTRACT. THESE QUANTITIES AS STATED MAY INCREASE OR DECREASE DEPENDING ON THE ACTUAL NEEDS OF THE COUNTY. THE PURCHASING DEPARTMENTS WILL PLACE ACTUAL ORDERS.

FREIGHT, PREPAID:
FREIGHT WILL BE F.O.B. DESTINATION-FREIGHT PREPAID. F.O.B. POINT OTHER THAN INDICATED BY THE COUNTY WILL NOT BE ACCEPTABLE.

GUARANTEED PERFORMANCE:
THE BIDDER, IF AWARDED A CONTRACT AS A RESULT OF THIS BID, GUARANTEES THAT THE MATERIALS SUPPLIED ARE CAPABLE OF THE PERFORMANCE REQUIRED IN THE SPECIFICATIONS IN THIS BID, AND AGREES TO MAKE SUCH CHANGES, ADJUSTMENTS OR REPLACEMENTS AS ARE IMMEDIATELY NECESSARY IN ORDER FOR THE MATERIALS TO MEET THE PURCHASING REQUIREMENTS AT NO COST TO THE COUNTY. IF DEFECTS OR SPECIFICATION FAILURES ARE DISCOVERED, THE PURCHASING OFFICER SHALL HAVE THE RIGHT, NOTWITHSTANDING ACCEPTANCE AND PAYMENT TO REQUIRE THE UNIT/ITEM TO BE PROPERLY FURNISHED IN ACCORDANCE WITH THE SPECIFICATIONS AND DRAWINGS AT THE COST AND EXPENSE OF THE BIDDER OR THE BIDDER'S SURETY.

INSPECTION OF MATERIALS:
THE COUNTY RESERVES THE RIGHT TO INSPECT MATERIALS PROVIDED BY THE BIDDER THROUGH A CONTRACT RESULTING FROM THIS BID TO DETERMINE THEIR QUALITY, FITNESS AND SUITABILITY. INSPECTION OF THESE MATERIALS MAY BE CONDUCTED WHENEVER THE COUNTY CONSIDERS NECESSARY.

MANUFACTURER'S INFORMATION:
ANY BID MADE IN RESPONSE TO THIS INVITATION MUST INCLUDE THE MANUFACTURER'S MAKE AND MODEL NUMBER (AS APPLICABLE) OF EACH ITEM AND LITERATURE CLEARLY DESCRIBING THE ITEM. FAILURE TO PROVIDE THIS INFORMATION MY RESULT IN REJECTION OF THE BID.

MATERIALS AND WORKMANSHIP:
ALL MATERIALS FURNISHED BY THE BIDDER SHALL BE FREE FROM DEFECTS AND IMPERFECTIONS. WORKMANSHIP SHALL BE IN ACCORD WITH THE BEST INDUSTRY STANDARDS AND PRACTICES. BOTH MATERIALS AND WORKMANSHIP SHALL BE SUBJECT TO THE APPROVAL OF THE COUNTY.

BRIBES, GRATUITIES, AND KICKBACKS:
THE PROCUREMENT CODE, SECTIONS 13-1-28 THROUGH 13-1-199, NMSA, 1978 IMPOSES CIVIL AND CRIMINAL PENALTIES FOR CODE VIOLATIONS. IN ADDITION THE NEW MEXICO CRIMINAL STATUES IMPOSE FELONY/PENALTIES FOR ILLEGAL BRIBES, GRATUITIES AND KICKBACK.

IMPORTANT: **READ CAREFULLY BEFORE SUBMITTING BIDS. FAILURE TO DO SO SHALL NOT ABSOLVE THE BIDDER FROM RESPONSIBILITY TO PERFORM OR DELIVER AS SPECIFIED.**

1. **APPLICABILITY**: Except as otherwise specifically provided in this bid, these General Instructions, Terms and Conditions shall govern the procurement of the items specified in this bid. In the event of a conflict between these General Instructions, Terms and Conditions, Supplemental Conditions or the specifications of this bid, the order of application shall be the Specifications, Supplemental Conditions and the General Instructions, Terms and Conditions. In addition, the Public Purchases Ordinance and promulgated Rules and Regulations shall apply.

2. **DEFINITIONS:** As used in this bid, the definitions of the Public Purchases Ordinance apply including the following.

   A. **"Bid"** means all documents, including those attached or incorporated by reference, issued by the Purchasing Department for soliciting offers to provide goods, services or construction.

   B. **"Contract"** means any agreement for the procurement of goods, services, construction or concessions. A Purchase Order issued in response to an offer constitutes a contract.

   C. **"Contractor"** means an offerer who has been awarded a contract.

   D. **"County"** means the County of Otero, New Mexico.

   E. **"Purchase Order"** means a document issued by the Purchasing Office directing the Contractor to deliver goods, services or construction.

   F. **"Purchasing Office"** means the Purchasing Department of the Office of the Manager of the County.

   G. **"Purchasing Agent"** means the person charged with the responsibility of administering the Department.

   H. **"Bidder"** means a business that submits a response to a competitive solicitation

I. **"Responsible Bidder"** means a business which has the capability in all respects to perform fully the contract requirements set out in the competitive solicitation, and the integrity and reliability which will assure good faith performance, and who has not violated or attempted to violate any provision of law or ethical conduct. Factors which may be considered in determining the offeror's capability to perform, among others, are its financial resources, production or service facilities, service reputation and experience.

J. **"Responsive Bid"** means a written offer to furnish goods, services or construction in conformity with standards, specifications, delivery terms and conditions, and all other requirements established in a competitive solicitation.

K. **"Successful Bidder"** means the lowest Responsible Bidder to whom Otero County, on the basis of the County's evaluation, makes an award. A Successful Bidder does not become a contractor until a purchase order is signed by the County.

3. **PREPARATION OF BID:**

A. Submission: All Bids must be submitted on the Invitation for Bids form enclosed. Failure to do so may disqualify your offer. It is the responsibility of the bidder to submit sufficient additional information to allow for a thorough evaluation of the bid submitted.

B. Preparation Method: All information required in this Bid must be typewritten or handwritten in ink and must be legible. Erasures or other changes must be initialed by the person signing the offer. Each bid must be signed on the appropriate pages by an individual authorized to bind the bidder submitting the bid.

C. 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.

D. Delivery Time: Delivery time stated in the specifications shall apply. Deviations by the bidder shall be stated on the Specification, Time, if stated in number of days, will be consecutive calendar days.

E. 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 have been delivered and accepted and the correct invoice received in the County Accounts Payable Office.

F. 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.

G. 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.

H. New Material, Etc.: All materials, supplies, equipment, and vehicles specified in this Bid shall be new, the latest in production and manufactured within the last twelve (12) months (computed from the date and time of offer opening) unless otherwise indicated. This does not apply to materials, supplies, equipment or vehicles used by the Contractor to provide the required items of tangible personal property, services or construction.

I. Warranty: Materials furnished by the successful bidder shall be accompanied by the manufacturer's written warranty against defects in quality, craftsmanship, and materials.

The bidder agrees that the items of tangible personal property, services or construction furnished under any contract resulting from this bid shall be covered by the most favorable commercial warranties the bidder gives to any customer for such items. Further, the bidder agrees that the rights and remedies provided in such warranties extend to the County and are in addition to and do not limit any rights afforded to the County by any other clause of this bid. The bidder agrees not to disclaim warranties of fitness for a particular purpose of merchantability. Warranties shall become effective at the time of acceptance.

J. 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.

K. 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.

L. 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, neglect 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.

M. Patent Indemnity: If any item furnished pursuant to any contract resulting from this bid shall be covered by any patent, copyright, or application for patent or copyright, the bidder shall defend, indemnify and save harmless the County from any and all loss, cost or expense or any and all claims suits, or judgments as a result of the use of such item in violation of rights under such patent, copyright, or application for patent or copyright.

N. 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)

O. Material Safety Data Sheets: To comply with the Occupational Health and Safety Regulation 1910.1200 for general standards on handling hazardous materials, material safety data sheets may be required for all or part of the products included on this bid. It is the responsibility of the bidder to make this determination and, if required, a copy of the MSDS must accompany the product when delivered to the end user. Failure to comply with this requirement may cause the delivery of products to be rejected and all costs related to such action to be borne by the bidder.

4. **ETHICAL CONDUCT:** By submitting its bid in response to this invitation, the bidder certifies that:

A. 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;

B. It has not retained a person or solicited or secured a County Contract for a contingent fee;

C. It has not taken any action in restraint of free competitive bidding in connection with this bid;

D. It has not in any way violated the ethical conduct or other provisions of the County's Public Purchases Ordinance; and

E. 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.

5. **REQUESTS FOR EXPLANATIONS BY BIDDERS:**

A. Requests for Explanation: Any explanation desired by the bidder regarding the meaning or interpretation of specifications or any part of this bid must be requested in writing and received in the Purchasing Department not less than five (5) working days before the bid opening date.

B. Response to Bids: Oral explanations or instructions given prior to the opening of the offer shall not be binding. The Purchasing Department must issue any official explanations, in writing.

6. **ADDENDA:**

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.

7. **CLARIFICATION OF BIDS:**

The County may, in the evaluation of bids, request clarification from bidders regarding their bid, obtain additional material or literature, and pursue other avenues of research as necessary to insure that a thorough evaluation is conducted.

8. **SUBMISSION OF BID:**

A. Time: Bids not received by the time and date indicated on the Invitation for Bids will not be accepted, and will be returned unopened.

B. Hand Carried: Bids may be hand carried to the Purchasing Department on located at 1101 New York Ave., Room 118, Alamogordo, NM 88310

C. Mailed: Bids may be mailed to the attention of the Purchasing Department, 1101 New York Ave. Room 118, Alamogordo, New Mexico 88310. The County shall not be responsible for bids that are mailed and not received by the opening date and time specified in the solicitation.

D. Envelope Preparation: The envelope/package containing a bid must be sealed and the following identifying information legibly written or typed on the outside.

1). Name of Bidder
2). Bid Number assigned by the County to the Invitation for Bids
3). Opening date as identified on the bid or subsequent addenda

E. No Other Methods of Bid Delivery: Neither telephone, telegraphic, nor facsimile bid shall be accepted.

9. **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.

10. **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.

11. **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 open to the public. Bidder are encouraged to attend.

12. **DISQUALIFICATION OF BID:**

The County reserves the right to reject a bid for, including but not limited to, any one or more of the following circumstances:

A. In the past the bidder has failed to comply with previous contractual commitments or bids to the County.

B. In the opinion of the County the bidder is not capable of providing the offered goods, services, or construction as offered or required by the bid or is otherwise not a responsible bidder.

C. The bidder has not provided sufficient or detailed information which allows for the evaluation of the bid.

D. In the opinion of the County the offered prices are higher than the prices for which the specified items or services can be purchased on the open market.

E. The bidder failed to properly fill in any space on the Invitation for Bids form and attached documents where information or a signature is required.

F. The bidder failed to submit with their bid, bid bonds or other material requirements of the Bid or has otherwise submitted a non-responsive bid.

G. There are unauthorized additions, conditions, alternate proposals or other irregularities of any kind which might make the bid incomplete, indefinite or ambiguous in meaning.

H. Bid was not submitted in ink or typewritten or there is any erasure or alteration of words or figures relating to pricing which is not initialed in ink by the bidder.

I. The County determines that a bid contains any misrepresentations whatsoever.

13. **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.

14. **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.

15. **NONCONFORMING/CONDITIONAL, OR COUNTER BIDS:**

A bid which is nonconforming or conditional, whether in part or in whole will be rejected.

16 **BID ANALYSIS**:

The County reserves the right to analyze, examine and interpret any bid for a minimum period of ninety (90) 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 ninety (90) calendar days, bidders may withdraw their bids from consideration.

17. **AWARD OF CONTRACT:**

A. When Award Occurs: The award of a contract occurs when a Purchase Order is issued or other evidence of acceptance by the County if provided to the bidder. A Recommendation of Award does not constitute award of contract.

B. 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.

C. 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.

D. 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.

E. 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.

F. Contract Changes: In no case shall a contract be changed without the prior written approval of the Purchasing Officer.

G. 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.

18. **PROTEST PROCESS:**

A. Any bidder who is aggrieved in connection with a solicitation or award of an Agreement may protest to the County of Otero Purchasing Officer 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.

B. 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).

C. 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 a 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).

D. The Purchasing Officer 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.

E. 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).

19. **DELIVERY, ACCEPTANCE AND GUARANTEE**:

A. No Delivery Before Purchase Order is Issued: No bidder, including the bidder to whom an award is made shall deliver any item of tangible personal property, commence services or construction prior to the

Issuance of a Purchase Order or Notice to Proceed issued by the County Purchasing Department.

B. Cancellation for Non-Delivery: The County reserves the right to cancel any order not delivered by a guaranteed date stipulated in this bid or any contract resulting from this invitation without liability on the County's part.

C. Acceptance of Delivery: Acceptance by the County of any delivery shall not relieve the Contractor of any guarantee or warranty, expressed or implied. Such acceptance of delivery shall not be considered an acceptance of services or materials not in accordance with the specifications. Such acceptance of delivery shall not waive the County's right to require replacement of defective material or inadequate service.

20. **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.

21. **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 Courthouse, 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 (575) 437-7427

22. **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.

23. **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.

24. **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

.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 proces**s" 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)

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 or 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: _____

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 1ending 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 1ending 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*.

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 **Monday May 23, 2016 at 3:00 pm (local time).**

☐ Clearly mark your proposal with **Bid 16-034 HYDRAULIC BREAKER, OPEN 05/23/16 @ 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

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