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

Request for Proposal No. 15-005
For Management/Lease Contract for Flickinger Theatre

Proposal Deadline: Friday, November 28, 2014 @ 2:00 PM.

Purchasing Agent: Ginger Herndon

COUNTYOF OTERO
RFP #15-005

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

TITLE: **MANAGEMENT/LEASE CONTRACT FOR THE FLICKINGER THEATRE**

RFP NO: **15-005**

OPEN: **FRIDAY, NOVEMBER 28, 2014 @ 2:00 PM**

FOR ADDITIONAL INFORMATION CONTACT:

GINGER HERNDON PURCHASING AGENT
PHONE: (575) 434-0710 EMAIL (gherndon@co.otero.nm.us)

THE OFFICE OF THE PURCHASING AGENT COUNTY OF OTERO, 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, NN 88310

HAND CARRIED
PURCHASING OFFICE
1101 NEW YORK AVE, ROOM 118
ALAMOGORDO, NM 88310

ANY AND ALL PROPOSALS NOT RECEIVED BY THE PROPOSAL SUBMISSION DATE WILL BE REJECTED AND RETURNED UNOPENED

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

ENVELOPE PREPARATION: THE ENVELOPE/PACKAGE ***CONTAINING THREE (3) PROPOSAL COPIES AND ONE (1) ORIGINAL*** MUST BE SEALED AND THE FOLLOWING IDENTIFYING INFORMATION LEGIBLY WRITTEN OR TYPED ON THE OUTSIDE.

1). NAME OF BIDDER
2). PROPOSAL NUMBER ASSIGNED BY THE COUNTY TO THE REQUEST FOR PROPOSALS
3). OPENING DATE AS IDENTIFIED ON THE PROPOSAL OR SUBSEQUENT ADDENDA

NO OTHER METHODS OF BID DELIVERY: NEITHER TELEPHONE, TELEGRAPHIC, OR FACSIMILE BID SHALL BE ACCEPTED

INTRODUCTION

The County of Otero is soliciting qualification based proposals from nonprofit organizations to enter into a lease-management agreement for the management and operations of the Flickinger Theatre. The proposer must be prepared to manage and operate all aspects of the Theatre in a professional manner. This will be a one year contract with the option to renew for an additional three (3) years, not to exceed a total of four (4) years. The theater operates through grants and support of the community.

BACKGROUND

The Flickinger Theatre is a 1950s-style Movie Theater; it is located at 1110 New York Ave, Alamogordo, N.M. The theatre is a one story brick building total area 8,890 square feet, it has 590 seats. The theatre was converted into a live theatre by creating a 40-foot (12m) by 32-foot (9.8m) stage and adding an orchestra pit, dressing rooms, wardrobe and orchestra room and additional lighting; new sound booth, a handicapped-seating area, and an ADA-complaint ramp.

The Flickinger presents a variety of entertainment, including concerts, plays, musicals, dance recitals, and beauty pageants. Shows include both professional stage productions and local amateur groups.

SCOPE OF SERVICES

The Lessee will delegate supervisory and management authority over the theatre. Proposers must demonstrate that they have the professional knowledge, experience and technical expertise required to provide this service to include lighting, sound, box office, and snack bar operations. Proposers must demonstrate success in fund raising activities. Proposers must demonstrate the ability and experience to provide supervision for support staff, organize administrative duties associated with live performance and music. Proposers shall hire, compensate, supervise, and terminate paid staff and members of its work force, to include all volunteers. The Proposers must demonstrate the ability and experience necessary to locate, motivate and create a volunteer team for theatre purposes. Proposers shall direct and control the manner in which work is performed including conditions under which individuals will be assigned duties, how individuals will report, and the hours of individuals will perform. Proposers shall provide, store, and utilize at their own expense, all consumable items related to the work. All utilities and janitorial expenses will be paid by the Lessee.

Proposers must work in close coordination with the County Manager her designee including submitting a quarterly report (contents of the report will be discussed and agreed up after award of the RFP).

Here is a list of some of the groups that utilize the theatre throughout the year.

*12th Judicial District Court,
*Alamogordo Idol,
*Solas Concert and Solas School
*Classic Movie Night,
*AHS Choir,
*Haunted Theater,
*Ring of Fire Alamogordo Music Theater
* Reception for Artist of the Month
* Father B Hay Christmas Program
*Academy of Ballet Jazz and Tap Show

* Academy of Ballet Nutcracker
* Imago del Academy Christmas Program
* Mariachi Christmas Premier
* Mariachi Christmas school show
* Oregon Elementary Christmas program
* Oregon Elementary Christmas program
* Todd Oliver and Friends
* AMT Auditions
* New Mexico Philharmonic works with AHS Orchestra kids
*NM Philharmonic evening public show
* Cirque Montage Premier
* Cirque Montage school show
* Alamogordo Democratic Convention
* Clint Black
* Valentine Dance and the Civic Center
* HS Filming in the Auditorium
* COPE Orientation
* North Elementary School Program
* Hospital Auxiliary Pink Follies
* Vocaldente workshop with German Choir
* AHS Choir school show and public show

PROPOSAL INSTRUCTIONS AND PROCUREMENT INFORMATION

1. CLARIFICATION- Any inquiries or requests regarding clarification of this procurement Documents shall be submitted to the Procurement Office in writing. Contact information is Ginger Herndon, 1101 New York Ave., Room 118, Alamogordo, NM 88310 or gherndon@co.otero.nm.us Offerors may contact **ONLY** the Procurement Officer regarding the terminology stated in the procurements documents. Other County employees do not have the authority to respond on behalf of the County.

1.1 Offerors Shall promptly notify the County Procurement Officer of any ambiguity, inconsistency, or error which they may discover upon examination of the RFP. Any response made by the County will be provided in writing to all Proposers by addendum. No verbal responses shall be authoritative.

1.2 No Addendum will be issued later than five (5) days prior to the date for receipt of Proposal, except and Addendum withdrawing the Request for Proposals or one which includes postponement of the date for receipt of Proposal.

1.3 In order to adequately supply the committee members involved in reviewing the RFP's and making the selection, we are requesting **one (1) original and three (3) copies** of the RFP to be submitted. Make certain you address all items requested to ensure a responsive submittal.

1.4 If you have the experience and are interested in providing these services, please submit a proposal for this work based on the information presented in this RFP. We are requesting that you prepare a brief response based on the Request for Proposal and accompanying information. The proposal should address your interest to satisfy the County's objectives established for this effort. The proposal should also clearly demonstrate your capability to achieve the scope of work. It is, therefore, important that you list all key individuals that you would assign to the project and define an approach that would be used to implement this service. Careful review of the RFP is highly recommended to ensure a responsive submittal. This RFP was prepared in accordance with current State Procurement Statutes. The County intends to enter into a contract with one firm to provide the above mentioned services for one (1) year with the option to renewal for an additional three (3) years not to exceed a total of four (4) years.

2. **DEFINITIONS-** This section contains definition that are used throughout this procurement document, including appropriate abbreviations:

"Agency" Otero County

"Contract" means a written agreement for the procurement of items of tangible personal property or services.

"Contractor" means a successful Offeror.

"Determination" means the written documentation of a decision of a Procurement Manager including findings of fact supporting a decision. A determination becomes part of the procurement file.

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

"Evaluation Committee" means a body appointed by the County Management to perform the evaluation of Offeror proposals.

"Evaluation Committee Report" means a document prepared by the Procurement Manager and the Evaluation Committee for submission to the Board of County Commission and/ or County Manager for contract award. It contains all written determinations resulting from the evaluation.

"Finalist" is defined as an Offeror who meets all the mandatory specifications of this Request for Proposals and whose score on evaluation factors is sufficiently high to merit further consideration by the Evaluation Committee.

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

"Offeror" or Proposer is any person, corporation, or partnership who chooses to submit a proposal.

"Purchase Order" means the document which directs a contractor to deliver items of tangible personal property or service pursuant to an existing contract.

"Procurement Manager" means the person or designee authorized by the Agency to manage or administer a procurement requiring the evaluation of competitive sealed proposals.

"Request for Proposals" or "RFP" means all documents, including those attached or incorporated by reference, used for soliciting proposals.

"Responsible Offeror" means an Offeror who submits a responsive proposal and who has furnished, when required, information and data to prove that his financial resources, production or service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the services or items of tangible personal property described in the proposal.

"Responsive Offer" or "Responsive Proposal" means an offer or proposal which conforms in all material respects to the requirements set forth in the request for proposals. Material respects of a request for proposals include, but are not limited to, price, quality, quantity or delivery requirements.

EXCEPTIONS- Any exceptions to the scope of work and/or specifications shall be listed separately and specifications attached are the minimum requirements. The specifications submitted herein are all that were available to the Purchaser at the time if this mailing. Minor deviations to the specifications as listed, may be considered.

IRREGULARITIES - The County reserves the right to accept or reject any and/or all proposals, to waive irregularities and technicalities, and to request resubmission. Any sole response that is received may or may not be rejected by the County depending on available competition and timely needs of the County. The County reserves the right to award the

contract to the responsible proposer submitting responsive proposals with resulting agreements most advantageous and in the best interest of the County.

COST – All costs incurred by a Proposer in connection with responding to this RFP, the evaluation and selection process undertaken in connection with the procurement and any negotiations with the County will be borne by the Proposer.

NO OBLIGATION – This procurement in no manner obligates Otero County until a valid signed contract is executed.

INCOMPLETE RESPONSES – The County reserves the right to eliminate any Proposer that submits incomplete or inadequate responses or is not responsive to the requirements of this RFP.

NEGOTIATIONS – Should the County be unable to negotiate a satisfactory contract with the business considered to be the most qualified at a price determined by the County to be fair and reasonable, negotiations with that business shall be formally terminated. The County may then undertake negotiations with the second most qualified business. The County reserves the right to discontinue negotiations with any selected Proposer.

COMPETITION – In signing a contract with Otero County the Contractor certifies that the Contractor has not, either directly or indirectly, entered into action in restraint of full competition in connection with the proposal submitted to the County.

PROPOSAL DISCLOSERS - The contents of the proposals will be kept confidential until a contract or contracts have been awarded. At that time, all proposal documents pertaining to this procurement will be open to the public, except for the material, which is proprietary or confidential. The Purchasing Manager will not disclose or make public any pages of a proposal on which the Offeror has stamped or imprinted "proprietary" or "confidential" subject to the following requirements.

Proprietary or confidential data shall be readily separable from the offer in order to facilitate eventual public inspection of the non-confidential portion of the offer. Confidential data is normally restricted to confidential financial information concerning the Offeror's organization and data that qualifies as trade secret in accordance with the Uniform Trade Secrets Act, 57-3A-1 to 57-3A-7 NMSA 1978. The price of products offered or the cost of services proposed shall not be designated as proprietary of confidential information.

REJECT ALL - Pursuant to Sec 13-1-131 NMSA, 1984 Comp., as amended, Otero County reserves the right to reject any and all proposals, whole or in part, submitted hereunder, provided that such rejections shall be accomplished by a written statement declaring the reason for the rejections.

SOLE INTERPRETER – Otero County has the right to refuse any or all proposals and is the sole interpreter of the intent of any clause of the specifications and sole judge as to whether the item proposed or any part or fitting thereof complies with the specifications.

RFP RESPONSES - By responding to this RFP, Proposers acknowledge and consent to the rights and conditions set forth in this RFP.

CONTACTS - Offerors **MAY NOT** contact other Otero County Departments, the Otero County Manager or his staff, members of the Otero County Board of County Commissioners or their staff, and any other Otero County Elected Official or their staff regarding inquiries or requests regarding clarification to this RFP. All inquiries or request regarding clarification of this procurement document shall be submitted to the Procurement Officer in writing.

CONTRACTS - The contract between Otero County (County) and a Contractor will follow the format specified by the County and contain the terms and conditions set forth in the attached "Sample Contract". The contents of this RFP, as revised and/or supplemented, and the successful Offeror's proposal including best and final offer will be incorporated into and become part of the contract

Should an Offeror object to any of the County's terms and conditions contained in the Procurement Section or in the "Sample Contract", that Offeror must propose specific alternative language with the proposal. The County may or may not accept the alternative language. General references to the Offeror's terms and conditions or attempts at complete substitutions are not acceptable to the County and will result in disqualification of the Offeror's proposal. Offerors must provide a brief discussion of the purpose and impact, if any, of each proposed change, followed by the specific proposed alternate wording.

Offerors must submit with their proposal any additional terms and conditions that they would like to have included in a contract negotiated with the County, such terms must be clearly identified in the proposal.

PROTESTS Any Offeror who is aggrieved in connection with a solicitation or award of an Agreement may protest to the Purchasing Office in accordance with the requirements of the State Procurement Code. The protest shall 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 (13 -1-172 NMSA 1978).

In the event of a timely protest under this section, the County will not proceed further with the procurement unless the Purchasing Department makes a determination that the award of Agreement is necessary to protect substantial interests of the County (13-1-173 NMSA 1978).

The Purchasing Manager or his designee shall have the authority to take any action reasonably necessary to resolve a protest of an aggrieved Offeror concerning procurement. This authority shall be exercised in accordance with adopted regulations, but shall not include the authority to award money damages or attorneys' fees (13-1-174 NMSA 1978).

The Purchasing Manager or his designee will promptly issue a determination relating to the protest. The determination will:

A. state the reasons for the action taken; and

B. Inform the protestant of the right to judicial review of the determination pursuant to 3-**1**-183 NMSA 1978.

A copy of the determination issued under 13 -1-175 NMSA 1978 will immediately be mailed to the protestant and other Offerors involved in the procurement (13-1-176 NMSA 1978).

GROSS RECEIPTS TAX - New Mexico Statutes requires that the proposal amount exclude the applicable state gross receipts tax or applicable local option tax but that the contracting agency (owner) shall be required to pay the applicable tax including any increase in the applicable tax becoming effective after the date the contract is entered into. The applicable gross receipts tax or applicable local option tax shall be shown as a separate amount on each billing or request for payment made under the contract.

BRIBES, GRATUITIES AND KICK-BACKS - Pursuant to 13-1-191 NMSA 1978, reference is hereby made to the criminal laws of New Mexico (including 30-14-1, 30-24-2, and 30-41-1 through 30-41-3 NMSA 1978), which prohibit bribes, kickbacks, and gratuities, violation of which constitutes a felony. Further, the Procurement Code (13-1-28 through 13-1-199 NMSA 1978) imposes civil and criminal penalties for its violation.

COLLUSION - No Proposer shall be interested in more than one proposal. Collusion among Proposers or the submission of more than one proposal under different names by any firm or individual shall be cause for rejection of all proposals without consideration. The enclosed Non-Collusion Affidavit must be executed along with the Proposal.

APPROPRIATIONS - The terms of the Agreement are contingent upon sufficient appropriations and allocations being made by the County or other funding agency. If the County or other funding agency does not make sufficient appropriations and authorization, the agreement shall, notwithstanding any other provisions of the agreement, terminate immediately upon Contractor's receipt of written notice of termination from the County. Otero County's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final.

DEBARMENT & SUSPENSION - The Proposer (offeror) certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntary excluded from participation in this transaction by any Federal department or agency. It further agrees that by submitting this proposal that it will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts, and subcontracts. Where the Proposer/offeror/contractor or any lower tier participant is unable to certify to this statement, it shall attach an explanation to this solicitation/proposal. The enclosed Certificate of Debarment and Suspension must be executed along with the Proposal.

EQUAL OPPORTUNITY - The Contractor, subcontractors, and all sub-subcontractors shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin. The Contractor shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, or transfer; recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Contractor agrees to post inconspicuous places, available to employees and applicants for employment, notices setting forth the policies of nondiscrimination. The Contractor, all subcontractors, and all sub-subcontractors shall, in all solicitation or advertisements for employees placed by them or on their behalf; state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, or national origin.

PROPOSAL AWARD -The County reserves the sole right to:

Determine responsible Proposers and responsive proposals.

a) **Responsible Proposer**: A Proposer who submits a Responsive Proposal and who has furnished, when required, information and data to prove that his financial resources, production or service facilities, personnel, service reputation, and experience are adequate to make satisfactory delivery of the construction described in the Request for Proposal.

b) **Responsive Proposal**: A proposal which conforms in all material respects to the requirements set forth in the Request for Proposal.

Determine and waive minor technicalities in the proposal form or requirements not affecting price, quality, or quantity of items or services sought. Reject any or all proposals in part or in whole.

INSURANCE REQUIREMENTS - The Contractor shall not commence work under this contract until he has obtained all insurance required under this paragraph and such insurance has been approved. The contractor shall not allow any subcontractor to commence work on this subcontract until all similar insurance required of the subcontractor has been obtained

General Conditions

a) For the duration of the contract and until all work specified in the contract is completed the Contractor shall maintain in effect all insurance as required below and comply with all limits, terms and conditions stipulated therein. Any claims made coverage's shall be maintained for two years after the substantial completion. All insurance shall be written to conform to the requirements below.

b) Evidence of such insurance shall consist of a completed certificate of insurance, signed by the insurance agent for the Contractor and returned to the Owner. The County reserves the right to request a copy of the Contractor's insurance policies.

The certificate of insurance shall reflect that:

a) All required insurance is in effect.

b) The county shall be an additional insured on the Contractor's general liability policy with respect to activities under this contract. The additional insured endorsement shall be ISO form CG 20 10 11 85 or a substitute endorsement providing equivalent coverage.

c) The general liability insurance afforded applies separately to each insured against whom claim is made or suit is brought except with respect to the limits of the company's liability.

d) The general liability insurance of the Contractor shall be primary insurance and any insurance or self-insurance of the County shall be excess and not contributory insurance.

e) If for any reason, any material change occurs in the coverage during the course of the contract, such change will not become effective until 30 days after the Owner has received written notice of such change.

Contractor shall obtain insurance of the types described below from an insurer with an A. M. Best rating of not less than A-VIII and authorized to do business in the State of New Mexico:

a) **Commercial General Liability** insurance shall be written on ISO occurrence form CG 00 01 or similar and shall cover liability arising from products and completed operations, premises, contractual liability, personal injury, and advertising injury. There shall be no endorsement or modification of the Commercial General Liability insurance limiting coverage for claims arising from explosion, collapse or underground exposures.

b) **Workers' Compensation Insurance** as required by the State.

c) **Automobile Liability Insurance** covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on ISO form CA 00 01 or a substitute form providing equivalent liability coverage.

d) Professional Liability Insurance specific to the Contractor's profession.

Limits Required - Contractor shall maintain the following insurance limits:

a) **Commercial General Liability** insurance shall be written with limits no less than $1,000,000 each occurrence, a $2,000,000 general aggregate and a $2,000,000 products- completed operations aggregate limit.

b) **Workers' Compensation Insurance** with limits as required by Statute.

c) **Automobile Liability Insurance** with a combined single limit for bodily injury and property damage of not less than $1,000,000.00 per accident.

e) **Professional Liability Insurance** in an amount not less than $1,000,000 per occurrence.

SUBCONTRACTORS - THE CONTRACTOR SHALL:

Include all subcontractors as insured under its policies or, shall furnish separate certificates and endorsements for each subcontractor to the Owner.

The Subcontractors' Commercial General Liability insurance shall be written with limits no less than $1,000,000 each occurrence, a $2,000,000 general aggregate and$1,000,000 products- completed operations aggregate limit.

"CAMPAIGN CONTRIBUTION FORM"

In accordance with Appendix C, Offerors must comply with §13-1-191.1 pertaining to the disclosure of campaign contributions made to an applicable public official of a local public body.

Offeror(s) must complete, sign and return the "Campaign Contribution Disclosure Form" as part of their proposal submittal. The requirements apply regardless whether a covered contribution was made or not. Any Offeror who fails to comply with this requirement will be disqualified, no exceptions.

PROPOSAL REQUIREMENTS

Proposals should be logically organized and as concise as possible. Proposal shall be limited to a maximum of 40 pages including title, index, not including front and back covers and shall be typewritten on standard 81/2" x 11" pages with margins no smaller than one (1) inch. Font size should be no smaller than 10 points and the proposal shall be bound on the left-hand margin. Five (4) copies and one (1) original shall be submitted.

2 – The following information must be included in your proposal:

A. Firm name, address, telephone number, email address and the name of the firm's contact person.

B. A list of names and titles of key personnel that will be responsible for the Services. A thorough description of your firms experience in Services as describe in the Scope of work.

C. A thorough description of your proposal and implementation.

D. A list of at least three (3) references including phone number, address and a contact person. Please do not include Otero County personnel

E. Other Supporting Documentation.

FAILURE to adequately address and meet the above requirements may be cause for your proposal to be deemed non-responsive by the Procurement Manager.

METHOD OF AWARD

An evaluation committee will judge the merits of proposals received in accordance with the evaluation factors defined herein. Failure of the Offeror to provide any information requested in this Request for Proposals may result in disqualification of the proposal and shall be the sole responsibility of the Offeror. The County is anticipating a single source award, however, the County reserves the right to multiple source award if it is determined to be in the best interest of the County

3.1 CRITERIA AND POINT VALUES

3.1.1 Proposals must address each of the following criteria. Each proposal may be awarded percentage point up to the amount listed in parentheses.

	Suggested Points
3.2 EXPERIENCE OF FIRM	
Experience and knowledge of the agency needs and service to be provided.	**[100]**
3.3 REFERENCES AND PAST RECORDS OF PERFORMANCE	
(references and past record of performance,	**[95]**
3.4 PROPOSAL SUBMITTAL FORMAT	
Described in proposal	**[5]**
TOTAL POSSIBLE POINTS	**[200]**

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)

Certification Regarding

Debarment, Suspension, and Other Responsibility Matters

Offeror certifies to the best of its knowledge and belief that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

2. Have not within a three year period preceding this proposal been convicted of, had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State Antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

3. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any offenses; and

4. Have not within a three-year period preceding this application/proposal had one or more public transaction (Federal, State, or local) terminated for cause or default.

I understand that a false statement on this certification may be ground for rejection of this proposal or termination of the award. Under 18USC Sec. 1001, a false statement may result in a fine of up to $10,000 or imprisonment for up to 5 years, or both.

_____

Typed Name & Title of Authorized Representative Signature of Authorized Representative Date

SIGNATURE SHEET

My signature certifies that the proposal as submitted complies with all Terms and Conditions as set forth in RFP #15-005

My signature also certifies that the accompanying proposal is not the result of, or affected by, any unlawful act of collusion with another person or company engaged in the same line of business or commerce.

My signature also certifies that this firm has no business or personal relationships with any other companies or persons that could be considered as a conflict of interest of potential conflict of interest to the County of Otero, and that there are no principals, officers, agents, employees, or representatives of this firm that have any business or personal relationships with any other companies or persons that could be considered as a conflict of interest or a potential conflict of interest to the County of Otero, pertaining to any and all work or services to be performed as a result of this request and any resulting contract with the County of Otero.

I hereby certify that I am authorized to sign as a Representative for the Firm:

Complete legal Name of Firm:_____

Address:_____

_____

Fed ID No.:_____

Signature & Date: _____

Name (type/print):_____

Title:_____

Email address:_____

Telephone: (_____)_____Fax No: (_____)_____

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: _____

Related Party Disclosure Form

1. Are you indebted to or have a receivable from any member of the Board of County Commissioners; elected county officials, administration officials, department heads, and key management supervisors with the County of Otero? Yes _____ No _____

_____

2. Are you , or any officer of your company related to any member of the Board of County Commissioners; elected county officials, administration officials, department heads, key management supervisors of the County of Doña Ana and have you had any of the following to which Otero County was, is to be, a party?

	Yes	No
Sales, Purchase or leasing of property ?	___	___
Receiving, furnishing of goods, services or facilities?	___	___
Commissions or royalty payments	___	___

_____

_____

3. Does any member of the Board of County Commissioners; elected county officials, administration officials, department heads, key management supervisors with the County of Otero, have any financial interest in your company whether a sole proprietorship, partnership, or corporation of any kind that currently conducts business with the County of Otero ?

Yes _____ No _____

_____

4. Did you, your company, or any officer of your company have an interest in or signature authority over a bank account for the benefit of a member of the Board of County Commissioners; elected county officials, administration officials, department heads, key management supervisors with the County of Otero ? Yes _____ No _____

_____

5. Are you negotiating to employ or do you currently employ any employee, officer or family member of an employee or officer of County of Otero?

Yes _____ No _____

The answers to the foregoing questions are correctly stated to the best of my knowledge and belief.

Signature of Owner or Company President:_____ Date_____

(Print Name and Title): _____

PROPOSAL CHECKLIST

Did You:

☐ Include One (1) original and (3) three copies of the proposal

☐ Sign and notarize the "Non-Collusion Affidavit" form.

☐ Sign the "Related party disclosure form.

☐ Fill Out and Sign the Related Party Disclosure Form

☐ Fill Out and Sign The Campaign Contribution Form

☐ Acknowledge all addenda

☐ Review all clarifications/questions/answers

☐ Deliver your sealed proposal to Otero County Purchasing Department, 1101 New York Ave, Room 118, Alamogordo, New Mexico 88310 before Friday, November 28, 2014 at 2:00 pm (local time).

☐ Clearly mark your proposal with RFP **15-005 Lease/ Management of the Flickinger Theatre** on the front of the envelope.

∗ If not completed as required, your proposal may be deem 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