

Event Summary - UNM Job Order Contracting (JOC)

Type	Request for Proposal	Number	RFP-2379-23
Stage Title	-	Organization	UNM
Currency	US Dollar	Event Status	Open
Work Group	University of New Mexico	Exported on	10/20/2022
Exported by	Jessica Goforth	Estimated Value	-
Payment Terms	-		

Bid and Evaluation

Respond by Proxy	Disallow	Use Panel Questionnaire	Yes
Sealed Bid	Yes	Auto Score	No
		Cost Analysis	No
Alternate Items	No		

Visibility and Communication

Visible to Public Yes

Enter a short description for this public event

None Added

Commodity Codes

Commodity Code	Description
3210	Services, Construction - PPD
2220	Supplies, Construction
3200	Services, Construction - Facilities Planning
3720	Services, Maintenance - Building
3735	Services, Maintenance - Grounds/Industrial
5200	Building - Original Construction
5300	Building Improvement

Event Dates

Time Zone	MDT/MST - Mountain Standard Time (US/Mountain)
Released	-
Open	10/17/2022 8:00 AM MDT
Close	1/2/2023 3:00 PM MST
Sealed Until	1/2/2023 3:00 PM
	 Show Sealed Bid Open Date to Supplier
Q&A Close	11/3/2022 5:00 PM MDT

Event Users

Event Creator

Andre Nunez

nunezandre@unm.edu

Phone +1 505-277-6888 ext. 6888

Event Owners

Andre Nunez

nunezandre@unm.edu

Phone +1 505-277-6888 ext. 6888

Chau Luu

clu@unm.edu

Phone +1 505-277-2036

Brett Slettensletten@unm.edu

Phone +1 505-277-2036

Juanita Lucerojglucero@unm.edu

Phone +1 505-277-0473

Nicholas Olsonnolson8@unm.edu

Phone +1 505-277-2828

Contacts**Andre Nunez**nunezandre@unm.edu

Phone +1 505-277-6888 ext. 6888

Stakeholders**Sharon Rodgers**srodgers5@unm.edu

Phone +1 505-273-1158

Jessica GoforthJessica.Goforth@omniapartners.com

Phone +1 210-729-0281

Maria Dionmdion@unm.edu

Phone +1 505-803-1425

Karyn Kittskmkitts@unm.edu

Phone +1 505-277-1480

Julian Sandovaljsand@unm.edu

Phone +1 505-277-0111

Andrew Lovatoadlovato21@unm.edu

Phone +1 505-277-0739

Mary Stuartmastuart1@unm.edu

Phone +1 505-277-7707

Amie Ortizaortiz@unm.edu

Phone +1 505-277-5225

Vincent Hernandezvincenth@unm.edu

Phone +1 505-277-1377

Ryan Reynoldsryreynolds@salud.unm.edu

Phone +1 505-331-8875

Matthew PetersonM.Peterson@gordian.com

Phone +1 218-851-9913

Bruce Cherrincherrin@unm.edu

Phone +1 505-277-2036

Kiara Pllumkypellum@unm.edu

Phone +1 505-277-2036

Brett Slettensletten@unm.edu

Phone +1 505-277-2036

Veronica Trujillovtrujil5@unm.edu

Phone +1 505-277-5263

Description

Scope of Work

The University of New Mexico (UNM) request written proposals from Contractors to provide construction services for the UNM Job Order Contracting Program and the UNM Cooperative Purchasing Job Order Contracting Program made available through OMNIA Partners. Proposals may be submitted for the following categories: General Construction, MEP, and Roofing. Multiple awards may be made per category. **** Respondents may submit for all categories or individual categories listed in this RFP.****

****Resp**

The work of this Contract will be set forth in the Detailed Scopes of Work referenced in the individual Job Orders. The Contractor is required to complete each Detailed Scope of Work for the Job Order Price within the Job Order Completion Time.

Work performed under the UNM Job Order Contracting Program is for construction work and related services to be performed at UNM campuses under the jurisdiction of the University of New Mexico.

Work for the UNM Cooperative Purchasing Job Order Contracting Program is for construction work and related services to be performed by public and educational agencies throughout the State of New Mexico under the jurisdiction of the participating agency.

Pre-proposal conference – A non-mandatory virtual -only per-proposal conference will be held via Zoom Virtual Conference. To register for the meeting please see information link below:

Virtual Pre-Proposal Meeting

Tuesday October 25th @ 10:00 AM MDT

Link: <https://gordian.zoom.us/meeting/register/tZcvcumqzgpE9OCB-kQMmCThAlKSrkFzwpB>

Attendance at this pre-proposal conference is **NON-MANDATORY** but recommended in order for all potential proposers to receive the benefit of answers to theirs and other's technical questions first hand. Potential proposers are encouraged to submit written questions in advance of the conference. The identity of the organization submitting the question(s) will not be revealed. If you are not the prime proposer but are attending on behalf of someone else, please make note of this when signing the attendance roster where indicated. Additional written and oral questions may be submitted at the conference. All questions will be addressed at the conference. A public log will be kept of the names of potential proposers that attend the non-mandatory pre-proposal conference.

Attendance at the pre-proposal conference is strongly encouraged and highly recommended.

at this

Stage Description

No description available.

1 ★ **Instructions To Supplier :**

Please review and accept the attached New Mexico Wage Rate Determination requirements:

Prerequisite Content:

Wage Rate Requirements

New Mexico Wage Rate Determination.pdf ../Attachments/PrereqAttachments/New Mexico Wage Rate Determination.pdf

Certification

I certify that I have read and agree to the terms above.

Supplier Must Also Upload a File:

No

2 ★ **Instructions To Supplier :**

Please review, sign, and upload the attached Conflict of Interest Form.

Prerequisite Content:

Conflict of Interest Form

COI updated form.pdf ../Attachments/PrereqAttachments/COI updated form.pdf

Certification

I certify to my knowledge, the Conflict of Interest Certification uploaded is accurate and has been duly executed.

Supplier Must Also Upload a File:

Yes

Enable Confidential Mode

No

3 ★ **Instructions To Supplier :**

Please review, sign, and upload the attached Submittal Letter Form.

Prerequisite Content:

Submittal Letter Form

SUBMITTAL LETTER FORM 1.pdf ../Attachments/PrereqAttachments/SUBMITTAL LETTER FORM 1.pdf

Certification

I certify that I have read and agree to the terms above.

Supplier Must Also Upload a File:

No

Buyer Attachments

1-06 - Purpose of this RFP (Final).docx	1-06 - Purpose of this RFP (Final).docx	../Attachments/1-06 - Purpose of this RFP (Final).docx
Definitions_Terminology_&_Inquiries.pdf	Definitions_Terminology_&_Inquiries.pdf	../Attachments/Definitions_Terminology_&_Inquiries.pdf
JOC+Specific+Definition+of+Terminology.pdf	JOC+Specific+Definition+of+Terminology.pdf	../Attachments/JOC+Specific+Definition+of+Terminology.pdf
INSTRUCTIONS TO OFFERORS.pdf	INSTRUCTIONS TO OFFERORS.pdf	../Attachments/INSTRUCTIONS TO OFFERORS.pdf
CONDITIONS_GOVERNING_THE_PROPOSAL.pdf	CONDITIONS_GOVERNING_THE_PROPOSAL.pdf	../Attachments/CONDITIONS_GOVERNING_THE_PROPOSAL.pdf
RFP+Standard+Terms+and+Conditions.pdf	RFP+Standard+Terms+and+Conditions.pdf	../Attachments/RFP+Standard+Terms+and+Conditions.pdf
PROPOSAL_EVALUATION_AND_SELECTION_PROCESS.pdf	PROPOSAL_EVALUATION_AND_SELECTION_PROCESS.pdf	../Attachments/PROPOSAL_EVALUATION_AND_SELECTION_PROCESS.pdf
JOC SOW Categories.pdf	JOC SOW Categories.pdf	../Attachments/JOC SOW Categories.pdf
Appendix L Schedule of Prices.xlsx	Appendix L Schedule of Prices.xlsx	../Attachments/Appendix L Schedule of Prices.xlsx
Appendices.pdf	Appendices.pdf	../Attachments/Appendices.pdf
OMNIA JOC Terms & Conditions.pdf	OMNIA JOC Terms & Conditions.pdf	../Attachments/OMNIA JOC Terms & Conditions.pdf
CTC and Technical Specifications GC		https://fortive.box.com/s/27pqtld1vj2zoicbx063askfm48ky2u1
CTC's and Technical Specifications MEP		https://fortive.box.com/s/324cz86rl04w0cx2pl909agezwzqhs05
CTC's and Technical Specifications Roofing		https://fortive.box.com/s/6lnbrxht1fg8ll57zrtett87us1sp3ig

Questions

★ Supplier Response Is Required

Management Plan and Technical and Organizational Capability (15 points)

Group 1.1: a) Management Plan

- 1.1.1 Is your organization applying for the "General Construction" category? ★
Yes/No
- 1.1.2 If applying for the "General Construction" category please upload your response for the items identified in Appendix A located in this section. ★
File Upload
Appendix A - ../Attachments/QuestionAttachments/Appendix A.pdf
- 1.1.3 Is your organization applying for the "Mechanical, Electrical, and Plumbing" (MEP) category? ★
Yes/No
- 1.1.4 If applying for the "Mechanical, Electrical, and Plumbing" (MEP) category please upload your response for the items identified in Appendix A located in this section. ★
File Upload
Appendix A - ../Attachments/QuestionAttachments/Appendix A(1).pdf
- 1.1.5 Is your organization applying for the "Roofing" category? ★
Yes/No
- 1.1.6 If applying for the "Roofing" category please upload your response for the items identified in Appendix A located in this section. ★
File Upload
Appendix A - ../Attachments/QuestionAttachments/Appendix A(2).pdf

Group 1.2: b) Organization Capability

- 1.2.1 Complete Appendix B: Please submit your proposal response for items identified in Appendix B located in this section. ★
File Upload
Appendix B - ../Attachments/QuestionAttachments/Appendix B.pdf

Group 1.3: c) Quality Control Plan and Safety

- 1.3.1 Complete Appendix C: Please submit your proposal response for items identified in Appendix C located in this section. ★
File Upload
Appendix C - ../Attachments/QuestionAttachments/Appendix C.pdf
- 1.3.2 Please describe your company's approach to recycling. Please submit your proposal response for items identified in Appendix D located in this section. ★

File Upload
Appendix D - ../Attachments/QuestionAttachments/Appendix D.pdf

Key Personnel Assigned to the Contract (15 points)

Group 2.1: Key Personnel

- 2.1.1 a) List of Key Personnel; 1. Please submit your proposal response for items identified in Appendix E located in this section. ★
File Upload
Appendix E - ../Attachments/QuestionAttachments/Appendix E.pdf

- 2.1.2 a) List of Key Personnel;
2. Please submit your proposal response for items identified in Appendix F located in this section. ★
File Upload
Appendix F - ../Attachments/QuestionAttachments/Appendix F.pdf
- 2.1.3 a) List of Key Personnel
3. Please submit your proposal response for items identified in Appendix G located in this section. ★
File Upload
Appendix G - ../Attachments/QuestionAttachments/Appendix G.pdf

Comparable Construction Experience (15 points)

Group 3.1: Appendix H, General Construction Projects

- 3.1.1 Is your firm proposing for the General Contracting division? If so please complete Appendix H. ★
Yes/No
- 3.1.2 Appendix H - Please submit your proposal response for items identified in Appendix H located in this section. Please provide a maximum of five (5) projects completed, preferably for a college or university system. Complete a separate Appendix H for each comparable project. Attach additional information as you deem necessary.
File Upload
Appendix H - ../Attachments/QuestionAttachments/Appendix+H.pdf

Group 3.2: Appendix I, Mechanical, Electrical, and Plumbing Projects

- 3.2.1 Is your firm proposing for the Mechanical, Electrical, and Plumbing? If so please complete Appendix I. ★
Yes/No
- 3.2.2 Appendix I - Please submit your proposal response for items identified in Appendix I located in this section. Please provide a maximum of five (5) previously completed projects completed whose scope of work involve mechanical, electrical, or plumbing, preferably for a college or university system. Complete a separate Appendix I for each comparable project. Attach additional information as you deem necessary.
File Upload
Appendix I - ../Attachments/QuestionAttachments/Appendix+I.pdf

Group 3.3: Appendix J, Roofing Projects

- 3.3.1 Is your firm proposing for Roofing? If so please complete Appendix J. ★
Yes/No
- 3.3.2 Appendix J - Please submit your proposal response for items identified in Appendix J located in this section. Please provide a maximum of five (5) previously completed projects completed whose scope of work involved roofing, preferably for a college or university system. Complete a separate Appendix J for each comparable project. Attach additional information as you deem necessary.
File Upload
Appendix J - ../Attachments/QuestionAttachments/Appendix+J.pdf

Past Indefinite Quantity Contract Experience (15 points)

Group 4.1: Indefinite Quantity Contract Experience

- 4.1.1 1. Please submit your proposal response for items identified in the Evaluation Criteria labeled 4. Past Indefinite Quantity Contract Experience in this section. ★
File Upload
Appendix+K - ../Attachments/QuestionAttachments/Appendix+K.pdf

Price Proposal (40 points)

Group 5.1: Price Proposal

- 5.1.1 Please submit your proposal response for items identified in Appendix L located in this section. ★
File Upload

Business Certifications-General Contractor

Group 6.1: Insurance Coverage

- 6.1.1 Please review the attached Insurance Coverage document and upload a copy of your firm's Certification of Insurance here. ★

File Upload

Insurance Coverage - ../Attachments/QuestionAttachments/Insurance Coverage.pdf

Group 6.2: NM Resident Preference Certification

- 6.2.1 Does your firm have a current State of New Mexico Purchasing Department Resident Preference Number? ★

Yes/No

- 6.2.2 If you do have a current State of New Mexico Purchasing Department Resident Preference Number please upload the certification form here.

File Upload

- 6.2.3 Resident Preference Number:

Text (Single Line)

- 6.2.4 Resident Preference Number Issue Date:

Date

Group 6.3: RESIDENT/NATIVE AMERICAN VETERANS RESIDENT PREFERENCE CERTIFICATION

- 6.3.1 Please complete the attached document if your organization is eligible for Resident Veterans Certification.

File Upload

RESIDENT/NATIVE AMERICAN VETERANS RESIDENT PREFERENCE CERTIFICATION - ../Attachments/QuestionAttachments/Veteran Native American Preference Certification.pdf

Group 6.4: Small Disadvantage Certification

- 6.4.1 Small and Small Disadvantaged Business Certification please review file and check all that apply to your organization:

File Upload

Small and Small Disadvantage Business Certification - ../Attachments/QuestionAttachments/Small and Small Disadvantaged Business Certification (1) (2).pdf

Group 6.5: Diversity Vendor Certification Participation

- 6.5.1 Please complete the attached Diversity Vendor Certification Participation document

File Upload

DVCP - ../Attachments/QuestionAttachments/DIVERSITY VENDOR CERTIFICATION

Group 6.6: Federal Funds Certifications

- 6.6.1 Please review the attached federal funds certifications document.

Yes/No

Federal Funds Certifications - ../Attachments/QuestionAttachments/Federal Funds Certification.pdf

Group 6.7: FEMA Special Conditions

- 6.7.1 Please review the attached FEME Special Conditions document.

Yes/No

FEMA Special Conditions - ../Attachments/QuestionAttachments/FEMA Special Conditions.pdf

Group 6.8: VALUE ADD QUESTIONNAIRE

- 6.8.1 Please review the attached Value Add Questionnaire.

Yes/No

Value Add Questionnaire - ../Attachments/QuestionAttachments/Value Add Questionnaire.pdf

Group 6.9: Insurance Requirements

- 6.9.1 Please review the attached insurance requirements document.

Yes/No

Group 6.10: OMNIA Requirements for Cooperative Contract

6.10.1 Please review the attached OMNIA requirements for cooperative contract.

Yes/No

OMNIA Requirements - ../Attachments/QuestionAttachments/Omnia Requirement for COOP.pdf

Service Line Items

There are no Items added to this event.

Price Components

There are no Price Components added to this event.

Suppliers

Everguard Roofing LLC

Progress Event Not Viewed

Joe Montes

joe@everguardroofing.com

G&S Builders, LLC

Progress Event Not Viewed

Erik garcia

erikdg67@gmail.com

Pluma, LLC

Progress Intend To Bid

Kodi McCarthy

kodi@plucys.com

The Walter Parker Company, LLC dba Roofcare (Roofcare)

Progress Event Not Viewed

Jonathan Small

jonathan@roofcare.us

EMPIRE BUILDERS LLC

Progress Event Not Viewed

Ken Easley

keasley@empirebuildersllc.com

Scaffold Systems Inc. (Scaffold Systems Inc)

Progress Event Not Viewed

Charles Betraun

ssiabq@hotmail.com

Robert Owens

ssiabq.yard@hotmail.com

Fortis Elevator LLC (Fortis Elevator LLC)

Progress Event Not Viewed

EJ urphy

ej.murphy@fortiselevator.com

FRANKS SUPPLY CO INC

Progress Event Not Viewed

RICK LAMB

RICKL@FRANKS-SUPPLY.COM

thomas colberg

tcolberg@franks-supply.com

Nine Degrees Architecture & Design (Nine Degrees Architecture and Design inc.)

Progress Event Not Viewed

Cesar Molina

cesarm@nine-degrees.com

Jettwalker Inc (Jettwalker, Inc.)

Progress Event Not Viewed

Jamie Jett Walker

jamie@jettwalker.com

RFx Analyst

Progress Event Not Viewed

Kelly Johnson

rfp@rfxanalyst.com

US Electrical Corp

Progress Event Not Viewed

Larry Eckhardt

larrye@uselectricalcorp.com

O'Malley Glass (O'Malley Glass)

Progress Event Not Viewed

Phillip Archuleta

phil.omalleyglass@gmail.com

VA Electric Inc. (VA Electric Inc.)

Progress Event Not Viewed

Bart Phillips

bart@vaelectricinc.com

SAFETY FLARE INC

Progress Event Not Viewed

Jeff Rich

jeff@safetyflare.net

Builders News & Plan Room

Progress Event Not Viewed

Melissa Scott

buildersnews@live.com

Southwest Sterilizers, LLC (Southwest Sterilizers, LLC)

Progress Event Not Viewed

Stephanie Wright

sawright@southweststerilizers.com

Enterprise Electrical Services, Inc.

Progress Event Not Viewed

Tyra Thornton

tthornton@entelcomm.com

Southwest Door Services Ltd. Co. (Southwest Door Services Ltd. Co.)

Progress Event Not Viewed

Sheldon Koska

skoska@swdoorservices.com

Tejas Premier Building Contractor, Inc.

Progress Event Not Viewed

Danielle Garza

danielle@tejaspremierbc.com

Angelica Coronado

angelica@tejaspremierbc.com

Julissa Carielo

admin@dreamongroup.com

Tropical Green, LLC (Tropical Green, LLC)

Progress Event Not Viewed

Tim Pederson

tspederson1@msn.com

Permain Solutions, LLC (Permian Solutions, LLC)

Progress Event Not Viewed

Scott Taylor

scott@permiansolutions.com

APIC Solutions, Inc.

Progress Intention Not Declared

Chris Martinez

cmartinez@apicnm.com

Andrew DeMattos

andrew@apicnm.com

Steve Foster

sfoster@apicnm.com

Jesse Pickard

jpickard@apicnm.com

Duke City Heating and Cooling LLC

Progress Event Not Viewed

Mike Franco

mike@dukecityhvac.com

Bear Restoration (Bear holding Inc)

Progress Event Not Viewed

Joe Goode

jgoode@bearrestoration.com

Prestigious Paving (Prestigious Paving)

Progress Intention Not Declared

zane munoz

prestigiouspaving@gmail.com

Performance Contracting, Inc. (Performance Contracting, Inc.)

Progress Event Not Viewed

Ryan Kinsella

Ryan.Kinsella@pcg.com

TLC Company, Inc. (TLC Plumbing & Utility)

Progress Event Not Viewed

Brian Calder

bcalder@tlcplumbing.com

Pavilion Construction LLC (Pavilion Construction LLC)

Progress Event Not Viewed

Owen Blakesley

estimating@pavilionconstruction.com

Color-Ad. Inc.

Progress Event Not Viewed

David Shourds
dshourds@color-ad.com

Pacific Construction Services LLC (Pacific Construction Services LLC)

Progress Event Not Viewed

Chris Wales
cwales@pacificconstructionus.com

Erin Sheridan
esheridan@pacificconstructionus.com

ESA Construction, Inc. (General Contractor)

Progress Event Not Viewed

Steven C. Pannell
spannell@esaconstruction.com

N-Demand Test and Balalnce, LLC (N-Demand Test and Balalnce, LLC)

Progress Event Not Viewed

Terrie Hofmann
admin@ndemandllc.com

DLR Group Inc., an Arizona Corporation (DLR Group)

Progress Event Not Viewed

Kathleen Fitzpatrick
Kfitzpatrick@dlrgroup.com

De La Fuente Construction Inc.

Progress Event Not Viewed

Sarah Lovato
SLovato@dlfci.com

PTO New Mexico (PTO New Mexico)

Progress Event Not Viewed

Cooper Heflick
chefflick@ptonm.com

Albuquerque Fire Life Safety Consultants (ABSOLUTE MECHANICAL)

Progress Event Not Viewed

Patrick Wheeler
absolutemechanicalabq@gmail.com

RM-MCI, LLC (Nowlin Mechanical)

Progress Event Not Viewed

Thomas Giannelli
tom@nowlinmech.com

Russell Nowlin
Russell@nowlinmech.com

Bradbury Stamm Construction, Inc.

Progress Intend To Bid

Lawrence Peterson
lpeterson@bradburystamm.com

BDI Commercial Flooring Services

Progress Event Not Viewed

Wardell Jeffries
wardell@bdicfs.com

Osceola Inc. (Osceola Energy)

Progress Intention Not Declared

Galina Kofchock
galinak@osceolaenergy.com

Ramtech Building Systems, Inc (Ramtech Building Systems)

Progress Event Not Viewed

Philip Pattengill
ppattengill@ramtechgroup.com

The Hartman + Majewski Design Group

Progress Intention Not Declared

Vanessa Whitehorse
vwhitehorse@designgroupnm.com

Kirstin Kalberg
kkalberg@designgroupnm.com

Doug Majewski
dmajewski@designgroupnm.com

The Rachtman Group LLC (The Rachtman Group LLC)

Progress Event Not Viewed

Susan Rachtman
susan@rachtman.com

AVANT ACOUSTICS, LLC

Progress Event Not Viewed

Elizabeth Humburg
notify@avantacoustics.com

Jensen & Partners (Jensen & Partners)

Progress Event Not Viewed

Julie Elliott
jelliott@jensenpartners.com

Swain Distribution, Inc.

Progress Event Not Viewed

Christina Brown
research@swaindistribution.com

Los Ebanistas, Inc. (Sol Luna Solar)

Progress Intention Not Declared

Mark Johnson
mark@sollunasolar.com

PPL Safari Holdings, LLC.

Progress Event Not Viewed

Ashley Regan
aregan@safarienergy.com

Sweep Construction

Progress Event Not Viewed

Sara Petersen

sweepconstruction@gmail.com

Summit Lake Park Eagle Restoration Systems LLC (SERVPRO) (SERVPRO)

Progress Intention Not Declared

Falina Torres

falina@sprestores.com

AUI, Inc.

Progress Event Not Viewed

Tiffany Torres

tiffanyt@auinc.net

Sam Baca

samb@auinc.net

E & T Plastics of Missouri LLC (E & T Plastics of Missouri LLC)

Progress Event Not Viewed

Michael Pine

mpine@e-tplastics.com

Futures Mechanical Ilc.

Progress Event Not Viewed

Wylee Curry

Wcurry@futuresmechanical.com

Randy Chavez

Rchavez@futuresmechanical.com

MIRADOR Enterprises, Inc.

Progress Event Not Viewed

Merci Medina

merci@miradorenterprises.com

DH Pace Company Inc

Progress Event Not Viewed

Manny Maestas

manny.maestas@dhpac.com

Clover Leaf Solutions, Inc. (Clover Leaf Solutions, Inc.)

Progress Event Not Viewed

Christine Savath

csavath@cloversolutions.us

Cynthia Brown

cbrown@cloversolutions.us

Hacienda Home Centers (Hacienda Home Centers, Inc)

Progress Event Not Viewed

Falina Torres

falina.torres@hcnm.com

Duke City Builders, LLC

Progress Event Not Viewed

Dustin Hammon

dustin@dukecitybuilders.com

Taylor Roehl

taylor@dukecitybuilders.com

Fulcrum Contracting LLC

Progress Event Not Viewed

Ron Johnson
ron@fulcrum-contracting.com

Great Western Specialty Systems, In

Progress Event Not Viewed

Marc Hijar
marc@gwssinc.com

David Cavazos
info@gwssinc.com

BCH Construction, Inc.

Progress Response In Progress

Brian Harper
brian.bchconst@aol.com

Consolidated Builders of NM (Consolidated Builders of NM)

Progress Intention Not Declared

Samia Apodaca
samia.cbnm@comcast.net

Wizer Electric LLC

Progress Intention Not Declared

Yei Rogers
wizerelectric@yahoo.com

Integrated Technologies Corporation (Integrated Technologies Corporation)

Progress Event Not Viewed

Christopher Brightwell
unmcontract@itc4u.com

Best Painting Inc.

Progress Event Not Viewed

Louis Montoya
BESTPAINTINGCO@AOL.COM

Ardent Technologies Inc

Progress Intention Not Declared

Jennifer Mosier
vendorregistration@ardentinc.com

Schmueser Gordon Meyer, Inc (SGM)

Progress Event Not Viewed

Justin Mitchell
justinm@sgm-inc.com

Los Alamitos II Inc

Progress Event Not Viewed

Paul Espinoza
Losalamitos2inc@q.com

Hellas Construction Inc

Progress Intention Not Declared

Leads Hellas

leads@hellasconstruction.com

GranCor Enterprises, Inc.

Progress Event Not Viewed

Maria Cornay

maria.cornay@grancor.com

Michael Grandjean

mikeg@grancor.com

Tammy Valentine

tammyl@grancor.com

Petra Integrated Construction Solutions (Petra)

Progress Event Not Viewed

Ed Bittner

ed.bittner@petra.pro

Albuquerque Asphalt, Inc.

Progress Event Not Viewed

Brian Loughridge

brian@alb-asphalt.com

Aria Studio Consultants, Inc. (Aria Architecture)

Progress Event Not Viewed

Lisa Puzak

lisa@ariascinc.com

Daniel Puzak

daniel@ariascinc.com

Foothills Environmental, Inc.

Progress Event Not Viewed

Andre Gonzalez

Andre.Gonzalez@FoothillsUSA.com

Pluma, LLC (Pluma, LLC)

Progress Event Not Viewed

Chris Pacheco

Chris.plucys@gmail.com

Shirley Obitz

shirley@plucys.com

Mevacon LLC

Progress Event Not Viewed

Chelsie Ormseth

chelsieo@meva-con.com

James Vaccaro

james.m.vaccaro@icloud.com

Badger Daylighting Corp. (Badger Daylighting Corp.)

Progress Event Not Viewed

Brenda Gordon

bgordon@badger-corp.com

Tim Reiber

bids@badgerinc.com

Integrity Electric LLC

Progress Event Not Viewed

Jeff Stuyvesant

jstuyve@aol.com

Complete Fire Protection LLC

Progress Event Not Viewed

David Dykes
comfirpro@yahoo.com

Straight Line Painting (Straight Line Painting)

Progress Event Not Viewed

Joshua Calderon
joshua@straightlinepaintingabq.com

Vigil Enterprises, Inc.

Progress Event Not Viewed

Laura Rife
lrife@vigilenterprises.com

John Barton Architects, LLC (John Barton Architects, LLC)

Progress Event Not Viewed

John Barton
j@jwbarton.com

Sky City Communications, LLC

Progress Event Not Viewed

Jessica Maestas
jmaestas@skycity.com

KES INDUSTRIES LLC (KES INDUSTRIES LLC)

Progress Event Not Viewed

Sam Natonabah
kesindustriesllc@yahoo.com

Professional Service Industries, Inc. (PSI) (PSI)

Progress Event Not Viewed

Karla Avila
karla.avila@psiusa.com

The Raby Companies, Inc. (Raby Contract)

Progress Event Not Viewed

Ralph-David Raby
rdraby@rabyco.com

Altor Construction, Inc.

Progress Intention Not Declared

Maria Alvidrez
mardrez@aol.com

A-CORE CONCRETE CUTTING, INC.

Progress Event Not Viewed

RANDY NELSON
RANDYN@A-CORE.COM

MYLES NELSON
MYLESN@A-CORE.COM

JD Pearl LLC

Progress Event Not Viewed

Jarret Pearl

jd-pearl@outlook.com

LEE ENGINEERING LLC (Lee Engineering, LLC)

Progress Event Not Viewed

Paul Barricklow

pbarricklow@lee-eng.com

Facility Optimization Solutions, LLC (CannonDesign)

Progress Intention Not Declared

Andrew Larson

alarson@cannondesign.com

The Robins & Morton Group (Robins & Morton)

Progress Event Not Viewed

Scott Bullock

SBullock@robinsmorton.com

Phil Yance

pyance@robinsmorton.com

Glen Myers

GMyers@robinsmorton.com

Alex DeBernardi

amarks@robinsmorton.com

Enterprise Builders Corporation

Progress Event Not Viewed

Luke Harwood

LHarwood@ebnm.com

Sabio Systems LLC

Progress Event Not Viewed

Leah Pelletier

leah@sabiosystems.com

Demopolis Enterprises

Progress Event Not Viewed

Airon Demas

demasenterprises@hotmail.com

Medina Carpet & Tile SVC

Progress Event Not Viewed

Ted Medina

medinacarpet@live.com

Mick Rich Contractors (Mick Rich Contractors, Inc.)

Progress Event Not Viewed

Jim Rich

jimrich@mickrichcontractors.com

The PlanIt Room

Progress Intention Not Declared

Cecila Hernandez

projects@theplanitroom.com

Jaynes Corporation

Progress Intend To Bid

Karen Williams

karenw@jaynescorp.com

Jaclyn Broderick

jaclyn.broderick@jaynescorp.com

Shad James

Shad.James@JaynesCorp.com

Mike Howell

mike.howell@jaynescorp.com

Solar Works Energy (Solar Works Energy)

Progress Event Not Viewed

Camille Jones

camille.jones@solarworksenergy.com

LC Structural, Inc (LC Structural, Inc)

Progress Event Not Viewed

Johnny Tapia

lcsinc@lcstructural.com

Johnny Tapia

johnnytapia@lcstructural.com

J3 Systems LLC (J3 Systems)

Progress Event Not Viewed

Tim Davis

tim@j3systems.net

High Mesa Consulting Group, Inc. (High Mesa Consulting Group)

Progress Event Not Viewed

Graeme Means

unmlobosource@highmesacq.com

Joseph Solomon, Jr.

jsolomon@highmesacq.com

RoofConnect Logistics, Inc. (RoofConnect)

Progress Event Not Viewed

Eric Pickert

eric.pickert@roofconnect.com

Agenda, LLC (Agenda, LLC)

Progress Event Not Viewed

Victoria Gammill

vgammill@agenda-global.com

Yearout Service, LLC

Progress Event Not Viewed

Sal Tortorici

sal@yearout.com

Greg Lucero

gregl@yearout.com

Cameron Geer

cameron@yearout.com

iSqFt + Bidclerk

Progress Intention Not Declared

Caitlin Kloppenburg

content@constructconnect.com

Caitlin Kloppenburg

coloradoplanroom@isqft.com

Davis Partnership Architects

Progress Event Not Viewed

Kyle Hoogewind
Kyle.Hoogewind@DavisPartnership.com

Industrial Commercial Coatings, LLC

Progress Event Not Viewed

Steve Sena
ssena@iccnm.com

Horizon Enterprises Plumbing & Heating, Inc.

Progress Event Not Viewed

Silvano Corral
slycorral@yahoo.com

SDV Construction, Inc.

Progress Intention Not Declared

Paul Farless
estimating@sdvconstruction.com

The Fishel Company (The Fishel Company)

Progress Event Not Viewed

William Fry
wtfry@teamfishel.com

Comfort Systems USA Southwest Inc (Comfort Systems USA Southwest (CSUSA-SW))

Progress Event Not Viewed

Steve Adams
steve.adams@comfortsystemsusa.com

Enviroidnet.com

Progress Event Not Viewed

Jennifer Barnes
contact@enviroidnet.com

CCS International, Inc. (CCS International, Inc.)

Progress Event Not Viewed

Julie McLaren
jmclaren@ccsdifference.com
Katie Jensen
kjensen@ccsdifference.com

Paul Darby
pdarby@ccsdifference.com

GM Emulsion LLC (GM Emulsion LLC)

Progress Event Not Viewed

Gabriel Martinez
gabriel@gmemulsion.com

Creative Facility Design Inc.

Progress Event Not Viewed

Paul Brin
Paul@CreativeFacilityDesign.com

The Power Company, LLC (TPC Roofing)

Progress Event Not Viewed

Hollie Constant
constant.tpc@gmail.com

James Mosher
mosher.tpc@gmail.com

Torres Construction

Progress Event Not Viewed

Miguel Torres
torresserviceslc@gmail.com

Affordable Solar Group (Affordable Solar Inc)

Progress Event Not Viewed

Wayne Stansfield
wayne.stansfield@affordable-solar.com

Adobe Roofing Co., Inc.

Progress Event Not Viewed

Shaun Newton
info@adoberoofing.com

ISEC Inc

Progress No Bid

Holly Magyar
hmmagyar@isecinc.com

WestCon Commercial Industries, Ltd. Co (WestCon Commercial Industries Ltd. Co.)

Progress Event Not Viewed

Crystal Preece
accounting@westconcommercial.com

Energy Control Inc (Conti)

Progress Event Not Viewed

Pat Gibson
patrick.gibson@engie.com

STOVEN CONSTRUCTION, INC. (STOVEN CONSTRUCTION, INC.)

Progress Event Not Viewed

Angela Blair
angelablair@stovenconstruction.com

Century Club Construction LLC

Progress Event Not Viewed

Jeff Webster
jeff@centuryclubconstruction.com

White Sands Construction, Inc.

Progress Intend To Bid

Catlin Curry
catlin@whitesandsconstruction.com

Talihina Flooring & Construction (Talihina Flooring & Construction LLC)

Progress Event Not Viewed

Charles Irwin

talihinaflooring@outlook.com

Southwest Custom Stainless (Southwest Custom Stainless)

Progress Event Not Viewed

Trish Krueger

southwestcustom@msn.com

2Vets Construction LLC (2Vets Construction LLC)

Progress Intend To Bid

George Lane

george@2vetsconstruction.com

David Hill

davidh@2vetsconstruction.com

Rebecca Florez

rebeccaf@2vetsconstruction.com

Gossett Bros, Inc.

Progress Event Not Viewed

Cheri Bertram

admin@gossettbros.com

Nederland Refrigeration, Air Conditioning & Heating Corp. DBA E Cube, Inc. (E Cube, Inc.)

Progress Event Not Viewed

Joe Havey

jhavey@ecube.com

VDCO Tech Inc.

Progress Event Not Viewed

Birgitta Foster

bfoster@vdcotech.com

Cindy Baldwin

cbaldwin@vdcotech.com

Tower Industries LTD

Progress Event Not Viewed

Peter Martin

pmartin@towersurfaces.com

Aaron Klinefelter

aklinefelter@towersurfaces.com

MAXTEK Contractors, Inc.

Progress Event Not Viewed

Matts Buckland

maxtekinc@aol.com

Icon Plumbing Solutions, LLC

Progress Event Not Viewed

Derek Perea

dp@iconplumbingsolutions.com

Wave Construction, Inc. (Wave Construction Inc.)

Progress Event Not Viewed

Mike Sanchez

mike@waveconinc.com

Bristol Steel Inc

Progress Event Not Viewed

Nicholas Callas
nick@bristolsteelinc.com

NV5, Inc. (NV5, Inc.)

Progress Event Not Viewed

Kris Longley-Postema
kris.postema@nv5.com

TLC Company Inc

Progress Event Not Viewed

Pete Boyd
jpboyd@tlcplumbing.com
Eddie C. Padilla
epadilla@tlcplumbing.com

Tracy Johnson
tjohnson@tlcplumbing.com
Tom McConnell
tmccConnell@tlcplumbing.com

Gallery Painting, Inc.

Progress Event Not Viewed

Jim Blumenschein
jim@gallerypaintinginc.com

Paradise Power Company Inc.

Progress Event Not Viewed

Marti MacDonald
marti@ppcsolar.com

Gary Gunthorpe
ppcabq@ppcsolar.com

JNG Holdings, LLC (Heights True Value)

Progress Event Not Viewed

Dawn Weeber
DawnWeeber@heightstruevalue.com

Gordon Keith
GordonKeith@swtruevalue.com

Keithly Barber Associates, Inc.

Progress Event Not Viewed

Patrick Berdick
patrick@keithlybarber.com

Car Construction LLC (Servpro of South Albuquerque)

Progress Event Not Viewed

Diego Hernandez
dehernandez@servpro11408.com

Architectural Research Consultants, Incorporated (Architectural Research Consultants, Incorporated)

Progress Event Not Viewed

Jennifer Adcock
jabbot@arcplanning.com
Andy Aguilar
alaguilar@arcplanning.com

Sayre Gerhart
sgerhart@arcplanning.com

National Roofing Company, Inc.

Progress Intend To Bid

Jackson Johns

Estimating@NationalRoofing.com

Tanner Graham

Tanner@nationalroofing.com

Travers Mechanical Services

Progress Event Not Viewed

Mike Travers

miketravers@traversmechanical.com

GEB, Inc. DBA Steamatic of Albuquerque and Santa Fe (Steamatic of Albuquerque and Santa Fe)

Progress Event Not Viewed

Summer Becker-Battles

summer@steamaticnm.com

AJ Maes LLC (Sandia Marble)

Progress Event Not Viewed

Ruben Velasquez

rubenvelasquez@sandiamarbel.com

Coronado Wrecking & Salvage Co Inc. (no)

Progress Event Not Viewed

KERRIE RENTERIA

coronado113@qwestoffice.net

CAC, Inc.

Progress Event Not Viewed

Trevor Beagen

trevorb@cacinc.net

Andy's Painting, Inc.

Progress Event Not Viewed

Andy Warren

andy@andyspainting.com

Vica Heating & Air Conditioning

Progress Event Not Viewed

Victor Arguello

vic@vica HVAC.com

Diane Rockel-Porter

diane@vica HVAC.com

Andrew Hofheins

andrew@vica HVAC.com

Top Tier Service Inc (Top Tier Service Inc.)

Progress Event Not Viewed

Robert Baker

robertb@toptierserviceinc.com

PWXPress

Progress Intention Not Declared

Mary Miller

bids@pwxpress.com

Cell Staff, Ilc

Progress Event Not Viewed

Grant Hargis
bids@cellstaff.com

DLR Group (DLR Group)

Progress Event Not Viewed

April Herrmann
aherrmann@dlrgroup.com

Bob Binder
bbinder@dlrgroup.com

DALLAGO CORPORATION

Progress Event Not Viewed

David Dallago
drd@dallagocorp.com

Frederkind Construction LLC (Frederkind Construction LLC)

Progress Intend To Bid

Richard Frederkind
richard@frederkindconstruct.com

DRB Electric Inc.

Progress Event Not Viewed

Dave Magee
dave@drbelectric.com

Randy Baker
randy@drbelectric.com

3B Builders Inc

Progress Intend To Bid

Matthew Budagher
3builders@gmail.com

Conron & Woods Architects

Progress Event Not Viewed

Roy Woods
office@conronandwoods.com

Hellmuth Obata & Kassabaum Inc (HOK)

Progress Event Not Viewed

Lara Bullock
lara.bullock@hok.com

Van H. Gilbert Architect PC

Progress Event Not Viewed

Van Gilbert
vgilbert@vhgarchitect.com

Door Man LLC (Door man LLC)

Progress Event Not Viewed

Trevor Traylor
doormanalbq@gmail.com

Bixby Electric Inc.

Progress Event Not Viewed

Stacey Gunthorpe
stacey.gunthorpe@bixbyelectric.com
Jimmy Sample
estimating@bixbyelectric.com

Mark Alderete
mark.alderete@bixbyelectric.com

Industrial Water Engineering

Progress Event Not Viewed

Bernadette Combs
Sales@industrialwater.net

Westwind Landscape Construction, Inc. (Westwind Landscape Construction, Inc.)

Progress Event Not Viewed

Kevin Neel
kevin@westwindlandscape.com

ABC Door Co., Inc.

Progress Event Not Viewed

Tom Schafer
tschafer@abcdoor.com

Aurigo Software Technologies, Inc.

Progress Event Not Viewed

Rick Quigley
bids@aurigo.com

M. K. Garrett Inc.

Progress Event Not Viewed

Keith Garrett
keith@mkgarrett.com

Murphy Builders, Inc.

Progress Event Not Viewed

Rick Murphy
rick@murphybuilders.com

Martina Hulse
martina@murphybuilders.com

EXPLUS INC (Explus)

Progress Event Not Viewed

Brett Beach
bbeach@explusinc.com

SunRise Roofing LLC (SunRise Roofing LLC)

Progress Event Not Viewed

Edsel Avitia
Edsel.srrnm@gmail.com

Floor Tech Contracting LLC

Progress Event Not Viewed

David Lujan
david.floortech@outlook.com

Sandia Restoration LLC

Progress Event Not Viewed

michael Ruiz
mikesandia restoration@gmail.com

AmeriStar Construction Inc

Progress Event Not Viewed

Angela Jaramillo
ameristarinc@aol.com

Burgos Group LLC (Northridge Electric, a division of Burgos Group)

Progress Event Not Viewed

Lisa Freitas
l Freitas@burgosgroup.com

L Wallace Construction Co., Inc.

Progress Event Not Viewed

Millie Treadaway
millie@lwcgc.com

Burns & McDonnell Engineering Co Inc

Progress Event Not Viewed

Josh Foerschler
jfoerschler@burnsmcd.com

Stephen Leos Architect LLC (Stephen Leos Architect LLC)

Progress Intention Not Declared

stephen leos
stephen@sleosarch.com

Bob's Painting Inc.

Progress Event Not Viewed

Stacey Famiglietta
sherman@bobspainting.com

Mike Martinez
mmartinez@bobspainting.com

Western Environmental Management Corp., Ltd.

Progress Event Not Viewed

Kelly Laird
kelly_laird@wemwater.com

Desert Suns Heating & Cooling

Progress Event Not Viewed

Eric Stohr
desertsunshc@aol.com

Sky Builders, LLC (Sky Builders, LLC)

Progress Event Not Viewed

Jacob Lujan
skybuilders1@hotmail.com

HD Adjusting & Construction (HD Adjusting & Construction LLC (HDAC))

Progress Event Not Viewed

Shalali Stone
admin@hdadjusting.com

David Smith
hdac@hdadjusting.com

Prof Finish Resurfacing (Pro Finish Resurfacing Llc)

Progress Event Not Viewed

Michael Tafoya
mike_tafoya9@yahoo.com

Access Communications Group, LLC

Progress Intention Not Declared

Ana Espinoza
access@acqlp.com

Rhino Roofing, Inc.

Progress Event Not Viewed

David Gibson
rhinoroofingdavid@gmail.com

Jolyn Gleason
jolyngleason@gmail.com

Sierra Hacienda Builders LLC

Progress Event Not Viewed

Timothy Borrer
trb607ca@hotmail.com

Huitt-Zollars Inc (Huitt-Zollars, Inc.)

Progress Event Not Viewed

Jill Manning
jmanning@huitt-zollars.com
Raquel Vigil
rvigil@huitt-zollars.com

Jose Zelaya
gzelaya@huitt-zollars.com

Paul Davis Restoration of New Mexico, Inc.

Progress Event Not Viewed

John Mattock
jmattock@pdr-usa.net

John LaSalandra
jlasalandra@pdr-usa.net

ConDeck Corporation (ConDeck Corporation)

Progress Event Not Viewed

Ernie Casias
ernie@condeck.com

HEI, Inc.

Progress Event Not Viewed

Fred Phillips
fphillips@heinm.com

Debbie Lisotto
debbie@heinm.com

Carrillo Painting, Inc

Progress Event Not Viewed

Manuel Carrillo
mc@carrilopainting.com

Mt. Taylor Machine, LLC (Mt. Taylor Manufacturing)

Progress Event Not Viewed

Renee Allen
rallen7cities@gmail.com

The Bastion Group, Inc. (The Bastion Group, Inc.)

Progress Event Not Viewed

Christine Hoaglund
christine.hoaglund@thebastiongroupusa.com

Khapo Construction (Khapo Construction)

Progress Event Not Viewed

Tammy Salter
tammy.salter@santaclaran.com

Security Hardware Solutions, LLC

Progress Event Not Viewed

Stan Lagunas
stan@securityhardwaresolutions.com

Peachtree Painting Company LLC

Progress Event Not Viewed

Derwin Binion
AlbuquerqueSales@peachtreepaintingco.com

GSB Architects & Interiors, Inc.

Progress Event Not Viewed

Jennifer Mercier
jennifer@gsbarchitects.com

Deltek, Inc.

Progress Event Not Viewed

Herold Mallari
bidsinbound@deltek.com

More Than Gates MTG LLC

Progress Event Not Viewed

Art Edelhoff
art@morethangates.com

Copper State Bolt & Nut Co.

Progress Event Not Viewed

Josh Meyer
jmeyer@copperstate.com

Construction Market Data Gp LLC dba CMD

Progress Event Not Viewed

Peter Varquez
peter.varquez@cmdgroup.com

Century Club Construction, LLC

Progress Event Not Viewed

Betti Miller

estimating@centuryclubconstruction.com

Ellis & Adams, Inc. (Ellis & Adams, Inc.)

Progress Event Not Viewed

Jeff Adams

jeff.adams@ellisandadams.com

Scot Simpson

scot.simpson@ellisandadams.com

Beacon Roofing Supply, Inc

Progress Event Not Viewed

Jason Kanda

jason.kanda@becn.com

CRTR,LLC dba Hunter Bower Lumber

Progress Event Not Viewed

Kenneth Bower

hunterbower@swcp.com

Robert Bower

bowerthomasrob@gmail.com

Centennial Contractors Ent Inc

Progress Event Not Viewed

Jim Gaulden

jgaulden@cce-inc.com

Engineer Procure Construct.LLC (Engineer Procure Construct.LLC)

Progress Event Not Viewed

Aaron Witherel

aaron.witherel@epc-us.net

Emergency Restoration Pros LLC

Progress Event Not Viewed

Mystaya Stephens

erpros@yahoo.com

Soto Painting Inc. (Soto Painting Inc.)

Progress Event Not Viewed

Luis Soto

juicegroup1@yahoo.com

Horizon Trikes & Fabrication

Progress Intention Not Declared

Adolph Romero

adolph@horizonv8trikes.com

Red Seven Electric LLC (Red Seven Electric, LLC)

Progress Event Not Viewed

Manuel Medina

redsevenelectric@gmail.com

Dave's Grounds Maintenance inc (2008)

Progress Intention Not Declared

david smith

dgmgrounds@msn.com

Abraxas Electric, Ilc

Progress Event Not Viewed

Justin Armstrong

abraxaselectric@hotmail.com

C R M Construction (C R M Construction)

Progress Intention Not Declared

Miguel Contreras

miguel.crmconstruction@gmail.com

Alliance Contracting and Construction (Alliance Contracting and Construction)

Progress Intend To Bid

Amanda Leyba

alliancecontractingconstruction@yahoo.com

De La Pena LLC (De la Pena LLC)

Progress Event Not Viewed

Bobby Pena

bobby@delapenallc.com

Hammes Company

Progress Event Not Viewed

Adam Drent

adrent@hammesco.com

Weatherproofing Technologies, Inc. (Weatherproofing Technologies, Inc)

Progress Event Not Viewed

Joseph Baca

jbaca@tremcoinc.com

RMCI, INC.

Progress Intend To Bid

Jaclyn Broderick

jbroderick@rmciinc.com

Groundhog Excavating, Inc.

Progress Event Not Viewed

Troy Otero

troy@ghoginc.com

Vigil & Associates Architectural Group, P.C.

Progress Event Not Viewed

Patricia Shaver

patricia@va-architects.com

BLUEFIN, LLC a division of Mantis Innovation

Progress No Bid

Klm Peters

fxteam@mantisinnovation.com

AFC LLC dba Albuquerque Fence (Albuquerque Fence Company)

Progress Event Not Viewed

Jill Garcia

jill@abgfence.com

INDEPENDENT HARDWARE INC

Progress Event Not Viewed

FRANK STANCO JR

FSJ@INDEPENDENTHARDWARE.COM

Aguilar and Sons Roofing LLC

Progress Event Not Viewed

Alba Martinez

koral1991@me.com

Contractors Registry (The Blue Book)

Progress Event Not Viewed

Megan Locascio

mlocascio@thebluebook.com

JE DUNN CONSTRUCTION COMPANY

Progress Event Not Viewed

Bruce Anderson

bruce.anderson@jedunn.com

Mike's Quality Painting Inc. (Mike's Quality Painting, Inc.)

Progress Event Not Viewed

Mike Freeman

Mike@mikesqualitypainting.com

Brycon Corporation (Brycon Construction (NMGC))

Progress Intend To Bid

Aaron Johnson

akjohnson@brycon.com

Steve Garcia

sgarcia@brycon.com

Gary Benavidez

gbenavidez@brycon.com

Kayla Smead

ksmead@brycon.com

Harrington Industrial Plastics

Progress Event Not Viewed

Chris Acosta

cacosta@hipco.com

Hellmuth, Obata & Kassabaum, Inc. (Hellmuth, Obata & Kassabaum, Inc.)

Progress Event Not Viewed

Amy Moen

amy.moen@hok.com

LLR Construction, LLC

Progress Intend To Bid

Doug Langley

doug@llrconstructionnm.com

Paulson Plumbing & Mechanical, LLC

Progress Event Not Viewed

Paulette Baca

pbaca@paulsonpm.com

Construction Reporter

Progress Intention Not Declared

Jane Wood

jane@constructionreporter.com

Sprinturf, LLC

Progress Event Not Viewed

Katy Mills

kmills@sprinturf.com

Jensen Partners LLC

Progress Event Not Viewed

Genevieve Beccaria

gbeccaria@jensenpartners.com

Paulien & Associates, Inc.

Progress Event Not Viewed

Steve Schonberger

marketing@paulien.com

Aerotek Inc

Progress Event Not Viewed

Jennifer Reed

jebennet@aerotek.com

R and M Construction LLC (R and M Construction)

Progress Event Not Viewed

Robert Sanchez

randmconstruction1@hotmail.com

Cherokee Nation 3S, LLC

Progress Event Not Viewed

Matt Perrier

matt.perrier@cherokee-3s.com

Rock Creations (Rock Creations)

Progress Event Not Viewed

Margie McKenzie

margie.mckenzie@msn.com

Tower Engineering, Inc. (Tower Engineering, Inc.)

Progress Event Not Viewed

Brandon Baldwin
BBaldwin@tei-usa.com

Daniel Gay (Daniel Gay)

Progress Event Not Viewed

daniel gay
dgay5904@gmail.com

Contreras Construction Corporation (Contreras Construction Corporation)

Progress Event Not Viewed

Juan Contreras
Jcontreras@contrerasconstructioncorp.com

Miller Bonded Inc.

Progress Intention Not Declared

MBI Estimating Department MBI Estimating Department
Estimating@millerbonded.com

Infinite Manufacturing Group

Progress Event Not Viewed

Moses Antony
a.moses@infinitegroupusa.com

Greentech Roofing LLC (Greentech Roofing LLC)

Progress Event Not Viewed

Abram Carmona
acgreentechroofing@gmail.com

Dodge Data & Analytics

Progress Event Not Viewed

April Hamilton
april.hamilton@construction.com

Aesop's Gables, Inc. (Aesop's Gables)

Progress Event Not Viewed

Daina Wade
dwade505@qwestoffice.net

Project Dynamics, Inc

Progress Event Not Viewed

Kiki Phillips
pdynamicscorp@gmail.com

Transmission & Distribution Services, LLC

Progress Event Not Viewed

Harry Barnes
hbarnesjr@t-d-services.com

ARCADIS U.S., Inc (ARCADIS US Inc)

Progress Event Not Viewed

Miya Linsenmeyer
miya.linsenmeyer@arcadis.com

Standard Textile Co., Inc. (Standard Textile Co., Inc.)

Progress Event Not Viewed

Estimating Department
IGQuotes@standardtextile.com

CUSTOM GRADING, INC.

Progress Event Not Viewed

Rob Gross
rob@cginm.com

Sage Method, Inc.

Progress Event Not Viewed

Cari Stieglitz
cari.stieglitz@sagemethod.com

Mechanical Systems, Inc.

Progress Event Not Viewed

Ethan Lawrence
msinc34@qwestoffice.net

Bridgers & Paxton Consulting Engineers, Inc.

Progress Intention Not Declared

Kim Altmire
kraltmire@bpce.com

Tanglewood Construction Inc.

Progress Event Not Viewed

R. Todd Granath
rtgranath@msn.com

Acme Environmental IH, Inc. (DC Environmental)

Progress Intention Not Declared

Karen Dremann
aeihpayables@gmail.com

Absolute fire and safety (Absolute Fire and Safety)

Progress Event Not Viewed

David Chavez
david.c@indeedsafety.com

NIR Roof Care, Inc. (NIR Roof Care, Inc.)

Progress Event Not Viewed

Michael Barone
mikebarone@nir.com

DVL Group

Progress Event Not Viewed

Herb Bussell

hbussell@dvlnet.com

B & B Insulation, Inc. (B & B Insulation, Inc.)

Progress Event Not Viewed

Bret Pitts

bnbinsulation@gmail.com

Rubber Flooring Systems Inc (RFS Sports)

Progress Event Not Viewed

Collin Mattoon

collin@teamrfs.com

Perikin Enterprises, LLC

Progress Event Not Viewed

FRANK GARCIA

fgarcia@perikin.us

Flintco, LLC (Flintco, LLC)

Progress Event Not Viewed

Anne-Marie Romero

aromero@flintco.com

J Montoya

jmontoya@flintco.com

DESMAN, Inc.

Progress Event Not Viewed

Timothy Tracy

ttracy@desman.com

Franken Construction Company, Inc.

Progress Event Not Viewed

Brent Franken

brentfranken@frankenconstruction.com

Rachelle Ray

rachelleray00@gmail.com

Stonhard Inc. (Stonhard)

Progress Event Not Viewed

Erica Simmons

esimmons@stonhard.com

Steve George

sgeorge@stonhard.com

Hensel Phelps New Mexico LLC

Progress Event Not Viewed

Jay Fox

jfox@henselphelps.com

Joshua Buchanan (Bright Ideas Electric)

Progress Event Not Viewed

Joshua Buchanan

joshua@brightideasnm.com

Artistic Coverings, Inc. dba Sports Venue Padding (Sports Venue Padding)

Progress Event Not Viewed

Michelle Robinson
michelle@svpadding.com

United Audit Systems, Inc. (United Audit Systems, Inc.)

Progress Event Not Viewed

Jared Miller
jared.miller@uasolutions.com

M-E Engineers Inc (ME Engineers, Inc.)

Progress Event Not Viewed

Laura Schindler
laura.schindler@me-engineers.com

SMPC Architects

Progress Event Not Viewed

Jason Holubiak
j.holubiak@smpcarchitects.com

facilitybuild inc

Progress Event Not Viewed

Nickie Dugger
ndugger@facilitybuild.com

daniel gay
dgay@facilitybuild.com

Pluma Construction Systems LLC (Pluma Construction Systems)

Progress Event Not Viewed

Christofer Pacheco
alana@plucys.com
Kristina H. Pulliam
Kris@plucys.com

Christofer Pacheco
chris@plucys.com

Bohannon Huston, Inc.,

Progress Event Not Viewed

Kathi Cowham
kcowham@bhinc.com

Mirador Enterprises (Mirador Enterprises)

Progress Intention Not Declared

Beatrice Scranton
bscranton@miradorenterprises.com

Interstate All Battery Center (Interstate All Battery Center)

Progress Event Not Viewed

Allison Harvey
Albuquerque@ibsa.com

Carpenters Local 407

Progress Event Not Viewed

Celinda Hall
celindah@swcarpenters.org

RIB U.S.COST

Progress Event Not Viewed

Trina Freeman
trina.freeman@rib-uscost.com

Construction Bid Source

Progress Event Not Viewed

Martha Lantz
martie@constructionbidsource.com

Altima Construction Inc

Progress Event Not Viewed

Monica Barreras Karen Martinez
monica@altimaconstruction.com karen@altimaconstruction.com

AIC General Contractor Inc

Progress Event Not Viewed

David Shaffer
david@aic-gc.com

S.T.O.P. RESTORATION LLC (SERVICE TEAM OF PROFESSIONALS)

Progress Event Not Viewed

Kegan Stephens
stoprestoration123@yahoo.com

CRM Research and Advisory, LLC

Progress Event Not Viewed

Christopher Morett
chris.morett@gmail.com

Split Mechanical

Progress Event Not Viewed

Derek Ward
Seselect@gmail.com

Mesa Equipment & Supply Company

Progress Event Not Viewed

Alan Willey
awilley@mesaequipment.com

Capital Project Delivery Consultants, LLC (Capital Project Delivery Consultants, LLC)

Progress Event Not Viewed

D Scott Cunningham
scunn@sbcglobal.net

Lone Mountain Contracting, Inc.

Progress Intention Not Declared

James Blea Crystal Keith
kelly@lonemountain.com ckeith@lonemountain.com

Welsco LLC (Bulldog Energy Solutions)

Progress Event Not Viewed

Dylan Drake

dylan@bulldogenergy.org

Energy Engineering Associates (EEA Consulting Engineers)

Progress Event Not Viewed

Lacey Proffit

marketing@eeace.com

ThermAir intergrated technologies

Progress Event Not Viewed

Joe Higham

joeh@thermairsystems.com

NOPACES, LLC (Number One Plumbing, AC, Solar & Electric)

Progress Event Not Viewed

David Kaminski

number1plumbing@gmail.com

Evergreen Contractors (Evergreen Contractors)

Progress Event Not Viewed

Garrett Hennessy

ghennessy@egcnm.com

B&D Industries, Inc.

Progress Intention Not Declared

Jamie Westerfield

jwesterfield@banddindustries.com

Sunland Asphalt (Sunland Asphalt Inc)

Progress Event Not Viewed

Todd Olsen

tolsen@sunlandasphalt.com

Tim McWenie

tmcwenie@sunlandasphalt.com

Unified Contractor, Inc. (Unified Contractor, Inc.)

Progress Intend To Bid

Ivan Santistevan

ivan@unifiedcontractor.com

Tanya Santistevan

tanya@unifiedcontractor.com

Mosher Enterprises, Inc.

Progress Event Not Viewed

Mark Smith

mark@mosherent.com

ALL SEASONS CONSTRUCTION INC.

Progress Event Not Viewed

Roger Muller

allseasonsrjm@gmail.com

Phoenix Mechanical LLC

Progress Event Not Viewed

Bob Draper

rmdraper@laplaza.org

Cable & Connections Acquisition Company, LLC

Progress Event Not Viewed

Laura Watson

l.watson@cableandconnections.com

Mandy Freeman

a.freeman@cableandconnections.com

Ray's Flooring Specialists, Inc.

Progress Event Not Viewed

Victor Romero

vromero@raysflooring.com

Ace Asphalt of Arizona, Inc.

Progress Event Not Viewed

Mike Chavez

chavezm@aceasphalt.com

Babich Enterprises Inc

Progress Event Not Viewed

Chi Babich

chib@gameexchange.biz

Walker Parking Consultants/Engineers Inc.

Progress Event Not Viewed

Jess Ferguson

jess.ferguson@walkerparking.com

First Mesa Construction, Inc.

Progress Event Not Viewed

Everett Dix

everett@firstmesa.net

Atlantic Pacific Equipment LLC (ATLANTIC PACIFIC EQUIPMENT, LLC)

Progress Event Not Viewed

Geoff Mules

gmules@at-pac.com

JNJ SUPPLIES LLC

Progress Event Not Viewed

JOHN TESTA

JJSUPPLIES@YAHOO.COM

Morrow Reardon Wilkinson Milller, Ltd. Landscape Architects (MRWM)

Progress Event Not Viewed

Kristina Werenko

kwerenko@mrwmla.com

Paula Eastwood

peastwood@mrwmla.com

Greg Miller

[gmiller@mrwmla.com](mailto:gmilller@mrwmla.com)

DODGE DATA & ANALYTICS LLC (Dodge Data & Analytics)

Progress Event Not Viewed

Darlene Baker-Mann

darlene.baker-mann@construction.com

FBT Architects

Progress Intention Not Declared

Michele Carter

mc@fbtarch.com

Kirk Air Co., Inc.

Progress Event Not Viewed

Marc Schneider

marc@kirkair.com

Kennington Design Build, Inc. (Kennington Design Build, Inc.)

Progress Event Not Viewed

Ken Houser

Ken@Kennington-DB.com

Peerless Construction, Inc

Progress Event Not Viewed

Vassan Pillai

walls4u@gmail.com

HydroGeologic Services, Inc.

Progress Event Not Viewed

Esperanza Meis

espcordova@qwestoffice.net

The Junick Group, Inc

Progress Intention Not Declared

Kyle Junick

kyle@summitpainting505.com

Facility Solutions Group

Progress Event Not Viewed

Aaron Salinas

aaron.salinas@fsg.com

Corbins Service Electric, LLC (Corbins Electric)

Progress Event Not Viewed

Cricket Robertson

c.robertson@corbinselectric.com

Daniel Maxwell

d.maxwell@corbinselectric.com

Justin Martin

j.martin@corbinselectric.com

Estimating Department

estimating@corbinselectric.com

David Burton

d.burton@corbinselectric.com

Two Bears Construction

Progress Event Not Viewed

Leroy Leyba

twobearsconstruction@gmail.com

Centennial Contractors Enterprises Inc

Progress Event Not Viewed

Laura Roland

lroland@cce-inc.com

Rebecca Arjev

rarjev@cce-inc.com

David Sturdevant

dsturdevant@cce-inc.com

Mark Baier

mbaier@cce-inc.com

Sky Blue Builders, LLC.

Progress Event Not Viewed

Lauren Grosh

lgrosh@skybluebuilders.com

Armored Roofing Inc (Armored Roofing Inc)

Progress Event Not Viewed

john ulibbarri

ulibbarri371@gmail.com

Clifton Electric Company, Inc.

Progress Event Not Viewed

Charles Byrd

cliftonelectric@hotmail.com

McCarthy Building Companies NM, Inc.

Progress Event Not Viewed

Melissa Callas

mcallas@mccarthy.com

Maez Construction

Progress Event Not Viewed

Levi Maston

levi@maezconstructionllc.com

Jenelle Maez

jenelle@maezconstructionllc.com

Dade Moeller & Associates, Inc. (Dade Moeller, an NV5 Company)

Progress Event Not Viewed

Paula Kurth

paula.kurth@nv5.com

Kaufman Fire Protection Systems, Inc.

Progress Event Not Viewed

Nicole Herman De Espinoza

nicole@kaufmanfire.com

Donner Plumbing & Heating Inc.

Progress Event Not Viewed

Larry Fletcher

larry@donnerplumbing.com

Jason Garner

jgarner@donnerplumbing.com

Randy Lobb

rlobb@donnerplumbing.com

Mitch Sayer

msayer@donnerplumbing.com

Lufex, Inc.

Progress Event Not Viewed

Terry Yoon

team@ibizcast.com

STM Enterprises, Ltd.

Progress Event Not Viewed

Paul Kelm

p.kelm@stment.com

Shawn Morga

s.morga@stment.com

Cameron Morga

c.morga@stment.com

Belfor USA Group Inc (BELFOR Albuquerque)

Progress Intention Not Declared

Brandy Smotts

brandy.smotts@us.belfor.com

All-Rite Construction, Inc.

Progress Response In Progress

Meshach Alvarado

meshach@ritecon.com

Alex Contreras

alex@ritecon.com

Albuquerque Steel Products, LLC

Progress Event Not Viewed

Manuel Roybal

manuel@albugerquesteel.com

Division One Construction, LLC

Progress Event Not Viewed

Chris Cordova

chrisc@divisiononellc.com

BARCODES LLC DBA BARCODES INC (DBA BARCODES INC)

Progress Event Not Viewed

Molly O'Sullivan

mosullivan@barcodesinc.com

National Heating and Ventilating (National Heating & Ventilating)

Progress Event Not Viewed

Tyler Walsh

Tyler@nationalheat.com

School Wholesale Supplies LLC

Progress Event Not Viewed

JP DAS

jpdas@eii-usa.com

Korn Ferry International (Korn Ferry)

Progress Event Not Viewed

Arnie Sherrin
arnie.sherrin@kornferry.com
Sarah Wheeler
Sarah.Wheeler@KornFerry.com
Michelle Lee
michelle.lee@kornferry.com

Doug Greenberg
Doug.Greenberg@kornferry.com
Wendy Rochlin
wendy.rochlin@kornferry.com

Gyford Decor

Progress Event Not Viewed

Michael Eddins
michaele@standpoffsystems.com

Straight Edge Construction ,LLC.

Progress Event Not Viewed

Alex Contreras
alex.straightedge@hotmail.com

MSC Industrial Supply

Progress Event Not Viewed

Kellie Owens
kellie.owens@mscdirect.com

Insight Construction, LLC

Progress Intention Not Declared

Damian Chimenti
damian@insightnm.com

Albuquerque Winnelson Supply

Progress Event Not Viewed

Erika Maner
elmaner@winnelson.com

Josef Jindra
jjindra@winnelson.com

BSN Santa Fe Enterprises Inc (BSN Santa Fe)

Progress Event Not Viewed

jeffrey romanowski
Jeffrey@bsnsantafe.com

New Mexico Millwright, Inc. (New Mexico Millwright, Inc.)

Progress Event Not Viewed

Brian Wilson
office@nmmillwright.com

Longhorn Construction Services, Inc.

Progress Event Not Viewed

Sam Romero
lcsinc@comcast.net

Chemtreat Inc. (ChemTreat Inc)

Progress Event Not Viewed

Steven Nevarez
stevonn@chemtreat.com

Hanscomb Consulting (Hanscomb Consulting)

Progress Event Not Viewed

Martin Jacobs

mjacobs@hanscombconsult.com

Weatherproofing Technologies, Inc.

Progress Event Not Viewed

Marissa Oakeley

moakeley@tremcoinc.com

Yearout Mechanical LLC

Progress Event Not Viewed

Anthony Madrid

amadrid@yearout.com

Kelly Smith

ksmith@yearout.com

Phil Campagna

phil@yearout.com

All Fired Up Enterprises, Inc.

Progress Event Not Viewed

Michael Andrews

allfiredupbymike@aol.com

Smithco Construction, Inc. (Smithco Construction, Inc.)

Progress Event Not Viewed

Rylan Edgmon

rylan@smithco.cc

RDR Custom Painting & Construction (RDR Custom Painting & Const. LLC)

Progress Event Not Viewed

melissa romero

ap@rdrpaint.com

SPARTAN CONSTRUCTION OF NM, LLC. (Spartan Construction of NM, LLC.)

Progress Event Not Viewed

Ashton Allen

ashton@spartan-const.com

CANNONDESIGN (CANNONDESIGN)

Progress Event Not Viewed

Joseph Cassata

CRuggiero@cannondesign.com

Robert Cohen Co LLC

Progress Intention Not Declared

Robert Cohen

rcohen@sport-surfaces.com

Asbestos Experts, LLC (Asbestos Experts, LLC)

Progress Intention Not Declared

Kimberly Slopek
kim@asbestosexperts.com

Shannon Flanagan
shannon@asbestosexperts.com

J-Mar, LLC

Progress Event Not Viewed

Mark Russell
russellmark1163@gmail.com

Platinum Builders Corporation (Platinum Builders Corporation)

Progress Event Not Viewed

Gloria Ortiz
gloria@pbcnm.com

Daktronics, Inc.

Progress Event Not Viewed

Brady Jacobsen
brady.jacobsen@daktronics.com

Dean Dodge
dean.dodge@daktronics.com

Desert Greens Equipment, Inc.

Progress Event Not Viewed

Adam Cherry Cherry
adam@desertgreensequipment.com

Richardson & Richardson, Inc

Progress Event Not Viewed

Hap Richardson
hrichardson@richardsonrichardson.com

Ben Everson
Beverson@richardsonrichardson.com

Sanbros Corporation

Progress Event Not Viewed

David J. Sanchez
sanbroscorp@hotmail.com

Progressive Services, Inc. (Progressive Roofing)

Progress Event Not Viewed

Michelle Farrell
michelle.farrell@progressiveus.com

VWR International Inc

Progress Event Not Viewed

Roxanne Cockerham
roxanne_cockerham@vwr.com

Todd Olsen
todd_olsen@vwr.com

Nicole Fiamingo
nicole_fiamingo@vwr.com

Omni Construction, LLC

Progress Event Not Viewed

Julie Luna
omniconstruction01@yahoo.com

ISES Corporation

Progress Event Not Viewed

Rob Gasaway
robq@isescorp.com

Javine WMC, LLC dba: Varitec Solutions (Varitec Solutions)

Progress Event Not Viewed

Colleen Roerick
colleenr@varitecsolutions.com

ALMS,Limited Company

Progress Event Not Viewed

Tim Masters
tim@almslimited.com

Klinger Constructors LLC

Progress Event Not Viewed

Shirley Anderson
shirleya@klingerllc.com

SCI, Inc.

Progress Event Not Viewed

Daved Levine
daved.levine@scinm.net

Denis Edelman
denis.edelman@scinm.net

McKinstry Essention, LLC

Progress Event Not Viewed

Shannon Steward
shannons@mckinstry.com

Vivid Contracting, LLC

Progress Event Not Viewed

Klarissa McKay
klarissa@vividcontractingnm.com

STRATEGIC OPERATIONS SUPPORT GROUP LLC

Progress Event Not Viewed

Diana Galvin
dianag@sosgroupsc.com

Mike Hamilton
mikeh@sosgroupsc.com

Benchmark Wood Floors, Inc.

Progress Event Not Viewed

Kevin Mullany
kevinm@benchmarkwoodfloors.com

Project Management and Maintenance Consultants, Inc. (Project Management and Maintenance Consultants, Inc.)

Progress Event Not Viewed

Mark Lucero
mlucero@pmmcnm.com

Molzen Corbin & Associates

Progress Event Not Viewed

Eva Paul

marketing@molzencorbin.com

Cut Above Painting LLC (Cut Above Painting LLC)

Progress Event Not Viewed

William Fay

cutabovepainting@gmail.com

North America Procurement Council, Inc. PBC

Progress Intention Not Declared

Lyra de Asis

lyra@napc.me

Tellico Inc dba Glass-Rite (Glass-Rite)

Progress Event Not Viewed

Bill Hoberg

billh@glass-rite.com

Steve Hoberg

steveh@glass-rite.com

Desert Peaks Architects, PC (Desert Peak Architects)

Progress Event Not Viewed

Richard Haas

richard@desertpeakarchitects.com

Mohawk Carpet Distribution, LLC

Progress Intention Not Declared

Brittany Lovato

brittany_lovato@mohawkind.com

Sergio Blanco

contract_compliance@mohawkind.com

Contractors Register (Contractors Register)

Progress Event Not Viewed

Maria Deg

govbidops@thebluebook.com

OGB Architectural Millwork

Progress Event Not Viewed

Misty Haltli

estimating@ogb-am.com

Layton Construction Company, LLC (Layton Construction Company)

Progress Event Not Viewed

Dave Ridgway

dridgway@laytonconstruction.com

Johnson, Mirmiran & Thompson, Inc.

Progress Event Not Viewed

Maria Belli

mbelli@jmt.com

A.B.Honest 1 plumbing heating cooling llc (A.B.Honest1 plumbing heating cooling)

Progress Event Not Viewed

Andres Barela
abhonest1@gmail.com

WFF Facility Services, Inc.

Progress Event Not Viewed

Charlene Maddox
cmaddox@wffservices.com

Vigil Contracting Services, Inc.

Progress Intention Not Declared

Loren Vigil
vigilcontracting@comcast.net

James Vigil
lj.vigil@comcast.net

a&d heating and air conditioning (a&d heating and air conditioni)

Progress Event Not Viewed

Aaron Soriano
info@addhvac.com

JLC Professional Plumbing & Heating LLC

Progress Event Not Viewed

Cassandra Otero
jlc_plumbing@icloud.com

Great Western Electrical Inc.

Progress Event Not Viewed

Scott Burson
sburson@nmgwe.com

New Mexico Office Furniture dba Business Environments

Progress Event Not Viewed

Lori Truster
ltruster@businessenvironments.com

Sundance Construction LLC

Progress Event Not Viewed

Scott Turcotte
scott@suncon.net

Rulon International

Progress Event Not Viewed

Cody Reed
creed@rulonco.com

Prime Electric, Inc.

Progress Event Not Viewed

Maydel Lamb
MLamb@prime-electricusa.com

Westwind Landscape Construction Inc (Westwind Landscape Construction, Inc.)

Progress Intend To Bid

Carolina Couoh
carolina@westwindlandscape.com

Keres Consulting, Inc. (Keres Consulting, Inc.)

Progress Event Not Viewed

Ervina Castillo
ecastillo@keresnm.com

mobius

Progress Event Not Viewed

suresh vijay
mhc@mobiusservices.co.in

AG Construction LLC

Progress Event Not Viewed

Anthony Gutierrez
Agutierrez2093@gmail.com

Coast and Harbor Associates, Inc.

Progress Event Not Viewed

Marcella Lancome
contracting@coastandharbor.com

Claude Lancome
finance@coastandharbor.com

Silverado Enterprises Inc (Silverado Enterprises Inc)

Progress Event Not Viewed

John Spier
John@silveradoent.com

DKG & Associates, Inc.

Progress Event Not Viewed

Weldon Good
wgood@dkgroof.com

NBBJ LP

Progress Event Not Viewed

Megan Dilley
mdilley@nbbj.com

Performance Maintenance Incorporated (PMI)

Progress Event Not Viewed

Daven Quintana
DRQuintana@pmigogreen.com

Eric Sr Quintana
ECQuintana@pmigogreen.com

Insight Construction

Progress Event Not Viewed

Lisa McClaren
lisa@insightnm.com

Joe Silva
joe.silva@insightnm.com

McDade-Woodcock, Inc.

Progress Event Not Viewed

Randall Dupuy
randyd@mwieic.com
Randy Marci
rmarci@mwieic.com

Julie Martinez
jmartinez@mwieic.com

Broaddus & Associates

Progress Event Not Viewed

Jorge Loya
jloya@broaddususa.com
Dustin Stewart
dstewart@broaddususa.com

Nawal Kimmel
nkimmel@broaddususa.com
Greg Hughes
GHughes@broaddusassociates.com

Weil Construction, Inc.

Progress Event Not Viewed

Sylvia Campbell
Sylvia@weilconstruction.com

That 2 This llc

Progress Event Not Viewed

Gregg Flanagan
gregg@t2llc.com

Lloyd & Associates Architects (Lloyd & Associates Architects)

Progress Event Not Viewed

Jeanne Donaldson
jeanne@lloyd-architects.com

Welch's Boiler Service, Inc. (Welch's Boiler Service, Inc.)

Progress Event Not Viewed

Keith 505-877-0356 Welch
welchsboiler@comcast.net

Desert Fox, LLC

Progress Event Not Viewed

Mike Martinez
desertfoxpaving@comcast.net

Coronado Paint & Decorating

Progress Event Not Viewed

Kevin Craft
kevin@coronadosw.com

HB Construction of Alb., Inc.

Progress Intention Not Declared

Melissa Callas
melissac@hbconstruction.com
Zach Gruen
bids@hbconstruction.com

Amy Hughes
amyh@hbconstruction.com

Carter Services Inc.

Progress Event Not Viewed

Bruce Carter
service@csipest.net

Currie & Brown, Inc.

Progress Event Not Viewed

Patricia Rock
patricia.rock@curriebrown.com

Yar Sheets
yar.sheets@curriebrown.com

Glass Shop Inc (Glass Shop Inc)

Progress Event Not Viewed

Charlotte Harper
Glass.Shop.Inc@aol.com

Rely on me roofing (Rely on me roofing)

Progress Event Not Viewed

Victoria Zahn
Relyonmeroofting@gmail.com

Superior Contracting Corp. (American National Insulation and Sealants)

Progress Intention Not Declared

Travis Altomonte
ANI.estimating@truteam.com

Dekker Perich Sabatini Ltd

Progress Event Not Viewed

Max Parrill
maxp@dpsdesign.org
Benjamin Gardner
benjaming@dpsdesign.org

Mike McDuffie
mikem@dpsdesign.org

Disability Access Consultants, LLC

Progress Event Not Viewed

Tim Mahoney
tmahoney@dac-corp.com

Bella Luna Engineering and Building Maintenance (Bella Luna Engineering and Building Maintenance, LLC)

Progress Event Not Viewed

Larry Luna
lorenzo@bellalunaengineering.net

Ameresco, Inc

Progress Event Not Viewed

Daniel Hunter
dhunter@ameresco.com

JB Henderson Construction Company Inc. (JB Henderson Construction Company, Inc.)

Progress Intention Not Declared

Michael McAninch
mmcaninch@jbhenderson.com
Skyler Smith
ssmith@jbhenderson.com

Melissa Gomez
mgomez@jbhenderson.com

Rob Boyles CO

Progress Event Not Viewed

Shauna Delgado

shauna.boyles@gmail.com

Energy Balance & Integration LLC (Energy Balance & Integration LLC)

Progress Event Not Viewed

Anthony Kocurek

tony@ebinm.com

SID Tool Co Inc (MSC Industrial Supply Co)

Progress Event Not Viewed

Timothy Woods

timothy.woods@mscdirect.com

Envirobidnet (Envirobidnet)

Progress Event Not Viewed

Jen Barnes

jbarnes@envirobidnet.com

Hart Design and Construction, Inc. (Hart Construction)

Progress Event Not Viewed

Andy Hart

ahart@hartconstruction.net

ConstructConnect

Progress Event Not Viewed

Stacey Mighton

stacey.mighton@constructconnect.com

Sam Sterling Architecture (Sam Sterling Architecture)

Progress Event Not Viewed

Alyssa Arce

alyssa@samsterlingarchitecture.com

Brawley & Co LLC

Progress Event Not Viewed

Joseph Brawley

jbrawley@brawleyandcompany.com

The Gordian Group

Progress Event Not Viewed

Michael Shiplet

m.shiplet@thegordiangroup.com

Ernie Vallez Construction, Inc.

Progress Event Not Viewed

Karol Vallez

Vallezconst@msn.com

Consolidated Solar Technologies (CST) (CST (Consolidated Solar Technologies))

Progress Event Not Viewed

Randy Daniels
rdaniels@gocstsolar.com
James Mosher
jamesmosher@gocstsolar.com

Mike Putnam
mputnam@gocstsolar.com

RC Industrial Inc (RC Industrial Inc)

Progress Event Not Viewed

Chris Bartlett
cbartlett@rc-industrialinc.com

Micah Richards Electrical Services

Progress Event Not Viewed

Micah Richards
micah@micahrichardselec.us

A-Com Technologies LLC

Progress Event Not Viewed

Douglas Ahlgrim
douga@a-comtech.com

Consolidated Builders of NM LLC

Progress Event Not Viewed

Samia Apodaca
consolidatedbuilders@comcast.net

Flak Catcher, LLC

Progress Event Not Viewed

John Cresto
johntycresto@gmail.com

Prime Builders, LLC (Prime Builders, LLC)

Progress Intention Not Declared

Paul Serda
psersda@primebuildersnm.com

Eric Peterson
epeterson@primebuildersnm.com

L&H Signs, Inc

Progress Event Not Viewed

Christine Heinly
christineh@lhsigns.com

Rockefeller's Construction, Inc.

Progress Event Not Viewed

Roxana Aguilar
admin@rockefellerscleaning.com

Gew Mechanical Contractors Inc

Progress Event Not Viewed

Pat Campbell
pat@gewmechanical.com

AnchorBuilt Inc.

Progress Intend To Bid

Ray Zamora
info@anchorbuilt.com

Ray Zamora
ray.zamora@anchorbuilt.com

CCM, LLC dba Village Ace Hardware (Village Ace Hardware)

Progress Event Not Viewed

Michael Dudman
acehdwe@valornet.com

Ravens Wing Consulting, LLC (Ravens Wing Consulting, LLC)

Progress Event Not Viewed

Manny Barrera
mannybarrera@ravenswingconsulting.com

Britton Construction, Inc.

Progress Event Not Viewed

Rick Britton
rbritton@brittonconstruction.com

Queston Construction, Inc.

Progress Event Not Viewed

David Montoya
dmontoya@queston.net

Southwest Abatement, Inc.

Progress Event Not Viewed

Gregg Veit
gregg@saieri.com

Federal Heath Visual Communications

Progress Event Not Viewed

Jeff Lee
jlee@federalheath.com

Western Mechanical Co. (Western Mechanical Heating & A/C)

Progress Event Not Viewed

Jimmy Chavez
westernmechanical@hotmail.com

TOTAL CONTRACTING SERVICES INC, (TOTAL CONTRACTING SERVICES INC,)

Progress Event Not Viewed

Victoria Ramirez
vramirez@tcsi.us

LKCM WM Distribution LLC (Relevant Solutions)

Progress Event Not Viewed

Mary Archuleta
mary.archuleta@relevantsolutions.com

Perla Giles
perla.giles@relevantsolutions.com

GWC Construction Inc.

Progress Event Not Viewed

Steven Simpson
asbestos@valornet.com

Nelson Adams Naco

Progress Event Not Viewed

Alma Rodriguez
sales@nelsonadamsnaco.com

Clayco, Inc.

Progress Event Not Viewed

Kim Poole
poolek@claycorp.com

Guzman Construction Solution, LLC

Progress Event Not Viewed

Kevin Pacheco
k.pacheco@guzmancs.com
Isaiah Parra
isaiah.parra@gmail.com

kevin pacheco
kevin@guzmancs.com

Johnson Controls Inc

Progress Event Not Viewed

Joseph Perea
joseph.c.perea@jci.com

Hausermann Mechanical LLC (Hausermann Mechanical)

Progress Event Not Viewed

John Hausermann
jhausermann@comcast.net

Q&A Board

Subject = GC and MEP (AnchorBuilt Inc.)

Private Thread

Q: If we are responding to both the GC and MEP sections, do we need to submit two "full" responses, or will one response cover both sections?

Question added by: Ray Zamora

10/17/2022 10:42 AM
MDT

No Answer

Purpose of this RFP

UNM is requesting proposals from contractors to provide construction services on sites and facilities under UNM's Job Order Contracting Program, such as work in classrooms, laboratories, and athletic facilities. UNM anticipates awarding separate Contracts for 1) general construction, 2) mechanical, electrical and plumbing (MEP), and 3) roofing. It is issued under, and all proposals submitted in response hereto shall be subject to, New Mexico Procurement Code, §13-1-21 through 13-1-199, NMSA 1978. All potential proposers are to read, understand and accept the requirements of this RFP.

UNM views utilization of local vendors, suppliers and contractors as good sustainable practice. As such, UNM strongly encourages offerors to solicit and consider local New Mexico Business community members in preparing proposal offers.

It is the intent of the UNM to apply sustainable development concepts in the planning, design, construction, environmental management, operation, maintenance and disposal of healthcare facilities infrastructure projects, consistent with applicable laws and budget requirements. In carrying out this intent, UNM will abide by the following standards:

Executive Order 2006-001, Energy Efficient Green Building Standards for State Buildings, signed January 16, 2006, calls on Executive Branch state agencies to promote energy efficiency, water conservation, and the use of clean energy sources, and to help foster markets for sustainable economic development. Specifically, it states that Executive Branch state agencies shall adopt the U.S. Green Building Council's LEED® rating system to achieve a minimum rating of LEED® Silver for new construction of public buildings in excess of 15,000 square feet and/or using over 50 kW peak electrical demand. In achieving its LEED® rating, the project must achieve a minimum delivered energy performance standard of 50% of the US energy consumption for that building type as defined by the U.S. Department of Energy. Additionally, new construction and renovation of public buildings between 5,000 15,000 square feet shall achieve a minimum delivered energy performance standard of 50% of the US energy consumption for that building type as defined by the U.S. Department of Energy.

This RFP is designed to provide interested proposers with sufficient basic information to submit proposals meeting minimum requirements, but is not intended to limit a proposer's content or exclude any relevant or essential data. Proposers are at liberty and are encouraged to expand upon the specifications after meeting specified requirements to evidence value-engineering capability under the proposal.

The University of New Mexico, as the Principal Procurement Agency, defined in Attachment A, has partnered with OMNIA Partners, Public Sector ("OMNIA Partners") to make the resultant contract (also known as the "Master Agreement" in materials distributed by OMNIA Partners) from this solicitation available to other public agencies, including state and local governmental entities, public and private primary, secondary and higher education entities, non-profit entities, and agencies for the public benefit ("Public Agencies"), through OMNIA Partners' cooperative purchasing program. The University of New Mexico is acting as the contracting agency for any other Public Agency that elects to utilize the resulting Master Agreement. Use of the Master Agreement by any Public Agency is preceded by their registration with OMNIA Partners (a "Participating Public Agency") and by using the Master Agreement, any such Participating

Public Agency agrees that it is registered with OMNIA Partners, whether pursuant to the terms of a Master Intergovernmental Cooperative Purchasing Agreement, a form of which is attached hereto on Attachment A, or as otherwise agreed to. Attachment A contains additional information about OMNIA Partners and the cooperative purchasing program.

OMNIA Partners is the largest and most experienced purchasing organization for public and private sector procurement. Through the economies of scale created by OMNIA Partners public sector subsidiaries and affiliates, National IPA and U.S. Communities, our participants now have access to more competitively solicited and publicly awarded cooperative agreements. The lead agency contracting process continues to be the foundation on which we are founded. OMNIA Partners is proud to offer more value and resources to state and local government, higher education, K-12 education and non-profits.

OMNIA Partners provides shared services and supply chain optimization to government, education and the private sector. With corporate, pricing and sales commitments from the Supplier, OMNIA Partners provides marketing and administrative support for the Supplier that directly promotes the Supplier's products and services to Participating Public Agencies through multiple channels, each designed to promote specific products and services to Public Agencies on a national basis. Participating Public Agencies benefit from pricing based on aggregate spend and the convenience of a contract that has already been advertised and publicly competed. The Supplier benefits from a contract that generally allows Participating Public Agencies to directly purchase goods and services without the Supplier's need to respond to additional competitive solicitations. As such, the Supplier must be able to accommodate a statewide demand for services and to fulfill obligations as a statewide Supplier and respond to the OMNIA Partners documents (Attachment A).

While no minimum volume is guaranteed to the Supplier, the estimated annual volume of Job Order Contracting Products and Services purchased under the Master Agreement through OMNIA Partners is approximately \$200 M. This projection is based on the current annual volumes among Participating Public Agencies anticipated to utilize the resulting Master Agreement to be made available to them through OMNIA Partners, and volume growth into other Public Agencies through a coordinated marketing approach between the Supplier and OMNIA Partners.

By responding to OMNIA Partners portion of the proposal, Suppliers understand and agree to participate in the OMNIA Partners program.

Suppliers are to provide a response to the OMNIA Partners program by including a detailed response to Attachment A, Exhibit A, OMNIA Partners Response for Cooperative contract. Responses should highlight experience, demonstrate a strong presence in the market, describe how Supplier will educate its sales force and staff about the Master Agreement, describe how products and services will be distributed to Participating Public Agencies, include a plan for marketing the products and services across the state, and describe how volume will be tracked and reported to Gordian.

Overview of the Contract

UNM's Job Order Contracting Program is an indefinite quantity contract pursuant to which the Contractor will perform an ongoing series of individual projects at different locations on campuses under the jurisdiction of the University of New Mexico. The bid documents include a Construction Task Catalog[®] containing construction tasks with preset unit prices. All unit prices are based on local labor, material and equipment prices and are for the direct cost of

construction.

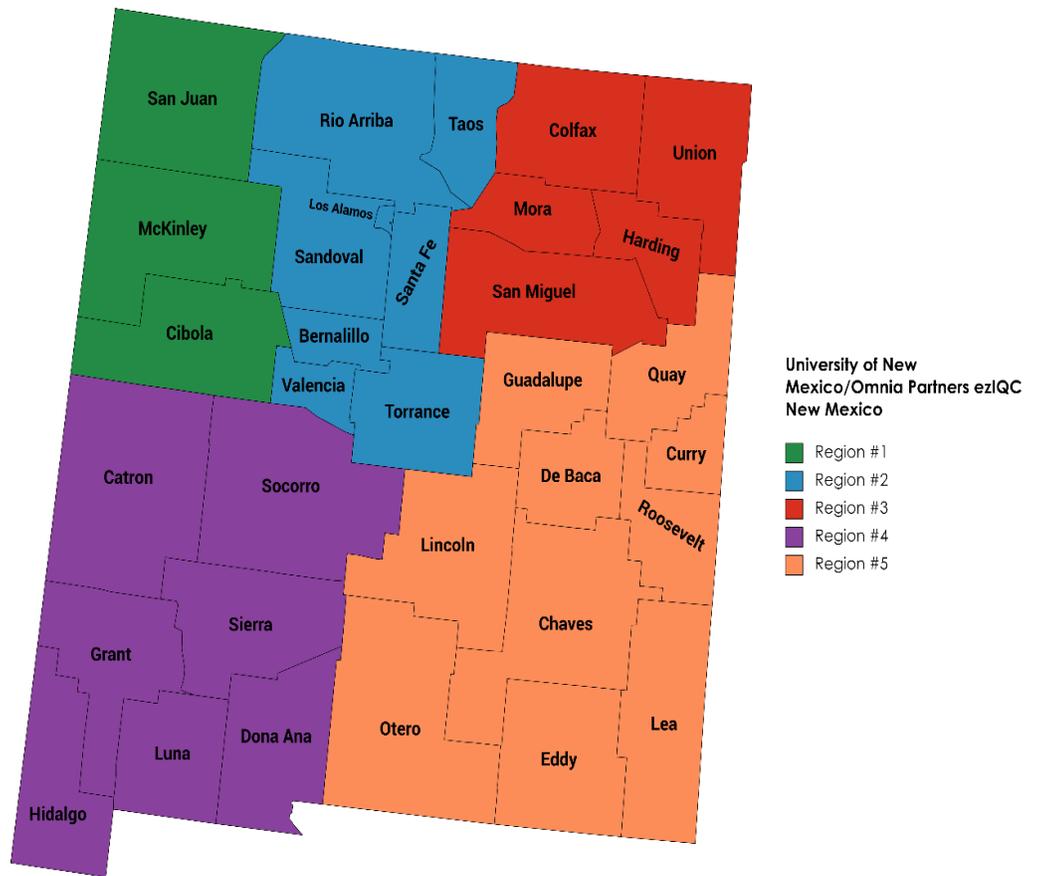
UNM's Cooperative Purchasing Job Order Contracting Program, made available through OMNIA Partners, is an indefinite quantity contract pursuant to which the Contractor will perform an ongoing series of individual projects for Participating Public Agencies at different locations primarily within the designated Geographic Region. The bid documents include a Construction Task Catalog[®] (CTC) containing construction tasks with preset unit prices. All unit prices are based on local labor, material and equipment prices and are for the direct cost of construction. Once contracts are awarded, Participating Public Agencies will order Work from the CTC by issuing a Purchase Order against the contract.

UNM is using Gordian's Job Order Contracting Services to implement these programs. The system includes Gordian's proprietary ezIQCC, eGordian and Bid Safe IQCC applications (IQCC Applications) and construction cost data (Construction Task Catalog), which will be used by the Contractor to prepare and submit Price Proposals, subcontractor lists, and other requirements specified by UNM and Participating Public Agencies. The Contractor's use, in whole or in part, of Gordian's IQCC Applications and Construction Task Catalog and other proprietary materials provided by Gordian for any purpose other than to execute work under this Contract for UNM and Participating Public Agencies are strictly prohibited unless otherwise stated in writing by Gordian.

For each region, the Contractor will bid two Adjustment Factors to be applied to the Unit Prices in the Construction Task Catalog[®]. One Adjustment Factor for performing work during Normal Working Hours and a second Adjustment Factor for performing work during Other Than Normal Working Hours. The same two Adjustment Factors shall apply to every Pre-priced Task in the Construction Task Catalog[®]. The Contractor will also bid an Adjustment Factor for performing Non Pre-priced Tasks.

UNM's Job Order Contracting Program will be broken into the following regions: The first region is for work to be performed at the Main Campus (The UNM Albuquerque Campus); the second region for work to be performed at Northern New Mexico Branch Campuses (Any UNM branch campus North of Interstate 40); and, the third region for work to be performed at Southern New Mexico Branch Campuses Any UNM branch campus South of Interstate 40.

UNM's Cooperative Purchasing Job Order Contracting Program, made available through OMNIA Partners, will be broken into the following 5 regions:



Multiple Contracts for each trade may be awarded in each region to the proposer(s) offering the best value to the University of New Mexico and Participating Public Agencies in terms of technical qualifications and price.

County Breakdown of Regions

Region 1

San Juan	McKinley	Cibola	

Region 2

Rio Arriba	Taos	Los Alamos	Sandoval
Santa Fe	Bernalillo	Valencia	Torrance
Ozark	Stone		

Region 3

Colfax	Union	Mora	Harding
San Miguel			

Region #4

Catron	Socorro	Grant	Sierra
Hidalgo	Luna	Dona Ana	

Region #5

Guadalupe	Quay	Lincoln	De Baca
Curry	Roosevelt	Chaves	Otero
Eddy	Lea		

UNM Job Order Contracting Program Project Delivery Order Procedures:

As projects are identified the Contractor will jointly scope the work with the Owner. The Owner will prepare a brief Scope of Work and issue a Request for Price Proposal to the Contractor. The Contractor will then prepare a Detailed Scope of Work and a Price Proposal for the Project including a Price Proposal, Schedule, Sketches or Drawings, and other requested documentation.

If the Price Proposal is found to be reasonable, the Owner will request the Contractor submit a Proposal Package including a list of subcontractors and proposed dollar amounts. If the Proposal Package is found to be reasonable, a Job Order may be issued.

A Job Order will reference the Detailed Scope of Work and set forth the Job Order Completion Time, and the Job Order Price. The Job Order Price is determined by multiplying the preset Unit Prices by the appropriate quantities and by the appropriate Adjustment Factor. The Job Order Price shall be a lump sum, fixed price for the completion of the Detailed Scope of Work. A separate Job Order will be issued for each Project. Extra work, credits, and deletions will be contained in Supplemental Job Order(s).

UNM's Cooperative Purchasing Job Order Contracting Program, made available through OMNIA Partners, Project Delivery Order Procedures:

The Participating Public Agency (or the Participating Public Agency Designated Representative), with the assistance of Gordian, will identify Projects and develop a draft scope of the work. The Contractor and Gordian will then assist the Participating Public Agency in developing a final scope of work. The Participating Public Agency will then issue a Detailed Scope of Work and a Request for Proposals to the Contractor. The Participating Public Agency (or the Participating Public Agency Designated Representative), with the assistance of Gordian, will identify Projects and develop a draft scope of the work. The Contractor and Gordian will then assist the Participating Public Agency in developing a final scope of work. The Participating Public Agency will then issue a Detailed Scope of Work and a Request for Proposals to the Contractor. The Contractor will then utilize Gordian's JOC System to prepare a Price Proposal for the Purchase Order including a Schedule, list of identified subcontractors, and other requested documentation such as cut sheets for materials. Gordian will assist the Participating Public Agency with Price Proposal review, and if the Price Proposal is found to be reasonable, the Participating Public Agency will issue a Purchase Order to Contractor. The Purchase Order will reference the Detailed Scope of Work and set forth the Purchase Order Completion Time, and the Purchase Order Price. The Contractor will perform the Detailed Scope of Work within the Purchase Order Completion Time for the Purchase Order Price. Extra Work, credits, and deletions will be contained in Supplemental Purchase Orders calculated in the same manner.

The Contractor must, within two (2) business days of receipt of a Purchase Order from a Participating Public Agency, provide notification to Gordian of each Purchase Order by

forwarding a copy of the Purchase Order via email to PO@ezIQ.com or via facsimile to (864) 233-9100.

The Contractor must, within two (2) business days of sending an Invoice to a Participating Public Agency, provide notification to Gordian each Invoice by forwarding a copy of the Invoice via email to Invoice@ezIQ.com or via facsimile to (864) 233-9100.

Scope of Work

A brief summary of the potential scope of work for each Contract is below. The below is for example purposes only to illustrate the type of work that may be included with each Contract.

General Construction:

The scope of work for the General Construction category may include the evaluation, design, and renovation of existing facilities or the construction of minor new additions to existing facilities. The work may include the remodel of individual classrooms, offices, restrooms for ADA compliance, storage and common areas, administrative offices, Clinical and lab areas, athletic areas, and similar sites or facilities involving one or multiple construction trades. Minor new construction may include additions, such as classrooms, administrative, athletic, storage, land development, etc. that involves and requires multiple construction trades such as demolition, mechanical, plumbing, electrical, carpentry, flooring, painting as well as utilities, masonry, and site work. Respondents are encouraged to respond for all or specific individual trades within the umbrella of the General Construction category. UNM intends on acquiring multiple service providers in the various subcategories under the General Construction category as detailed below:

- General Contractors
- Flooring Contractors
- Painting Contractors
- Demo Contractors
- Sitework
- Paving, asphalt, earthwork, concrete, curb & gutter, landscape & irrigation

Mechanical, Electrical, and Plumbing (MEP):

The scope of work for the MEP contract may include the inspection and evaluation Inspecting, assessing, of existing plumbing, mechanical, and electrical systems, such as: low voltage, lighting, fire suppression, water supply, HVAC distribution and return, sewer infrastructure, natural and liquid propane gas distribution systems and related equipment. The scope of work may include work on existing systems or the demolition of existing systems and installation of new systems. The work may also include services relating to installing, maintaining and repairing the specified systems as well as conducting preventive maintenance programs to maintain their mechanical, electrical, and plumbing systems in good working order. Respondents are encouraged to respond for all or specific individual trades within the umbrella of the MEP category. UNM intends on acquiring multiple service providers in the various subcategories under the MEP category as detailed below:

- Mechanical Contractors
 - Controls
- Electrical Contractors
 - Low Voltage
 - Fire Alarm
- IT Cabling
- Plumbing Contractors

- Fire Suppression Contractors

Roofing

The scope of work for the roofing contract may include the installation and repair a comprehensive line of roofing systems and protective coating supplies to meet facility and climatic conditions that exist within the state of New Mexico. The work may include the repair of existing roof systems or a complete removal of an existing roof and installation of a new roof system. All roof or facility envelope systems must meet all applicable federal, state and local regulatory requirements and NMPSFA's stated minimum roofing standards.

Contract Value Summary

Category	Length of Contract Term	Maximum Contract Value per participating public agency	Maximum Job Order Value
General Construction	(3) Years	\$12,500,000	\$4,000,000
Mechanical, Electrical, and Plumbing (MEP)	(3) Years	\$12,500,000	\$4,000,000
Roofing	(3) Years	\$12,500,000	\$4,000,000

The UNM and each Participating Public Agency may issue the Contractor Orders up to the Maximum Contract Value. The Contractor is not guaranteed to receive this volume of Job Orders. It is merely an estimate.

Contract Term

The Contract term of each Contract is three years.

All Job Orders issued during the term of this Contract shall be valid and in effect notwithstanding that the Detailed Scope of Work may be performed, payments may be made, and the guarantee period may continue, after such period has expired. All terms and conditions of the Contract apply to each Job Order.

Contract aggregate limits shall be in accordance with NMSA 13-1-154.1. Upon reaching aggregate limits per NMSA 13-1-154.1 the contract will automatically expire if not terminated as provided herein.

Adjustment Factors

1. There are three Adjustment Factors for this Contract. When preparing a Job Order Price Proposal, the Contractor shall select the appropriate Adjustment Factor for each task.
2. The Adjustment Factors are as follows:
 - a. **Normal Working Hours:** Monday through Friday 7:00 am to 4:00 pm except holidays.

- b. **Other Than Normal Working Hours: Monday** through Friday 4:01 pm to 6:59 am and all day Saturday, Sunday and holidays.
 - c. **Non Pre-priced:** For Non Pre-priced Tasks.
3. **The Other than Normal Working Hours Adjustment Factor must be equal to or greater than the Normal Working Hours Adjustment Factor.**
 4. **The Non Pre-priced Adjustment Factor must be greater than or equal to 1.0000.**
 5. The proposed Non Pre-priced Adjustment Factor will remain fixed for the duration of the Contract.

JOC Software and Systems License

Job Order Contracting Software: The Regents of the University of New Mexico (UNM) selected The Gordian Group's (Gordian) Job Order Contracting (JOC) Solution for their JOC program. The Gordian JOC Solution™ includes Gordian's proprietary JOC Software and JOC Applications, construction cost data, and Construction Task Catalog® which shall be used by the Contractor solely for the purpose of fulfilling its obligations under this Contract, including the preparation and submission of Job Order Proposals, Price Proposals, subcontractor lists, and other requirements specified by the Owner. Contractor's use, in whole or in part, of Gordian's JOC Applications, Construction Task Catalog® and other proprietary materials provided by Gordian for any purpose other than to execute work under this Contract for the Owner is strictly prohibited unless otherwise approved in writing by Gordian. The Contractor hereby agrees to abide by the terms of the following JOC System License.

Job Order Contracting System License: Gordian hereby grants to the Contractor for the term of this Contract, a non-exclusive right, non-transferable, privilege, and license to Gordian's proprietary JOC System (comprised of the JOC software applications and support documentation, the CTC, construction cost data, Technical Specifications, training materials, marketing materials and any other proprietary materials provided to Contractor by Gordian (collectively referred to as "Proprietary Information"). The Proprietary Information will be used for the sole purpose of executing Contractor's responsibilities to UNM and the Participating Public Agency s under this Contract ("Limited Purpose"). In the event this Contract expires or terminates as provided herein, or the Gordian's contract with UNM expires or terminates, this JOC System License will terminate and the Contractor will return all Proprietary Information in its possession to Gordian.

Contractor acknowledges that Gordian will retain exclusive ownership of all proprietary rights to the Proprietary Information, including all U.S. and international intellectual property and other rights such as patents, trademarks, copyrights and trade secrets. Contractor will have no right or interest in any portion of the Proprietary Information except the right to use the Proprietary Information for the Limited Purpose set forth herein. Except in furtherance of the Limited Purpose, Contractor must not distribute, disclose, copy, reproduce, display, publish, transmit, assign, sublicense, transfer, provide access to, use or sell, directly or indirectly (including in electronic form), any portion of the Proprietary Information.

Contractor acknowledges and agrees to respect the copyrights, trademarks, trade secrets, and

other proprietary rights of Gordian in the Proprietary Information during and after the term of this Contract, and must at all times maintain complete confidentiality with regard to the Proprietary Information provided to Contractor, subject to federal, state and local laws related to public disclosure. Contractor further acknowledges that a breach of any of the terms of this Contract by Contractor will result in irreparable harm to Gordian for which monetary damages would be an inadequate remedy, and Gordian will be entitled to injunctive relief (without the necessity of posting a bond) as well as all other monetary remedies available at law or in equity. In the event that it becomes necessary for either party to this JOC System License to enforce the provisions of this Contract or to obtain redress for the breach or violation of any of its provisions, whether by litigation, arbitration or other proceedings, the prevailing party will be entitled to recover from the other party all costs and expenses associated with such proceedings, including reasonable attorney's fees.

In the event of a conflict in terms and conditions between this JOC System License and any other terms and conditions of this Contract or any Order, Purchase Order or similar purchasing document (Purchase Order) issued by UNM or a Participating Public Agency, this JOC System License will take precedence.

Administrative Fee's UNM Job Order Contracting Program

Proposers must include an Administrative Fee in calculating the Proposer's Adjustment Factors. The Administrative Fee will be calculated at the rate of **2.98%** of the total Purchase Order Price.

Administrative Fee's UNM's Cooperative Purchasing Job Order Contracting Program

Proposers must include an Administrative Fee in calculating the Proposer's Adjustment Factors. The Administrative Fee will be calculated at the rate of **7.50%** of the total Purchase Order Price.

Remittance of Administrative Fee's

Administrative Fee's will be remitted by the Contractor to the designated Gordian contract administrator, within thirty (30) days of the submission of a Purchase Order or a Notice to Proceed from UNM or a Participating Public Agency to the Contractor. The Contractor will be assessed a one percent (1%) per month late fee for any Administrative Fees not paid by the due date set forth herein.

UNM and OMNIA Partners designates Gordian as its contract administrator. The Administrative Fee payments must be made payable to The Gordian Group and sent to the following address:

The Gordian Group, Inc. PO Box 74008498
Chicago, IL 60674-8498

UNM, OMNIA Partners or Gordian may request records from the Contractor for all purchases through this Contract and payment of all Administrative Fees. If a discrepancy exists between the purchasing activity and the Administrative Fees paid, UNM, OMNIA Partners or Gordian will provide written notification to the Contractor of the discrepancy and allow the Contractor ten (10) days from the date of notification to resolve the discrepancy. In the event the Contractor does not resolve the discrepancy to the satisfaction of UNM,

OMNIA Partners or Gordian, reserve the right to engage a third party to conduct an independent audit of the Contractor's records and, in the event Contractor is not in compliance with this Contract, Contractor will, in addition to any Administrative Fees due, reimburse the appropriate party for the cost and expense related to such audit.

UNM, OMNIA Partners and Contractor hereby acknowledge Gordian, as the designated contract administrator. In the event any court action is brought to enforce payment of the Administrative Fees set forth above by any party or third-party beneficiary of this Contract, the prevailing party will be entitled to an award of reasonable attorneys' fees and collection costs.

Bid Pricing

For bid evaluation purposes only, the following work distributions shall be used to determine the Award Criteria Figure for each region.

Adjustment Factor	% Weight (For Proposal Evaluation Only)
Normal Working Hours, State	60%
Other than Normal Working Hours	30%
Non-Pre-Priced	10%

The Other than Normal Working Hours Adjustment Factor must be equal to or greater than the Normal Working Hours Adjustment Factor. The Non Pre-priced Adjustment Factor must be equal to or greater than 1.0000.

The Construction Task Catalog[®] is priced at a net value of 1.0000. The bid shall be an increase to" (e.g., 1.1000 or decrease e.g., 0.9500) to the Unit Prices listed in the Construction Task Catalog[®]. Bidders who submit separate Adjustment Factors for separate Unit Prices may be considered non-responsive and their Proposal may be rejected.

UNM Job Order Contracting Program Funding, and Schedules

Funding source will be on a Job Order by Job Order basis. Each Job Order will have a Job Order Completion Time in which the Contractor must obtain substantial completion of the work.

The successful proposer will be responsible for serving as the contractor for the Contract, furnishing all labor and materials. If LEED materials are part of a Job Order, ensuring elements meet the LEED[®] certification as required.

During performance of the Job Order, the JOC contractor will be required to coordinate with but is not limited to UNM's project managers, facility directors, design professionals (architect and engineer) and other contracted contractors and technical installation personnel.

UNM, OMNIA Partners Cooperative Purchasing Job Order Contracting Program Funding and Schedules

Funding source will be on a Job Order by Job Order basis. Each Job Order will have a Job Order Completion Time in which the Contractor must obtain substantial completion of the work.

The successful proposer will be responsible for serving as the contractor for the Contract, furnishing all labor and materials. If LEED materials are part of a Job Order, ensuring elements meet the LEED® certification as required.

During performance of the Job Order, the JOC contractor will be required to coordinate with but is not limited to Participating Agencies’ project managers, facility directors, design professionals (architect and engineer) and other contracted contractors and technical installation personnel.

Project Directory

UNM

- Project Manager Identified on a Job Order by Job Order basis
- UNMFM Facility Engineer Identified on a Job Order by Job Order basis
- Senior Contracts Specialist UNM Purchasing Department – Ryan Mortensen T: 277-7500
- FM Area Manager Identified on a Job Order by Job Order basis
- Architect and/or Consultants Identified on a Job Order by Job Order basis
- Etc Identified on a Job Order by Job Order basis

Part 1 Schedule of Prices

Attach this schedule of Prices to Appendix L

OFFEROR'S NAME: _____

For the UNM Job Order Contracting Program the Offeror shall complete the cells highlighted grey below. Failure to submit all the Adjustment Factors for the Campus/Contract Type being proposes may result in the bid for that Campus/Contract Type being deemed non-responsive. **The Contractor is to include the administrative fee of 2.98% into their responding adjustment factors.** The Contractor shall perform the Tasks required by each individual Job Order using the following Adjustment Factors:

UNM Job Order Contracting Program		CONTRACT TYPES		
Campus / Region	Adjustment Factor Name	General Construction	Mechanical, Electrical, Plumbing	Roofing
Main Campus (Albuquerque)	Normal Working Hours (60%)			
	Other Than Normal Working Hours (30%)			
	Non Pre-Priced (10%)			
	Award Criteria Figure	0.0000	0.0000	0.0000
Northern New Mexico Branch Campuses	Normal Working Hours (60%)			
	Other Than Normal Working Hours (30%)			
	Non Pre-Priced (10%)			
	Award Criteria Figure	0.0000	0.0000	0.0000
Southern New Mexico Branch Campuses	Normal Working Hours (60%)			
	Other Than Normal Working Hours (30%)			
	Non Pre-Priced (10%)			
	Award Criteria Figure	0.0000	0.0000	0.0000

NOTES TO OFFERERS

- The Other Than Normal Working Hours Adjustment Factors must be greater than or equal to the Normal Working Hours Adjustment Factors.
- The Non Pre-Priced Adjustment Factor must be greater than or equal to 1.000
- The weighted multipliers above are for the purpose of calculating an Award Criteria Figure only. No assurances are made by the owner that Work will be ordered under the Contract in a distribution consistent with the weighted percentages above. The Award Criteria Figure is only used for the purpose of determining the Bid.
- When submitting Job Order Price Proposals related to specific Job Orders, the Bidder shall utilize one or more of the Adjustment Factors applicable to the Work being Performed.
- Make sure to attach this Part 1: Schedule of Prices to Appendix L in your proposal**

By: Authorized Signature: _____

By: Same Name and title Printed or typed: _____

Date: _____

For the UNM Cooperative Purchasing Job Order Contracting Program the Offeror shall complete the cells highlighted grey below. Failure to submit all the Adjustment Factors for the Region/Contract Type being propose may result in the bid for that Region/Contract Type being deemed non-responsive. A complete map of the regions can be found in the Purpose of this RFP Document. **The Contractor is to include the administrative fee of 7.50% into their responding adjustment factors.** The Contractor shall perform the Tasks required by each individual Job Order using the following Adjustment Factors:

UNM Cooperative Purchasing Job Order Contracting Program		CONTRACT TYPES		
Campus / Region	Adjustment Factor Name	General Construction	Mechanical, Electrical, Plumbing	Roofing
Region #1	Normal Working Hours (60%)			
	Other Than Normal Working Hours (30%)			
	Non Pre-Priced (10%)			
	Award Criteria Figure	0.0000	0.0000	0.0000
Region #2	Normal Working Hours (60%)			
	Other Than Normal Working Hours (30%)			
	Non Pre-Priced (10%)			
	Award Criteria Figure	0.0000	0.0000	0.0000
Region #3	Normal Working Hours (60%)			
	Other Than Normal Working Hours (30%)			
	Non Pre-Priced (10%)			
	Award Criteria Figure	0.0000	0.0000	0.0000
Region #4	Normal Working Hours (60%)			
	Other Than Normal Working Hours (30%)			
	Non Pre-Priced (10%)			
	Award Criteria Figure	0.0000	0.0000	0.0000

	Award Criteria Figure	0.0000	0.0000	0.0000
Campus / Region	Adjustment Factor Name	General Construction	Mechanical, Electrical, Plumbing	Roofing
Region #5	Normal Working Hours (60%)			
	Other Than Normal Working Hours (30%)			
	Non Pre-Priced (10%)			
	Award Criteria Figure	0.0000	0.0000	0.0000

CONDITIONS GOVERNING THE PROPOSAL

This section of the RFP outlines and describes General Requirements and the selection. Listed below, as well, are the key action dates/times for this RFP. If UNM finds it necessary to change any of the dates as indicated below, an addendum to the RFP will be sent to all prospective proposers via mail, fax, or email.

General Requirements

The following section contains information about the RFP process and conditions under which this RFP is issued and how the intended project will be completed. UNM requires that all proposers agree to be bound by the general requirements contained in this section.

1. Acceptance of Conditions Governing the Procurement – Proposers must indicate their acceptance of the Conditions Governing the Procurement section in letter of transmittal. Submission of a proposal constitutes acceptance of the evaluation factors contained in Part 4 of this RFP.
2. Incurring Cost - Any cost incurred by the proposer in preparation, transmittal, or presentation of any proposal or material submitted in response to this RFP shall be borne solely by the proposer.
3. Key Staff- Since the award is made on a quality-based evaluation process, replacement of key staff or subcontractors after award of and prior to the contract execution may cause the proposer to be disqualified.
4. Prime Contractor Responsibility – Any contract that may result from this RFP shall specify that the prime contractor is solely responsible for fulfillment of the contract with UNM. UNM will make contract payments to only the prime contractor.
5. Subcontractors – Use of subcontractors must be clearly explained in the proposal and major subcontractors must be identified by name. The prime contractor shall be wholly responsible for the entire performance whether or not subcontractors are used.
6. Amended Proposals - A proposer may submit an amended proposal prior to the submission deadline. Such amended proposals must be complete replacements for a previously submitted proposal and must be clearly identified as such in the transmittal letter. UNM personnel will not collate or assemble proposal materials for the proposer.
7. Proposer's Rights to Withdraw Proposal - Proposers will be allowed to withdraw their proposals at any time prior to the submission deadline. The proposer must submit to the UNM procurement agent a written withdrawal request signed by the proposer's authorized representative.

8. Proposal Offer Firm – Responses to this RFP, including proposal prices, will be considered firm for One Hundred-twenty (120) days after the proposal submission deadline.
9. Upon receipt of written notice of acceptance of this Response, Proposers will execute the final contract and deliver surety bonds as required by the Instructions to Bidders within Seven (7) calendar days.
10. Disclosure of Proposal Contents - Proposal contents will be kept confidential until a contract is awarded and written notice of award has been issued by the UNM procurement agent. At that time, all proposals will be open to the public, except for the material that is proprietary or confidential. The procurement agent will not disclose or make public any pages of a proposal on which the proposer has stamped or imprinted “proprietary” or “confidential” subject to the following requirements.
 - a) Proprietary or confidential data shall be readily separable from the proposal in order to facilitate eventual public inspection of the non-confidential portion of the proposal. Confidential data is normally restricted to confidential financial information concerning the proposer’s organization and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, §57-3A-1 to 57-3A-7, NMSA 1978. The price of products offered or the cost of services proposed shall not be designated as proprietary or confidential information.
 - b) If a request is received for disclosure of data for which a proposer has made a written request for confidentiality, the UNM procurement agent shall examine the proposer’s request and make a written determination that specifies which portions of the proposal should be disclosed. Unless the proposer takes legal action to prevent the disclosure, the proposal will be so disclosed. The proposal shall be open to public inspection subject to any continuing prohibition on the disclosure of confidential data.
11. No Obligation – This RFP in no manner obligates UNM to the use of any proposed products or services until a valid written contract is awarded and approved by the appropriate UNM authorities.
12. Termination of RFP – This RFP may be canceled at any time and any and all proposals may be rejected in whole or in part when UNM determines such action to be in the best interest of UNM.
13. Sufficient Appropriation – Any contract awarded as a result of this RFP process may be terminated if sufficient appropriations or authorizations do not exist. Such termination will be effected by sending written notice to the contractor. UNM’s decision as to whether sufficient appropriations and authorizations are available will be accepted by the contractor as final.

14. Governing Law – This procurement and any agreement with proposers that may result shall be governed by the laws of the State of New Mexico.
15. Basis for Proposal – Only information supplied by UNM in writing through the UNM procurement agent or in this RFP shall be used as the basis for the preparation of proposer proposals.

Should a proposer object to any of UNM's terms and conditions, as contained in this section or in Exhibit A, B and C; "RFP Standard Terms and Conditions", "General Conditions of the Contract for Construction" and "Agreement between Owner" that proposer must propose specific alternative language. UNM may or may not accept the alternative language. Proposers must provide a brief discussion of the purpose and impact, if any, of each proposed change, followed by the specific proposed alternate wording. General references to the proposer's terms and conditions or attempts at complete substitutions are not acceptable to UNM and will result in disqualification of the proposer's proposal.

16. Proposer's Terms and Conditions – Proposers must submit with the proposal a complete set of any additional terms and conditions which they wish to have included in a contract negotiated with UNM.
17. Contract Deviations – Any additional terms and conditions, which may be the subject of negotiation, will be discussed only between UNM and the selected proposer and shall not be deemed an opportunity to amend the substance proposer's proposal.
18. Proposer Qualifications – The selection committee may make such investigations as necessary to determine the ability of the proposer to adhere to the requirements specified within this RFP. The selection committee will reject the proposal of any proposer who is not a responsible proposer or fails to submit a responsive offer, as defined in § 13-1-83 and 13-1-85 NMSA 1978.
19. Right to Waive Technical Irregularities - UNM reserves the right to waive minor irregularities. Also UNM reserves the right to waive mandatory requirements provided that all of the otherwise responsive proposals failed to meet the mandatory requirements and/or doing so does not otherwise materially affect the procurement. This right is at the sole discretion of UNM.

21. Change in Contractor Representatives – UNM reserves the right to request a change in contractor representatives if the assigned representatives are not, in the opinion of UNM, meeting its needs adequately.
22. Change in proposed person or entity including those who are to furnish materials or equipment fabricated to a special design and where applicable the name of the installing contractor: UNM reserves the right to refuse any or all subcontractor(s) proposed by the Contractor. The Contractor may not contract with a proposed person or entity to which the Owner or Architect has made reasonable and timely objection. The Contractor may not be required to contract with anyone to whom the Contractor has made reasonable objection. If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, or Subcontractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection.
23. Notice - The Procurement Code, § 13-1-28 through 13-1-199 NMSA 1978, imposes civil and misdemeanor criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities and kickbacks.
24. UNM Rights – UNM reserves the right to accept and/or reject, at its sole discretion, any or all proposals, or parts thereof, to waive technicalities, or to re-advertise the project, when the best interests of UNM will be realized thereby. In accordance with §1.4.1.31,A(7) NMAC, UNM may conduct discussions with proposers who submit proposals determined to be reasonably susceptible of being selected for award, but UNM may accept proposals without such discussions.
25. Electronic Mail Address Requirement – A large part of the communication regarding this procurement will be conducted by electronic mail (e-mail). Proposer must have a valid e-mail address to receive this correspondence.

The following are special conditions that must be met by the proposer. The proposers must indicate in their proposal and provide evidence that they will be able to meet the stipulated conditions.

- 1. Licensing Requirement – Each proposer along with its’ listed sub-contractors must be registered with the New Mexico Department of Workforce Solutions and have a current, applicable, and active New Mexico contractor’s license(s) at the due date and time for proposal submittals.**
2. Proposal Documents (Project Manual and Construction Drawings) - Complete sets of proposal documents should be used in preparing proposals; UNM assumes no responsibility for errors or misinterpretations resulting from the use of incomplete sets of proposal documents.
 - a) Interpretation or Correction of Proposal Documents - Proposers will promptly notify UNM of any ambiguity, inconsistency or error that they may discover upon examination of the proposal documents or of the site and local conditions. Proposers requiring clarification or interpretation of the proposal documents will make a written request prior to the appropriate designee as described in the Inquires which may be found under Attachments: Definition of Terminology & Inquiries. Any interpretation, correction or change of the proposal documents will be made by

addendum. Interpretations, corrections or changes of proposal documents made in any other manner will not be binding, and proposers will not rely upon such interpretations corrections or changes.

- b) Addenda –No addenda will be issued later than four (4) days prior to the submission deadline except an addendum, if necessary, postponing the submission deadline or withdrawing the RFP.

3. Timeliness of Performance - The proposer shall acknowledge understanding that time is of the essence in the performance of services awarded in response to this RFP and the construction project, and that UNM may suffer damages as a result of delays in the performance of work or of failure to meet time schedules or milestones.

4. Additional Services - During the term of the agreement that may arise from this procurement, UNM reserves the right to contract with the awarded proposers for additional services that may be required. Such services shall be specifically identified and agreed to by the parties and shall be documented by modification to the contract.

5. Contract Compliance Monitoring – The UNM Purchasing office and Office of Capital Projects shall monitor the successful proposer’s compliance with, and performance under, the terms and conditions of the contract resulting from this procurement. The successful proposer shall make available for inspection and/or copying by UNM, within 24 hours of a written request therefore, all records and accounts relating to the work performed or the services provided in this project.

6. Personnel Conduct/Compliance - Any personnel executing services under this project while on the UNM premises will conduct him/her self in an acceptable, appropriate manner, and comply with all conduct and compliance policies and procedures of UNM. UNM reserves the right to request immediate removal of any personnel it deems, in its sole discretion, to be exhibiting inappropriate behavior not in compliance with UNM policies and procedures.

Definition of Terminology

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

- Addendum: a written or graphic instrument issued prior to the opening of proposals, which clarifies, corrects, or changes the RFP. If an RFP addendum is deemed necessary in the sole discretion of UNM, it will be issued prior to the submission deadline. UNM procurement agent will distribute the addendum in writing via e-mail to all recipients of the RFP. Proposers shall acknowledge receipt of the amendments as part of their proposal. Plural: addenda.
- Architect: designee authorized by The University of New Mexico to manage inquires or requests regarding construction documents.
- As-built and Record Documents: are to be interpreted to be one and the same and are defined as construction drawings revised to show all significant changes to the construction documents made during the construction process, based on marked up prints, drawings, and other data furnished by the contractor to the Architect/Engineer.
- Award of Contract: shall mean a formal written notice by UNM that a firm has been selected to enter into a contract for services. Any Award of Contract that has not resulted in a written contract offer to The University of New Mexico, within six (6) months of written notice, shall not be considered an award.
- Bidding Documents: mean all required documents for the public advertisement, bidding, selection, negotiation and award of the Construction Contract Documents for the project in conformance with the New Mexico Procurement Code(s).
- Contract: means an agreement between a The University of New Mexico and a New Mexico licensed construction firm for the work covered by this RFP.
- Contractor: means successful proposer awarded the contract.
- Construction Contract Documents: are the documents that constitute the Agreement between UNM and the General Contractor to construct the project(s) in accordance with the bidding documents.
- Close of Business: means 5:00pm mountain standard or mountain daylight time, whichever is in effect on the date given.
- Design Professional: mean architect/engineer.
- Determination: means the written documentation of a decision of the and/or the selection committee, including findings of fact required to support a decision. A determination becomes part of the procurement file to which it pertain (§13-1-52, NMSA 1978).

- Entity: means The University of New Mexico for the purpose of §13-1-120 (B)(6), NMSA 1978; and is the entity requesting proposals.
- Evaluation Criteria: are defined in Part Four of this RFP.
- LEED®: (Leadership in Energy and Environmental Design) Green Building Rating System® is a voluntary, consensus-based national standard for developing high-performance, sustainable buildings, created and administered by the U.S. Green Building Council.
- MACC: means the maximum allowable construction cost as defined by the Architect/Engineer's contract with UNM
- Mandatory Requirements: The terms "**must**," "**shall**," "**will**," "**is required**," or "**are required**" identify a mandatory requirement of this RFP. Failure to comply with such a mandatory factor may result in the initial rejection of the proposer's proposal. Rejection of the proposal will be subject to review by the selection committee and a final decision on rejection will be made by the UNM procurement agent.
- Offeror: any person, corporation, or partnership legally licensed to provide construction services in this state, which chooses to submit a proposal in response to the RFP.
- Owner: means The University of New Mexico.
- Procurement Officer: means the procurement agent or his designee authorized by The University of New Mexico to manage and/or administer procurement.
- Project Team: all members, including consultants who will be responsible for the completion of the project.
- Project Program: means the written and graphic description of the project objectives, including intended use of facilities and site, design constraints and criteria, physical parameters, spatial requirements and requirements and relationships, and requirement for special equipment, systems and materials; the results of which are to be documented in a written manual.
- Proposal: is a complete and properly signed offer to do the work, or portion thereof by the proposer or offeror in response to this RFP.
- Proposer: any person, corporation, or partnership legally licensed to provide construction services in this state, which chooses to submit a proposal in response to the RFP.
- Request for Proposal or RFP: means all documents, attached or incorporated by reference, used for soliciting proposals (§13-1-81, NMSA 1978).
- Responsible Proposer: means a proposer or offeror who submits a responsive proposal and who has furnished, when required, information and data to prove that his/her/its' financial

resources, production or service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery or service described in the proposal (§13-1-85, NMSA 1978).

- Responsive Offer or Responsive Proposal: means an offer or proposal, which conforms in all material respects to the requirements set forth in the RFP. Material respects of a RFP, include, but are not limited to, price quality, quantity, or delivery requirements (§13-1-83, NMSA 1978).
- Seller: any person, corporation, or partnership legally licensed to provide construction services in this state, which chooses to submit a proposal in response to the RFP.
- The University of New Mexico: abbreviations or terminology used in this request for proposal means and/or identifies The University of New Mexico are “UNM” or “the University,” and are to be construed to be one and the same.
- Selection Committee: means a body constituted to perform the evaluation of proposer’s proposals.
- Technical Irregularities: Matters of form rather than substance evident from the proposal document, or insignificant mistakes that can be waived or corrected without prejudice to other proposer’s; that is, when there is no effect on price, quality or quantity. The selection committee may waive such irregularities or allow a proposer to correct them if either is in the best interest of UNM. Examples include, but are not limited to, the failure of an proposer to:
 - a) Sign the proposal, but only if the unsigned proposal is accompanied by other material indicating the proposer’s intent to be bound; or
 - b) Acknowledge receipt of an amendment to the RFP, but only if: a) it is clear from the proposal that the proposer received the amendment and intended to be bound by its terms; or b) the amendment involved had no effect on price, quality or quantity.

The TERMS “**Construction Cost**” and “**Actual Construction Costs**” are to be construed to be one and the same and means the actual contract amount to be paid by UNM to the General Contractor(s) to construct the structure or facilities designed and described within the construction bidding documents. Construction costs do not include costs associated with furniture and equipment not specified within the construction bid documents.

The TERMS “**must, shall, will is required, or are required**” identify a *mandatory* item or factor. Failure to comply *with such* an item or factor *may* result in the rejection of the proposer’s proposal.

The TERMS “**can, may, should, preferably, or prefers**” identify a *desirable* or *discretionary* item or factor.

In addition, all definitions set forth in General Conditions of the Contract for Construction or other contract documents applicable to this RFP.

Procurement Management

- - UNM has designated a who is responsible for the conduct and management oversight of this procurement and whose name and contact information is listed in the below “Inquires” section.
- Inquiries - Any inquires or requests regarding this proposal and/or procurement are to be submitted in WRITING in the following manner. Inquires about the construction documents should be directed to Andre Nunez whose names and contact information is listed below. Inquires about the procurement process are to be directed to Jenny Ramirez whose name and contact information is listed above. Proposers may contact **ONLY** Andre Nunez, the Sr. Contract’s Specialist regarding this proposal and/or procurement. Other college employees do not have the authority to respond on behalf of UNM.

INSTRUCTIONS TO OFFERORS

1. **OFFER SUBMITTAL.** Offers must be submitted through UNM's Supplier Portal sourcing system. Hand delivered, mailed, or emailed responses will be rejected.
2. **CLARIFICATIONS:** Any clarification of instructions, terms and conditions, insurance, bonds, or quote preparation shall be made only by the Buyer shown on this RFP. All clarification questions should be submitted through the Q&A Board. Clarifications must be in writing and answers posted on the Q&A Board are considered as part of this RFP.
3. **AMENDMENT ACKNOWLEDGEMENT.** By submitted an Offer you acknowledge you have reviewed all Buyer Attachments, Q&A Board posts, and amendments changes and you are familiar with all of the conditions surrounding the described materials, labor and/or services. Offeror hereby agrees to furnish all labor, materials, and supplies necessary to comply with the specifications in accordance with the Terms and Conditions set forth in this RFP and at prices stated within the Offer.
4. **ALTERNATE OFFERS.** Alternate offers will be accepted and considered provided they are "equal to" and meet all specifications of this RFP which may include all specifications of the Brand used to identify the quality of the goods and/or services requested. UNM reserves the right to make the final determination whether or not an alternate offer is equal. It is the Offeror's responsibility to provide, as part of the offer, descriptive literature, specifications and information on all alternate products and services offered. References of current users should be included. If the item(s) or service(s) offered are not clearly identified as alternate item(s) or services, it is understood that the offer is for item(s) and service exactly as specified in this RFP.
5. **AWARD INFORMATION:** Award information will be posted in the reception area of the Purchasing Department and on the [University of New Mexico Supplier Portal](#).
6. **AWARDS – MULTIPLE.** The University reserves the right to make multiple awards to a primary and secondary source or to otherwise split the award of the items, projects and/or sections of this RFP.
7. **CANCELLATION:** The University reserves the right to cancel without penalty, this Invitation, the resultant purchase order or any portion thereof for unsatisfactory performance or unavailability of funds.
8. **CASH DISCOUNTS.** The University will take advantage of cash discounts offered whenever possible; however, cash discounts will not be used as a means to determine the lowest cost.
9. **MODIFICATIONS:** Only modifications received prior to the time specified for the closing will be accepted. No modifications will be accepted following the opening. Technical clarifications of the bid submittal may be requested by the Buyer following the opening.
10. **PERIOD FOR OFFER ACCEPTANCE.** Offeror agrees that any offer made submitted will be good for a period of ninety (90)-calendar days or such additional time set forth in the Scope of Work.
11. **PUBLIC INFORMATION:** All information, except that classified as confidential, will become public information at the time that the Bid is opened. As a state institution, UNM is subject to the NM Inspection of Public Records Act (IPRA) so unless there is an exception under the law, documents in the University's possession are subject to review by any member of the public. Confidential information must be marked "CONFIDENTIAL" in red letters in the upper right hand corner of the sheets containing the confidential information. Price and information concerning the specifications cannot be considered confidential.

12. REJECTION OF OFFERS. The University reserves the right to make an award based on the evaluation criteria contained herein, to reject any and all offers or any part thereof, and to accept the offer that is in the best interest of the University.
13. RIGHT TO WAIVE MINOR IRREGULARITIES. The selection committee reserves the right to waive minor irregularities. The selection committee also reserves the right to waive mandatory requirements provided that all of the otherwise responsive proposals failed to meet the same mandatory requirements and the failure to do so does not otherwise materially affect the procurement. This right is at the sole discretion of the selection committee.
14. TAXES. The University is exempt from Federal Excise Taxes and from New Mexico Gross Receipts Taxes on materials. Services are not exempt. Taxes on services should be included as a separate line item and not included in the base price offer. Applicable taxes are excluded from the RFP evaluation. A non-taxable transaction certificate is available on the UNM Purchasing Department web site: <http://purchase.unm.edu/>.
15. WITHDRAWAL OF OFFERS. Offers may be withdrawn electronically by an Offeror or an authorized representative at any time prior to the submittal due date and time.
16. **RESIDENT BUSINESS, RESIDENT/NATIVE AMERICAN VETERAN RESIDENT PREFERENCE CERTIFICATION.** To receive a resident/native american business preference pursuant to Section 13-1-21 NMSA 1978 or a resident contractor preference pursuant to 13-4-2 NMSA 1978, you must submit with your proposal/bid a copy of a valid resident contractor certificate issued by the New Mexico Taxation and Revenue Department as well as a completed and signed *“Resident Veteran Preference Certification” form.*

General Construction:

The scope of work for the General Construction category may include the evaluation, design, and renovation of existing facilities or the construction of minor new additions to existing facilities. The work may include the remodel of individual classrooms, offices, restrooms for ADA compliance, storage and common areas, administrative offices, Clinical and lab areas, athletic areas, and similar sites or facilities involving one or multiple construction trades. Minor new construction may include additions, such as classrooms, administrative, athletic, storage, land development, etc. that involves and requires multiple construction trades such as demolition, mechanical, plumbing, electrical, carpentry, flooring, painting as well as utilities, masonry, and site work. Respondents are encouraged to respond for all or specific individual trades within the umbrella of the General Construction category. UNM intends on acquiring multiple service providers in the various subcategories under the General Construction category as detailed below:

- General Contractors
- Flooring Contractors
- Painting Contractors
- Demo Contractors
- Sitework
 - Paving, asphalt, earthwork, concrete, curb & gutter, landscape & irrigation

Mechanical, Electrical, and Plumbing (MEP):

The scope of work for the MEP contract may include the inspection and evaluation Inspecting, assessing, of existing plumbing, mechanical, and electrical systems, such as: low voltage, lighting, fire suppression, water supply, HVAC distribution and return, sewer infrastructure, natural and liquid propane gas distribution systems and related equipment. The scope of work may include work on existing systems or the demolition of existing systems and installation of new systems. The work may also include services relating to installing, maintaining and repairing the specified systems as well as conducting preventive maintenance programs to maintain their mechanical, electrical, and plumbing systems in good working order. Respondents are encouraged to respond for all or specific individual trades within the umbrella of the MEP category. UNM intends on acquiring multiple service providers in the various subcategories under the MEP category as detailed below:

- Mechanical Contractors
 - Controls
- Electrical Contractors
 - Low Voltage
 - Fire Alarm
- Plumbing Contractors
- Fire Suppression Contractors

Roofing:

The scope of work for the roofing contract may include the installation and repair a comprehensive line of roofing systems and protective coating supplies to meet facility and climatic conditions that exist within the state of New Mexico. The work may include the repair of existing roof systems or a complete removal of an existing roof and installation of a new roof system. All roof or facility envelope systems must meet all applicable federal, state and local regulatory requirements and NMPSFA's stated minimum roofing standards.

JOC Specific Definition of Terminology

This section contains the definitions and abbreviations that are used throughout this procurement document that are specific to the Job Order Contracting procurement system.

- **Adjustment Factor**: A competitively bid adjustment to be applied to the unit prices listed in the Construction Task Catalog[®].
- **Base Term**: The initial period of the Contract and does not include any Option Terms.
- **Combined Adjustment Factor**: The figure calculated in Part 2 of Appendix L – Price Proposal, which is used for the purposes of determining the lowest price.
- **Construction Task Catalog[®]**: A comprehensive listing of construction related tasks together with a specific unit of measure and a published Unit Price.
- **Detailed Scope of Work**: A document setting forth the work the Contractor is obligated to complete for a particular Job Order.
- **Estimated Annual Value**: An estimate of the value of Job Orders that could be issued to the Contractor each year.
- **Estimated Contract Value**: The estimated value of Job Orders that the Contractor may receive under this Contract.
- **Job Order**: A written order issued by the Owner, such as a Purchase Order, requiring the Contractor to complete the Detailed Scope of Work within the Job Order Completion Time for the Job Order Price. A project may consist of one or more Job Orders.
- **Job Order Completion Time**: The time within which the Contractor must complete the Detailed Scope of Work.
- **Job Order Price**: The amount a Contractor will be paid for completing a Job Order.
- **Joint Scope Meeting**: A site meeting to discuss the work before the Detailed Scope of Work is finalized.
- **Main Campus**: The UNM Albuquerque campus
- **Non Pre-priced Task**: An item of work required by the Detailed Scope of Work but not included in the Construction Task Catalog[®].
- **Northern New Mexico Branch Campus**: Any UNM branch campus North of Interstate 40

- Normal Working Hours: Includes the hours from 7:00 a.m. to 3:30 p.m. Monday through Friday, except for Owner holidays.
- Notice to Proceed: A written notice issued by the Owner directing the Contractor to proceed with construction activities to complete the Job Order.
- Option Term: An additional period of time beyond the Contract Term which extends the termination date of the Contract.
- Other than Normal Working Hours: Includes the hours of 3:31 p.m. to 6:59 a.m. Monday through Friday and all day Saturday, Sunday, and Owner Holidays.
- Pre-priced Task: An item of work included in the Construction Task Catalog[®] for which a Unit Price is given.
- Price Proposal: A price proposal prepared by the Contractor that includes the Pre-priced Tasks, Non Pre-priced Tasks, quantities and appropriate Adjustment Factors required to complete the Detailed Scope of Work.
- Proposal Package: A set of documents including at least: (1) a Price Proposal; (2) a proposed construction schedule; (3) a list of proposed subcontractors indicating dollar amounts; (4) sketches, drawings, or layouts; and (5) technical data or information on proposed materials or equipment.
- Project: The collective improvements to be constructed by the Contractor pursuant to a Job Order, or a series of related Job Orders.
- Request for Price Proposal or RFPP: A written request to the Contractor to prepare a Price Proposal for the Detailed Scope of Work referenced therein.
- Southern New Mexico Branch Campus: Any UNM branch campus South of Interstate 40.
- Supplemental Job Order: A Job Order issued to add or delete Work from an existing, related Job Order.
- Technical Specifications: Contains the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.
- Unit Price: The price published in the Construction Task Catalog[®] for a specific construction or construction related work task. Unit Prices for new Pre-priced Tasks can be established during the course of the Contract and added to the Construction Task Catalogs[®]. Each Unit Price is comprised of labor, equipment, and material costs to accomplish that specific Pre-priced Task.
- Work: All materials, labor and use of tools, equipment and services necessary

by the Contractor and/or Subcontractor to complete the Job Order.

The TERMS “**Construction Cost**” and “**Actual Construction Costs**” and “**Job Order Price**” are to be construed to be one and the same and means the actual dollar amount to be paid by UNM to the General Contractor(s) to construct the structure or facilities designed and described in the Job Orders. Construction costs do not include costs associated with furniture and equipment not specified within the Job Order.

The TERMS “**must, shall, will is required, or are required**” identify a *mandatory* item or factor. Failure to comply *with such* an item or factor *may* result in the rejection of the proposer’s proposal.

The TERMS “**can, may, should, preferably, or prefers**” identify a *desirable* or *discretionary* item or factor.

In addition, all definitions set forth in General Conditions of the Contract for Construction or other contract documents applicable to this RFP.

General Terms and Conditions for University of New Mexico OMNIA Partners Cooperative Job Order Contracting Program

1. Definitions

Addendum or Addenda: The additional or modified provisions of the RFP Documents issued in writing by University of New Mexico (UNM) prior to the receipt of Proposals.

Contract: The written agreement, also identified as the Master Agreement, between the Contractor and UNM identifying the Products & Services which will be made available to current and future Participating Public Agencies; the pricing for those Products & Services; and other Contract Documents incorporated in or referenced in the Contract and made part thereof as if provided therein.

Adjustment Factors: The Contractor's proposed price adjustment to the Unit Prices as published in the Construction Task Catalog. Adjustment Factors are expressed as an increase to or decrease from the published prices.

RFP Documents: All Documents included in the Request for Proposal for University of New Mexico Job Order Contracting Program and University of New Mexico Cooperative Job Order Contracting Program, available through OMNIA Partners.

Construction Task Catalog (CTC): A comprehensive listing of specific construction related Tasks, together with a specific unit of measurement and a Unit Price. Construction Task Catalog is a registered trademark of The Gordian Group, Inc.

Contract Documents: This Contract; the RFP Documents and Addenda thereto); all payment and performance bonds (if any); material and workmanship bonds (if any); wage rate decisions and certified payroll records (if any); Notice of Award; all modifications issued thereto, including Supplemental Purchase Orders/Change Orders and written interpretations and all Purchase Orders and accompanying documents (Requests for Proposals, Detailed Scopes of Work, Proposal Packages, etc.) issued hereunder.

Supplier/Contractor: The legal entity named in the award letter with which UNM has contracted and is responsible for the acceptable performance of the Contract, and for the payment of all legal debts pertaining to the Work. All references in the Contract Documents to third parties under contract or control of Contractor will be deemed to be a reference to Contractor.

Days: Calendar days.

Detailed Scope of Work: A document prepared following a Joint Scope Meeting which describes in detail the Work the Contractor will perform for a particular Purchase Order.

Holidays: The specific days designated by UNM, or the Project Labor Agreement as legal Holidays. UNM designates the following days as Holidays: New Year's Day, Martin Luther King Jr.'s Birthday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and the following day, and Christmas Day.

Joint Scope Meeting: A meeting, normally at the Project Site, to discuss the Work with the Contractor to assist in the development of the Detailed Scope of Work.

Lead Public Agency or Principal Procurement Agency: Means UNM in its capacity as the

government entity to advertise and solicit bids for a competitive procurement process, evaluate bids and award the contract according to state statutes.

Non Pre-priced Task (NPP): A task not included in the Construction Task Catalog but within the general scope and intent of this Contract.

Participating Public Agency: Any entity that has registered with OMNIA Partners and has the option to piggyback off the resulting Master Agreement(s).

Price Proposal: The price proposal prepared by the Contractor using the Construction Task Catalog, Adjustment Factors and appropriate quantities.

Procurement: Means buying, purchasing, renting, leasing or otherwise acquiring any materials, services or construction. Procurement also includes all functions that pertain to the obtaining of any material, service, or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract and all phases of contract administration.

Proposal Package: A group of documents and files consisting of the Price Proposal; incidental drawings, sketches, or specification information; quantity take-offs supporting all material quantities; catalog cuts providing information on materials or products, as specifically requested; list of known Subcontractors, construction schedule, back-up for any Non Pre-Priced Tasks, warranty information on special equipment or materials and or other such documentation as the Participating Public Agency may require.

Project: Collectively, the Work to be accomplished by the Contractor in satisfaction of a requirement or group of related requirements pursuant to one or more Purchase Orders.

Purchase Order. The document establishing the engagement by the Participating Public Agency to the Contractor to complete a Detailed Scope of Work for the Purchase Order Price within the Purchase Order Completion Time.

Request for Proposal: The Participating Public Agency's written request for the Contractor to prepare and submit a Proposal Package for a specific Detailed Scope of Work.

Responsive Respondent: Means a person, company, firm, corporation, partnership or other organization who submits a proposal which conforms in all material respects to the invitation to bid or request for proposals.

Site: The area upon or in which the Contractor performs the Detailed Scope of Work and such other areas adjacent thereto as may be designated by the Participating Public Agency.

Solicitation: Means an invitation to bids, a request for technical offers, a request for proposals, a request for quotations or any other solicitation or request by which we invite a person to participate in a procurement.

Specifications: Means any description of physical or functional characteristics, or of the nature of a material, service or construction of item. Specifications may include a description or any requirement for inspecting, testing or preparing a material, service or construction item for delivery.

State: The State of New Mexico.

Subcontractor: Any person, firm or corporation, other than employees of the Contractor, who or

which contracts with the Contractor or its Subcontractors to furnish, or actually furnishes labor, or labor and materials, or labor and equipment, at the Site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor.

Supplemental Purchase Order: A purchase order issued to add, delete or change Work from an existing, related Purchase Order.

Technical Specifications: The comprehensive listing of the Participating Public Agency's standards for quality of workmanship and materials, and the standard for the required quality of the Work.

Unit Price: The price published in the Construction Task Catalog for a Task.

Work: The labor, material, equipment, and services necessary or convenient to the completion of Purchase Orders.

Purchase Order Completion Time: The period of time set forth in the Purchase Order within which the Contractor must complete the Detailed Scope of Work.

Purchase Order Price: The value of the approved Price Proposal and the lump sum price to be paid to the Contractor for completing the Detailed Scope of Work within the Purchase Order Completion Time.

Vendor: Means any provider or seller of goods and/or services that has a contractual relationship with UNM.

Winning Supplier(s). The contractor(s) who have been awarded a contract as a result of this RFP.

2. Scope of Work

A Job Order Contract is an indefinite quantity contract pursuant to which the Contractor may perform an ongoing series of individual Projects at different Sites throughout the Regions. A Job Order Contract includes a Construction Task Catalog® containing construction tasks with preset Unit Prices. All Unit Prices are based on local labor, material and equipment prices and are for the direct cost of construction.

As Projects are identified the Participating Public Agency (or the Participating Public Agency Designated Representative), with the assistance of Gordian, will identify Projects and develop a draft scope of the work. The Contractor and Gordian will then assist the Participating Public Agency in developing a final scope of work. The Participating Public Agency will then issue a Detailed Scope of Work and a Request for Proposals to the Contractor. The Contractor will then utilize Gordian's JOC System to prepare a Price Proposal for the Purchase Order including a Schedule, list of identified subcontractors, and other requested documentation such as cut sheets for materials. Gordian will assist the Participating Public Agency with Price Proposal review, and if the Price Proposal is found to be reasonable, the Participating Public Agency will issue a Purchase Order to Contractor. The Purchase Order will reference the Detailed Scope of Work and set forth the Purchase Order Completion Time, and the Purchase Order Price. The Contractor will perform the Detailed Scope of Work within the Purchase Order Completion Time for the Purchase Order Price. Extra Work, credits, and deletions will be contained in Supplemental Purchase Orders calculated in the same manner.

If the Job Order Proposal Package is found to be complete and reasonable, a Job Order and

Purchase Order may be issued.

A Job Order will reference the Detailed Scope of Work and set forth the Job Order Completion Time, and the Job Order Price. The Job Order Price shall be a lump sum, fixed price for the completion of the Detailed Scope of Work. One or more Job Orders will be issued for each Project. Extra work, credits, and deletions will be contained in a Supplemental Job Order.

The Contractor shall provide all pricing, management, incidental drawings, shop drawings, samples, documents, Work, materials, supplies, parts (to include system components), transportation, plant, supervision, labor, and equipment needed to complete each Job Order. The Contractor shall also be responsible for Site safety as well as Site preparation and cleanup during and after construction. All costs associated with the above scope of work and the preparation of proposals shall be the responsibility of the Contractor.

The Work shall be conducted by the Contractor in strict accordance with the Contract Documents. The Contractor shall maintain accurate and complete records, files and libraries of documents to demonstrate compliance with Federal, State, and local regulations, codes, applicable laws, and manufacturers' instructions and recommendations which are necessary and related to the Work to be performed.

The Contractor shall prepare and submit required reports, maintain current record drawings, and submit required information. The Contractor shall provide: materials lists to include trade names and brand names, and model materials lists to include trade names, brand names, model number, and ratings (if appropriate) for all materials necessary to complete the Job Order.

All Work shall comply with any applicable standards, including those specified in the Contract Documents. If the Job Order specifies a standard which is different or more stringent, the standard used in the Job Order shall control:

- Job Order Contract Technical Specifications
 - The Technical Specifications are numbered and organized in the Construction Specification Institute's (CSI) master format. All specifications are filed in divisions per CSI guidelines.
 - The intent of these specifications is to furnish concise industry and commercial standards for construction, maintenance or repair of Participating Public Agency facilities.
 - Reference in the Technical Specifications or the Construction Task Catalog® to a specific manufacturer, trade name, or catalog is intended to be descriptive but not restrictive and only to indicate to the prospective Proposer items that will be satisfactory.

3. Procedure for ordering work

Initiation of a job order: As the need exists, UNM (or their designated representative) will, on behalf of a Participating Public Agency, notify the Contractor of a Project and schedule a Joint Scope Meeting.

The Contractor will attend the Joint Scope Meeting to discuss, at a minimum:

- the general scope of the Work,
- alternatives for performing the Work and value engineering,

- access to the Site and protocol for admission,
- hours of operation,
- staging area,
- requirements for professional services, sketches, drawings, and specifications,
- requirements for catalog cuts, technical data, samples and shop drawings,
- project schedule,
- requirement for bonding
- the presence of hazardous materials, and
- date on which the Price Proposal Package is due

Upon completion of the joint scoping process, UNM (or their designated representative), working with the Participating Public Agency and the Contractor, will prepare a Detailed Scope of Work referencing any sketches, drawings, photographs, and specifications required to document accurately the work to be accomplished. UNM (or their designated representative) will issue a Request for Proposal that will require the Contractor to prepare a Proposal Package. The Detailed Scope of Work, unless modified by both the Contractor and UNM (or their designated representative), will be the basis on which the Contractor will develop its Price Proposal and UNM (or their designated representative) and the Participating Public Agency will evaluate the same. The Contractor does not have the right to refuse to perform any Task or any work in connection with a particular Project.

The Participating Public Agency may, at its option, include quantities in the Detailed Scope of Work if it helps to define the Detailed Scope of Work, if the actual quantities required are not known or cannot be determined at the time the Detailed Scope of Work is prepared, if the Contractor and the Participating Public Agency cannot agree on the quantities required, or for any other reason as determined by the Participating Public Agency. In all such cases, UNM (or their designated representative) shall issue a Supplemental Job Order adjusting the quantities appearing in the Detailed Scope of Work to the actual quantities.

Preparation of the Job Order Proposal Package: The Contractor's Job Order Proposal Package shall include, at a minimum:

- Job Order Price Proposal;
- Required drawings or sketches;
- List of anticipated Subcontractors;
- Construction schedule;
- Other Participating Public Agency -requested documents.

The Job Order Price shall be the value of the approved Job Order Price Proposal.

The value of the Job Order Price Proposal shall be calculated by summing the total of the calculations for each Pre-priced Tasks (unit price x quantity x Adjustment Factor) plus the value of all Non Pre-priced Tasks.

Preparation of the Job Order Price Proposal: The Contractor will prepare Job Order Price Proposals in accordance with the following:

- **Pre-priced Tasks:** A Pre-priced Task is a Task described and for which a Unit Price is set forth in the Construction Task Catalog®. The Contractor will select the appropriate Pre-priced Tasks, and enter the accurate quantity, and the appropriate Adjustment Factor.
 - **Non Pre-priced Tasks:** A Non Pre-priced Task is a Task which is not in the Construction Task Catalog®.
 - Information submitted in support of Non Pre-priced Tasks shall include, but not be limited to, the following:
 - Catalog cuts, specifications, technical data, drawings, or other information as required to evaluate the task.
 - If the Contractor will perform the work with its own forces, it shall submit three independent quotes for all material to be installed and shall, to the extent possible, use Pre-priced Tasks for labor and equipment from the Construction Task Catalog®. If the work is to be subcontracted, the Contractor must submit three independent quotes from subcontractors. The Contractor shall not submit a quote or bid from any supplier or subcontractor that the Contractor is not prepared to use. The Participating Public Agency may require additional quotes and bids if the suppliers or subcontractors are not acceptable or if the prices are not reasonable.
 - The final price submitted for Non Pre-priced Tasks shall be according to the following formula:

For Work Performed with the Contractor's Own Forces:

 - A. The hourly rate for each trade classification not in the Construction Task Catalog® multiplied by the quantity;
 - B. The rate for each piece of Equipment not in the Construction Task Catalog® multiplied by the quantity;
 - C. Lowest of three independent quotes for all materials
 - Total for a Non Pre-priced Task performed with Contractor's Own Forces = $(A+B+C) \times \text{Non Pre-Priced Task Adjustment Factor}$

For Work Performed by Sub-contractors:

 - D = Lowest of three Subcontractor quotes
 - Total for a Non Pre-priced Task performed by Subcontractors = $D \times \text{Non Pre-Priced Task Adjustment Factor}$
 - After a Non Pre-priced Task has been approved by UNM (or their designated representative), the Unit Price for such task will be established, and fixed as a permanent Non Pre-priced Task which will no longer require price justification.
 - UNM (or their designated representative) determination as to whether a task is a Pre-priced Task or a Non Pre-priced Task shall be final, binding and conclusive as to the Contractor.
- If the Contractor is required to pay an application fee for filing a project, a fee to obtain a building permit, or any other permit fee to the City, State or some other governmental or regulatory agency, then the amount of such fee paid by the Contractor for which a receipt is obtained shall be treated as a Reimbursable Task to be paid as required the Contractor shall

provide incidental engineering and architectural services required in connection with a particular Job Order including drawings and information required for filing.

The Contractor's Job Order Proposal Package shall be submitted by the date indicated on the Job Order Request for Proposal. All incomplete Job Order Proposal Packages shall be rejected. The time allowed for preparation of the Contractor's Job Order Proposal Package will depend on the complexity and urgency of the Job Order but should average between seven and fourteen days. On complex Job Orders, such as Job Orders requiring incidental engineering/architectural drawings and approvals and permits, allowance will be made to provide adequate time for preparation and submittal of the necessary documents.

In emergency situations and minor maintenance and repair Job Orders requiring immediate completion, the Job Order Proposal Package may be required quickly and the due date will be so indicated on the Job Order Request for Proposal or, as described below, the Contractor may be directed to begin work immediately with the paperwork to follow.

If the Contractor requires clarifications or additional information regarding the Detailed Scope of Work in order to prepare the Job Order Proposal Package, the request must be submitted so that the submittal of the Job Order Proposal Package is not delayed.

Review of the Job Order Proposal Package.

- UNM, (or their designated representative) will evaluate the entire Job Order Proposal Package and compare it with the Detailed Scope of Work to determine the reasonableness of approach, as well as the appropriateness of the tasks and quantities proposed.
 - The means and methods of construction shall be such as the Contractor may choose; subject however, to UNM (or their designated representative) right to reject means and methods proposed by the Contractor that:
 - Will constitute or create a hazard to the Work, or to persons or property; or
 - Will not produce finished Work in accordance with the terms of the Contract; or
 - Unnecessarily increases the price of the Job Order when alternative means and methods are available.
 - By submitting a Job Order Proposal Package, the Contractor agrees to accomplish the Detailed Scope of Work in accordance with the Job Order Request for Proposal at the lump sum price submitted. It is the Contractor's responsibility to include the necessary Pre-priced Tasks and Non Pre-priced Tasks and quantities in the Job Order Price Proposal prior to delivering it to UNM (or their designated representative).

Delivery of the Job Order to the Participating Public Agency .

- UNM (or their designated representative) reaches an agreement with the Contractor on the Job Order Proposal Package and any requested revision thereto, if applicable, the UNM (or their designated representative) will deliver the Job Order for the Participating Public Agency 's consideration.
- Each Job Order shall reference the Detailed Scope of Work and set forth the Job Order Price and the Job Order Completion Time. All clauses of this Job Order Contract shall be applicable to each Job Order. The Purchase Order, issued by the Participating Public Agency and

delivered to the Contractor constitutes the Participating Public Agency 's acceptance of the Job Order.

- Once the Job Order has been submitted to the Participating Public Agency the Contractor is bound by its content.

Review of the Job Order by the Participating Public Agency and Issuance of Purchase Order.

- The Participating Public Agency will evaluate the entire Job Order and compare it with the Participating Public Agency 's estimate of the Detailed Scope of Work to determine the reasonableness of approach, price, and other factors.
- The Participating Public Agency reserve the right to reject a Job Order or cancel a Project for any reason. The Participating Public Agency also reserves the right not to issue a Purchase Order if it is determined to be in the best interests of the Participating Public Agency. The Participating Public Agency may perform such work by other means. The Contractor shall not recover any costs arising out of or related to the development of the Job Order including but not limited to the costs to attend the Joint Scope Meeting, review the Detailed Scope of Work, prepare a Job Order Proposal Package (including incidental architectural and engineering services), Subcontractor costs, and the costs to review the Job Order Proposal Package with UNM (or their designated representative) and the Participating Public Agency .
- The Participating Public Agency may request changes to or clarifications of any part of the Job Order. The Contractor and UNM (or their designated representative) will work together to make any requested revisions in a timely manner and resubmit a revised Job Order.
- Upon approval by the Participating Public Agency, the Participating Public Agency may issue a Notice to Proceed, a Purchase Order, Notice of Award, or similar document accepting the Contractor's offer.
- If performance and payment bonding is required, or if a separate and /or special insurance certificate is required. The Contractor will deliver such requirements to the Participating Public Agency within ten (10) days of notification of the requirement.

In the event that immediate emergency response is necessary, the Contractor shall be required to follow alternative procedures as established by the Participating Public Agency. The Contractor shall begin the Work for a Job Order as directed by the Participating Public Agency notwithstanding the absence of a fully developed Job Order Request for Proposal, Detailed Scope of Work, Job Order Proposal Package or Job Order. The Contractor shall be compensated for such Work as if the Work had been ordered under the standard procedures.

4. Term of Contract and Purchase Orders Issued

The term of the Contract will be three (3) years following the contract award date. The Contractor shall have the right to enter local "service" agreements with Participating Public Agencies accessing the contract through OMNIA Partners, so long as the effective date of such agreement is prior to the expiration of the Master Agreement. All local agreements may have a full potential term not to exceed three years. A Job Order may be issued by a Participating Public Agency at any time during the term of this Master Agreement even though the Work and the payments made for such Work may occur after the term ends. All the provisions of this Contract Agreement are incorporated into each Job Order issued hereunder.

5. Economic Price Adjustment

The Construction Task Catalog issued with this Solicitation will be in effect for the entire duration of this contract. The Adjustment Factors may be updated on each anniversary of the award date to account for changes in construction costs. If UNM fails to issue the Economic Price Adjustment by the anniversary date, it is the Contractor's responsibility to request the Economic Price Adjustment.

The Contractor's Adjustment Factors will be adjusted according to the following:

- a. A Base Year Index shall be calculated by averaging the 12-month Construction Cost Indices (CCI) for the average of the twenty cities published in the Engineering News Record (ENR) for the 12 months immediately prior to the month of the Solicitation (e.g. April Solicitation, Base Year Index is April of the prior year to March of the Solicitation year).
- b. A Current Year Index shall be calculated by averaging the 12-month Construction Cost Indices (CCI) for the average of the twenty cities published in the Engineering News Record (ENR) for the 12 months beginning with the month of anniversary of the Solicitation (e.g. April Solicitation, Current Year Index is April of the prior year to March of the current year).
- c. The Economic Price Adjustment shall be calculated by dividing the Current Year Index by the Base Year Index.
- d. The Contractor's original Adjustment Factors shall be multiplied by the Economic Price Adjustment to obtain the Contractor's new Adjustment Factors effective for the next 12 months.
- e. Averages shall be obtained by summing the 12-month indices and dividing by 12.
- f. All calculations in this article shall be carried to the fifth decimal place and rounded to the fourth decimal place. The following rules shall be used for rounding:
 - The fourth decimal place shall be rounded up when the fifth decimal place is five (5) or greater.
 - The fourth decimal place shall remain unchanged when the fifth decimal place is less than five (5).
- g. ENR occasionally revises indices. ENR used in the calculations described above shall be those currently published at the time the Economic Price Adjustment calculation is performed. No retroactive adjustments will be made as a result of an ENR revision. Revised CCI indices, if any, shall be used in subsequent calculations.
- h. Under all circumstances, should the Contractor submit a Proposal Package with inaccurate Adjustment Factors, the act of submission by the Contractor is a waiver of all rights to any further compensation above the Purchase Order Price submitted in the Proposal Package. The Contractor cannot delay submission of the Proposal Package past the due date to take advantage of a scheduled update of the Adjustment Factors. In that event, the Contractor shall use the Adjustment Factors that would have been in effect without the delay.

6. Regions

Contractor will primarily work in the Bid Region designated. However, if both parties agree, the Contractor may work in another Bid Region at the Adjustment Factors proposed or as adjusted according to Article 5 above. If a Contractor holds multiple contracts, when performing work outside the Bid regions it will always use the contract that results in the lowest price for the Participating Public Agency .

Contractor shall extend all Contract terms and conditions to any new Participating Public Agency in the Bid Region designated, as well as any other Bid Region, throughout the Contract term.

7. Assignment of Work

The assignment of the Work is at the sole discretion of the Participating Public Agency. The Contractor's Adjustment Factors, performance history, and ability to perform the Work will be considered in determining the distribution of the Work.

Participating Public Agencies may request the use of BidSafe to Select a Contractor. BidSafe is a propriety software product of Gordian that offers a secure, online construction procurement process. The use of BidSafe will be subject to Gordian's BidSafe Requirements.

8. Changes

Changes to the Contract Agreement may be accomplished after execution of the Contract Agreement and without invalidating the Contract, by Change Order.

Changes to a Job Order: The Participating Public Agency reserves the right to make, in writing, at any time during the Work, changes in the Detailed Scope of Work as are necessary to satisfactorily complete the Project, and to delete in whole or in part, or to add to, the Detailed Scope of Work. The Participating Public Agency, without invalidating the Job Order, may order changes in the Work by issuing a Supplemental Job Order. Changes, deletions, or additions will not invalidate the Job Order nor release the surety, if any, and the Contractor agrees to perform the Work as altered.

Credits for Pre-priced and Non Pre-priced Tasks shall be calculated at the pre-set Unit Prices and multiplied by the appropriate Adjustment Factors and multiplied by the appropriate quantities. The result is that a credit for Tasks that have been deleted from the Detailed Scope of Work will be given at 100% of the value at which they were included in the original Job Order Price Proposal.

9. Payment and Performance Bonds and Material and Workmanship Bonds

If required by the Participating Public Agency for a particular Job Order, the Contractor shall deliver a Payment Bond and a Performance Bond equal to the Job Order Price of such Job Order. The bonds must be in a form, and executed by a surety, acceptable to the Participating Public Agency. The bonds must be received before the Notice to Proceed will be issued. Contractors should include the potential costs of payment and performance bonds in their responding adjustment factor.

10. Prevailing Wage and Participating Public Agency Participation Requirements

If required on a Job Order, the Contractor shall pay prevailing wages to all workers in accordance with applicable laws. The wage rates used for the Construction Task Catalog® were the prevailing wage rates, if any; in effect at the time the RFP Documents were issued. In the performance of the work, however, contractor shall be fully responsible for paying the generally prevailing hourly rate of

wages in effect, as determined by the State Department of Labor, at the time the Work is performed. If the State Department of Labor revises the prevailing rate of hourly wages to be paid for the Work prior to completion of the Project, the revised rate shall apply from the effective date of such revision, however such revision shall not entitle Contractor to any increased compensation.

If other wage rates are required by law, the Contractor shall pay such wages to all workers in accordance with the applicable laws. If the Job Order is performed in whole or in part using federal funding and Davis-Bacon Wages for that area/region apply, the Contractor shall pay Davis-Bacon Wages to all workers in accordance with applicable laws. If Davis-Bacon Wages are required on a Job Order, the requirement shall not entitle Contractor to any increased compensation.

Contractors shall meet any participation goals or requirements established by the Participating Public Agency ordering the Work, and/or satisfy the intent of said goals or requirements, with regard to Small, Local, Minority, Women, Veteran or Disadvantaged Business Enterprises. Additional participation goals may be incorporated into the Job Order Request for Proposal or Detailed Scope of Work.

11. Personnel

The Contractor will employ competent personnel for the development of the Project's Detailed Scope of Work, the preparation of the Price Proposal and the execution of the Work. During the performance of the Work, the superintendent assigned to the Project will represent the Contractor, and communications given to the superintendent will be as binding as if given to the Contractor. Important communications must be confirmed in writing. Other communications will be similarly confirmed on written request in each case.

12. Supervision

The Contractor shall supervise and direct the performance of the Detailed Scope of Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work. If the Detailed Scope of Work gives specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall evaluate the Site safety thereof and, except as stated below, shall be fully and solely responsible for the jobsite safety of such means, methods, techniques, sequences or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely written notice to the Participating Public Agency and shall not proceed with that portion of the Work without further written instructions from the Participating Public Agency.

The Contractor shall be responsible to the Participating Public Agency for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the work for or on behalf of the Contractor or any of its Subcontractors.

The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

13. Participating Public Agency 's Access to the Work

The Contractor shall provide the Participating Public Agency access to the Work at all times.

14. Participating Public Agency 's Right to Stop Work

The Participating Public Agency may order the Contractor to stop the Work on any Job Order, or any portion thereof, at any time for any reason.

15. Participating Public Agency 's Right to Complete Work

If the Contractor has been ordered to stop the Work, the Participating Public Agency may, without prejudice to other remedies, have the Work completed by any available means.

16. Review of Field Conditions

Before submitting a Job Order Proposal Package, the Contractor shall carefully study the Detailed Scope of Work, as well as the information furnished by the Participating Public Agency, shall take field measurements of any existing conditions related to the Work and shall observe any conditions at the Site affecting it. Any errors, inconsistencies or omissions discovered by the Contractor shall be reported promptly to the Participating Public Agency.

Any design errors or omissions noted by the Contractor during this review shall be reported promptly to the Participating Public Agency, but it is recognized that the Contractor's review is made in the Contractor's capacity as a Contractor and not as a licensed design professional. The Contractor is not required to ascertain that the Detailed Scope of Work is in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations. However, any nonconformity discovered by or made known to the Contractor shall be reported promptly to the Participating Public Agency.

17. Workmanship and Quality

The Contractor may make substitutions only with the consent of the Participating Public Agency.

The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not skilled in the portions of the Work assigned to them.

18. Permits and Filings

Contractor shall make the necessary arrangements for and obtain all filings and permits required for the Work, including the preparation of all drawings, sketches, calculations and other documents and information that may be required. If the Contractor is required to pay an application fee for filing a Project, a fee to obtain a building permit, or any other permit fee to the City, State or some other governmental or regulatory agency, then the amount of such fee paid by the Contractor for which a receipt is obtained shall be reimbursable. The Contractor shall be compensated for the cost of the filings and permits through the Reimbursable Fee work task in the Construction Task Catalog®. The Contractor shall apply a 1.0811 Adjustment Factor to the Reimbursable Fee task in the Construction Task Catalog® rather than applying one of the Contractor's proposed Adjustment Factors. Contractor shall submit written documentation of such fees.

The Contractor shall comply with and give notices required by laws, ordinances, rules, regulations and lawful orders of public authorities applicable to performance of the Work.

It is not the Contractor's responsibility to ascertain that the Detailed Scope of Work is in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations. However, if the Contractor observes that any portion of the Detailed Scope of Work is at variance therewith, the Contractor shall promptly notify the Participating Public Agency in writing.

19. Architectural and Engineering Services

Under this Contract it is expected that the level of Architecture and Engineering (A/E) services and design, if any, will be incidental to the Contract and therefore any cost associated with this is to be included in the Contractor's Adjustment Factors. If the level of A/E services for a Purchase Order requires that the Contractor provide stamped drawings and plans, the Contractor will be reimbursed according to the appropriate Task in the CTC. The Contractor will be required, as on any construction project, to provide shop drawings, as-built drawings, project layout drawings and sketches as required.

The preparation of incidental drawings/plans, specifications, shop drawings, product data and samples, as-builts and all other documentation required herein by the Contractor as required by individual Purchase Orders is part of the Scope of Work of this Contract and the cost there of will be included in the Contractor's Adjustment Factors.

20. Shop Drawings, Product Data and Samples

Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. The purpose of their submittal is to demonstrate for those portions of the Detailed Scope of Work for which submittals are required by the Contract Documents the way by which the Contractor proposes to conform to the information given and the design concept expressed in the Detailed Scope of Work. Submittals which are not required by the Contract Documents may be returned by the Participating Public Agency without action.

The Contractor shall review for compliance with the Contract Documents, approve and submit to the Participating Public Agency Shop Drawings, Product Data, Samples and similar submittals required with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Participating Public Agency or of separate contractors. Submittals which are not marked as reviewed for compliance with the Contract Documents and approved by the Contractor may be returned by the Participating Public Agency without action.

By approving and submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor represents that the Contractor has determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and has checked and coordinated the information contained within such submittals with the requirements of the Detailed Scope of Work and of the Contract Documents.

The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittal has been approved by the Participating Public Agency.

The Work shall be performed in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Participating Public Agency's approval of Shop Drawings, Product Data, Samples or similar

submittals unless the Contractor has specifically informed the Participating Public Agency in writing of such deviation at the time of submittal and (1) the Participating Public Agency has given written approval to the specific deviation as a minor change in the Work, or (2) a Supplemental Job Order or written notice has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples or similar submittals by the Participating Public Agency's approval thereof.

The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples or similar submittals, to revisions other than those requested by the Participating Public Agency on previous submittals. In the absence of such written notice the Participating Public Agency's approval of a resubmission shall not apply to such revisions.

All costs for normal submittal information (shop drawings, cut sheets, performance information, installation or erection drawings, etc.) are to be considered included in the CTC line item costs. Any adjustment desired is to be incorporated into the contractor's Adjustment Factors.

The Contractor shall not be required to provide professional services which constitute the practice of architecture or engineering unless such services are specifically required by the Detailed Scope of Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. The Contractor shall not be required to provide professional services in violation of applicable law. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the Contractor by the Detailed Scope of Work, the Participating Public Agency will specify all performance and design criteria that such services must satisfy. The Contractor shall cause such services or certifications to be provided by a properly licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Project Participating Public Agency Manager. The Participating Public Agency shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals, provided the Participating Public Agency has specified to the Contractor all performance and design criteria that such services must satisfy. The Participating Public Agency will review, approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Detailed Scope of Work. The Contractor shall not be responsible for the adequacy of the performance or design criteria required by the Detailed Scope of Work.

21. Cutting and Patching

The Contractor shall be responsible for cutting, fitting or patching required to complete the Detailed Scope of Work or to make its parts fit together properly.

The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Participating Public Agency or separate contractors by cutting, patching or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter such construction by the Participating Public Agency or a separate contractor except with

written consent of the Participating Public Agency and of such separate contractor; such consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold from the Participating Public Agency or a separate contractor the Contractor's consent to cutting or otherwise altering the Work.

22. Installation

Equipment and/or product installation shall be performed in a reasonable amount of time and be scheduled directly with the public agency. Installation shall be in accordance with the manufacturer's instructions and shall be accomplished by a skilled, certified and properly licensed individual.

23. Punch List Completion

The Contractor understands and agrees that time is of the essence in closing out the Work of this Contract. Upon Substantial Completion of the Work, the Punch List will be transmitted to the Contractor from the Participating Public Agency. The Contractor agrees to begin performance of Punch List Work immediately after receipt of the Punch List.

Failure of the Contractor or its Subcontractors to begin the Punch List Work within three (3) business days after receipt of the Punch List will be construed as failure to prosecute the Work of the Contract.

Punch List Work will be continuously prosecuted once begun and completed within thirty (30) Days from the receipt of the Punch List. Should the Contractor fail to complete the Punch List within this period of time, the liquidated damages from the Contract General Conditions will apply.

24. Cleaning Up

The Contractor shall keep the Site and surrounding areas free from accumulation of waste materials or rubbish caused by operations under the Job Order. At completion of the Work, the Contractor shall remove from and about the Site all waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus materials.

If the Contractor fails to clean up, the Participating Public Agency may do so and the cost thereof shall be charged to the Contractor.

25. Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold UNM and the Participating Public Agency harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Contract Documents or where the copyright violations are contained in Drawings, Specifications or other documents prepared by the Participating Public Agency. However, if the Contractor has reason to believe that the required design, process or product is an infringement of a copyright or a patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the Participating Public Agency.

26. Indemnification

To the fullest extent permitted by law and to the extent claims, damages, losses or expenses are not covered by insurance purchased by the Contractor, the Contractor shall indemnify and hold harmless the UNM, the Participating Public Agency, consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Paragraph.

In claims against any person or entity indemnified under this Paragraph by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

27. Subcontractors

The Contractor, as soon as practicable after award of the Job Order, shall furnish in writing to the Participating Public Agency the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each portion of the Work. The Participating Public Agency will promptly reply to the Contractor in writing stating whether or not, after due investigation, Contractor has reasonable objection to any such proposed person or entity. Failure of the Participating Public Agency to reply promptly shall constitute notice of no reasonable objection.

The Contractor shall not contract with a proposed Subcontractor or entity to whom the Participating Public Agency has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

If the Participating Public Agency has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Participating Public Agency has no reasonable objection.

28. Coordination with Other Contractors

The Participating Public Agency reserves the right to perform construction or operations related to the Job Order with the Participating Public Agency's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the Site.

The Participating Public Agency shall provide for coordination of the activities of the Participating Public Agency's own forces and of each separate contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with other separate contractors and the Participating Public Agency in reviewing their construction schedules when directed to do so. The

Contractor shall make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, separate contractors and the Participating Public Agency until subsequently revised.

29. Request for Extension of Time

If the Contractor is delayed at any time in the commencement or progress of the Detailed Scope of Work by an act or neglect of the Participating Public Agency , or of an employee of either, or of a separate contractor employed by the Participating Public Agency , or by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Contractor's control, or by other causes which the Participating Public Agency determines may justify delay, then the Job Order Completion Time shall be extended for such reasonable time as the Participating Public Agency may determine.

The Contractor agrees to make no claim for damages for the delay in the performance of any Job Order occasioned by any act or omission to act of the Participating Public Agency or any of their representatives and agrees that any such claim shall be fully compensated for by an extension of time as provided herein.

30. Buyer Delays

The contractor will negotiate with the Participating Public Agency for the recovery of damages related to expenses incurred by the contractor for a delay for which the public agency is responsible, which is unreasonable, and which was not within the contemplation of the parties to the contract between the two parties. Compensation for received goods, terms of progress payments, and a schedule of payments should be described in the contract.

31 Construction Contract Requirement

Terms for acceptance by the public agency and title to work must be clearly agreed upon and described in the contract between the contractor and the Participating Public Agency. If any part of the construction requires the owner to assume control before the completion, this needs to be defined. Both parties must agree on the definition of what constitutes final acceptance before payment of any retained compensation. Upon completion of the project, the worksite shall be left in good condition and equal to the condition of the site prior to commencing the project.

If any work is to be performed by the Participating Public Agency, it must be clearly defined and agreed to by the Participating Public Agency and the prime contractor prior to the start of the project.

32. Construction Schedule

The Participating Public Agency retains the right to extend the schedule of work or to suspend the work and direct the prime contractor to resume work when appropriate. The agreement must describe an equitable adjustment for added costs caused by any delay or suspension. Any increases will be invoiced as allowed in this agreement.

The schedule for performance of work that can be met without planned overtime is the responsibility of the prime contractor.

The cost for each project shall include all costs of all necessary trained personnel to complete the project on or before the completion date set forth in the contract. The Participating Public Agency shall not incur additional expense for upsized crews or overtime costs, which might be necessary for the contractor to complete the project on schedule.

33. Coordination

The contractor and the Participating Public Agency shall coordinate activities so as to avoid conflicts. The contractor will make every effort not to interrupt scheduled activities with work under this contract. The contractor will notify the public agency of any construction work that may negatively impact scheduled public agency activities.

The contractor shall employ such methods or means as will not cause any interruption of, or interference with work of any other contractor on the project site.

34. Condition and Delivery of Construction Material

The contractor will deliver materials to the worksite in new, dry, unopened, and well- marked containers showing product and prime contractor's name clearly marked. Delivery of damaged or unlabeled materials will not be accepted.

The contractor will deliver materials in sufficient quantity to allow for continuity of work. Delivery will be coordinated with the public agency's designated contact person.

The contractor shall take all necessary precautions to protect materials from damage, theft and misuse. The public agency shall have no responsibility for such precautions or lack of protection.

Damaged or rejected materials shall be immediately removed from the project area.

35. Partial Occupancy or Use

The Participating Public Agency may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Work. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Participating Public Agency and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Participating Public Agency. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Participating Public Agency and Contractor.

Immediately prior to such partial occupancy or use, the Participating Public Agency and Contractor shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

36. Identification and Security Requirements

The Contractor shall comply with all identification and security requirements that the Participating Public Agency may establish.

37. Protection of Persons and Property

The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to:

- employees on the Work and other persons who may be affected thereby;
- the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's Subcontractors or Sub-subcontractors; and
- other property at the Site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.

The Contractor shall erect and maintain, as required by existing conditions and performance of the Detailed Scope of Work, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying Participating Public Agency and users of adjacent sites and utilities.

When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible, except damage or loss attributable to acts or omissions of the Participating Public Agency or anyone directly or indirectly employed by it, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's other obligations included herein.

The Contractor shall designate a responsible member of the Contractor's organization at the Site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Participating Public Agency.

The Contractor shall not permit any part of the construction or Site to be loaded so as to endanger safety.

38. Tests and Inspections

Tests, inspections, and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations, or orders of public authorities having jurisdiction shall be made at an appropriate time. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Participating Public Agency, or with the appropriate public authority. The Contractor shall give the Participating Public Agency timely notice of when and where tests and inspections are to be made so that the Participating Public Agency may be present for such procedures.

If the Participating Public Agency or public authorities having jurisdiction determine that portions of the Work require, through no fault of the Contractor, additional testing, inspection or approval, the Participating Public Agency will instruct the Contractor to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Participating Public Agency, and the Contractor shall give timely notice to the Participating Public Agency of when and where tests and inspections are to be made so that the Participating Public Agency may be present for such procedures. Such costs shall be at the Participating Public Agency's expense.

If such procedures for testing, inspection or approval reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure including those of repeated procedures shall be at the Contractor's expense.

Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Participating Public Agency.

If the Participating Public Agency is to observe tests, inspections or approvals required by the Contract Documents, the Participating Public Agency will do so promptly and, where practicable, at the normal place of testing.

Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

39. Hazardous Materials

If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to lead based paint, asbestos or polychlorinated biphenyl (PCB), encountered on the Site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop the Work in the affected area and report the condition to the Participating Public Agency in writing.

The Participating Public Agency shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to verify that it has been rendered harmless. Unless otherwise required by the Contract Documents, the Participating Public Agency shall furnish in writing to the Contractor the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the Task of removal or safe containment of such material or substance. The Contractor will promptly reply to the Participating Public Agency in writing stating whether or not it has reasonable objection

to the persons or entities proposed by the Participating Public Agency. If the Contractor has an objection to a person or entity proposed by the Participating Public Agency, the Participating Public Agency shall propose another to whom the Contractor has no reasonable objection. When the material or substance has been rendered harmless, the Work in the affected area shall resume upon written agreement of the Participating Public Agency and Contractor. The Job Order Completion Time shall be extended appropriately.

To the fullest extent permitted by law, the Participating Public Agency shall indemnify and hold harmless the Contractor, and its agents and employees from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described herein and has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) and provided that such damage, loss or expense is not due to the sole negligence of a party seeking indemnity.

The Participating Public Agency shall not be responsible for materials and substances brought to the Site by the Contractor unless such materials or substances were required by the Detailed Scope of Work.

If, without negligence on the part of the Contractor, the Contractor is held liable for the cost of remediation of a hazardous material or substance solely by reason of performing the Work as required by the Contract Documents, the Participating Public Agency shall indemnify the Contractor for all cost and expense thereby incurred.

40. Insurance Requirements

At its own expense, the Contractor must maintain insurance policy(ies) in effect at all times during the performance of this Contract with insurance company(ies) licensed or authorized to do business in the State where the Project is located. Participating Entities must follow their own laws and practices regarding insurance requirements; and may require additional coverage or limits.

Failure of the Contractor to maintain the required insurance will constitute a material breach and immediate termination of this Contract for default, or the Participating Entity cancel the Purchase Order for default.

If at any time any of the required insurance policies should be cancelled, terminated, or modified so that insurance is not in effect as required, then, if the Participating Agency will so direct, the Contractor will suspend performance of the work. If the work is suspended, no extension of time to complete the work will be due. If the work is not suspended, then the Participating Agency may, at its option, obtain insurance affording coverage equal to that required, the cost of such insurance to be payable by the Contractor.

41. COMPENSATION INSURANCE:

The Contractor shall procure and shall maintain during the life of this contract Worker's Compensation insurance as required by applicable State law for all Contractor's employees to be engaged at the site of the project under this project and in case of any such work sublet, the Contractor shall require the subcontractor or sub subcontractor similarly to provide Worker's Compensation Insurance for all the

subcontractor's or sub subcontractor's Workers which are covered under the Contractor's Worker's Compensation insurance. In case any class of employee engaged in work on the project under this contract is not protected under a Worker's Compensation Statute, the Contractor shall provide and shall cause each subcontractor or sub subcontractor to provide Employer's Insurance in an amount of not less than **\$500,000**.

42. CONTRACTOR'S PUBLIC LIABILITY INSURANCE:

The contractor shall maintain general liability insurance OR professional liability insurance coverage. The insurance must remain in force for the life of the contract including all contract extensions and renewals.

Bodily Injury:	\$1,000,000 Each Occurrence	\$2,000,000 Aggregate
Property Damage:	\$1,000,000 Each Occurrence	\$2,000,000 Aggregate

43. BUILDERS RISK INSURANCE

The Contractor shall procure and shall maintain during the life of this contract Builder's Risk insurance as required by applicable State law. The minimum limits shall be for the total amount of the project.

44. CONTRACTOR'S VEHICLE LIABILITY INSURANCE:

The Contractor shall procure and shall maintain during the life of this contract Vehicle Liability Insurance coverage. The insurance must remain in force for the life of the contract including all contract extensions and renewals.

Bodily Injury:	\$1,000,000 Each Occurrence	\$2,000,000 Aggregate
Property Damage:	\$1,000,000 Each Occurrence	\$2,000,000 Aggregate

45. SUBCONTRACTOR'S AND SUB SUBCONTRACTOR'S PUBLIC AND VEHICLE LIABILITY INSURANCE:

The Contractor shall either:

1. Require each subcontractor or sub subcontractor to procure and maintain during the life of the subcontract or sub subcontract public Liability Insurance of the types and amounts specified above (OR)
2. Insure the activities of the subcontractors of sub subcontractors in the Contractor's Policy as required under this Article.

46. GENERAL:

All insurance policies are to be issued by companies authorized to do business under the laws of the state in which work is to be done and acceptable to owner. The Contractor shall not violate, permit to be violated, any conditions of any said policies, and shall at all times satisfy the requirements for the insurance companies writing said policies

47. All Builders Risk Insurance

Where specifically required in the Detailed Scope of Work, the Contractor will provide, before the Purchase Order is issued, Builders' Risk Insurance in an amount at least equal to the Purchase Order

Price in a form and by a carrier acceptable to Participating Public Agency . The cost of such Builders Risk Policy will be reimbursed to the Contractor as a reimbursable task.

48. Pollution Liability Insurance

If a Project involves asbestos abatement encapsulation or other activities involving hazardous materials, the Contractor, Subcontractor or other party responsible for such Work will procure and maintain a liability insurance policy issued to and covering the liability, of the Contractor, Subcontractor or other party engaged in the removal, or handling of hazardous materials, for bodily injury, illness, sickness or property damage caused by exposure in an amount not less than \$2,000,000 per occurrence and \$2,000,000 aggregate. The cost of Pollution Liability Insurance is included in the Unit Prices and will not be reimbursed separately.

49. Licenses

The Contractor must maintain valid and current federal, state, and local licenses, bonds, and permits required for the operation of the business that the Contractor conducts with UNM and Participating Public Agencies.

50. Labor Practices

The contractor must agree to treat its labor in keeping with the labor contract agreement and to the best interest of the Participating Public Agency. Any overtime practices or retroactive agreements with labor unions that would be to the detriment of the Participating Public Agency must be limited to only those approved by the Participating Public Agency .

The method and manner of performance must be stated: employees of the contractor are not employees of the Participating Public Agency. The level of competency of the personnel will be subject to approval by the Participating Public Agency. The contractor must agree to comply with all local, state and federal laws. The contractor must make every effort to ensure that adjoining property owners are in no way disturbed by noise, pollutants, material hauling operations. The contractor must establish procedures to deal with fire, theft, and storm damage. The contractor must test and establish effective methods to guarantee safety on the job site relating to the health and welfare of the Participating Public Agency 's employees.

Participating Public Agency 's shall have the right to require the contractor to remove from the project, any employee or representative, subcontractor or supplier that may be deemed incompetent, careless or unacceptable.

To ensure quality of workmanship, all work performed under this contract shall be performed by experienced, trained, certified and/or licensed craftsmen and laborers, and shall be under the supervision of the foremen or supervisor.

The contractor shall furnish the services of an experienced foreman or supervisor who will continually oversee work on the project. The foreman or supervisor shall provide continuous supervision, coordination and inspection of the work being performed under this contract.

51. Liquidated Damages

If provided for in the RFP, the Participating Public Agency may assess liquidated damages for each day after the Purchase Order Completion Time that the Detailed Scope of Work is not complete. It is

understood and agreed by and between Contractor, and the Participating Public Agency, that time is of the essence in all matters relating to Liquidated Damages. The liquidated damages will be determined on a Purchase Order by Purchase Order basis.

52. Project Completion

Upon completion of the work, the contractor shall present the Participating Public Agency with all documents necessary to close out the project. Maintenance manuals, drawings, warranties on installed equipment, etc. shall be given to the Participating Public Agency.

If the Participating Public Agency discovers an unfinished job that should have been completed, even if final payments are made, the contractor will complete the work in a timely fashion at no additional cost.

53. Public Works

The contractor shall be responsible for the preservation of all public and private property included on or adjacent to the worksite. The requirement shall apply to the surface and hidden features of the property.

Construction work on public buildings shall be in compliance with all currently applicable state and local building, plumbing, electrical, fire, fire prevention and mechanical codes.

54. Restoration

The contractor shall agree to repair, rebuild or otherwise restore any property on or adjacent to the worksite that was damaged during the course of work on the project. Such restoration shall be at the contractor's expense and is not subject to reimbursement by the Participating Public Agency.

55. Retention

Retention payments will be governed by any applicable state and local laws in the area where work is being performed, and by any supplemental agreement made between the Participating Public Agency and the contractor.

If the Participating Public Agency and the contractor agree to a substitute security, the agreement must be in full compliance with any applicable state and local laws. If a substitute security is agreed to, the contractor must provide the Participating Public Agency with a signed and acknowledged waiver of any right or power of the obligor to set off any claim against the public agency.

56. Compliance with Laws

In connection with the performance of this Agreement, the Contractor shall comply with all applicable laws, rules and regulations. The parties hereto agree that every provision of law required to be inserted herein be deemed a part hereof. It is further agreed that if any such provision is not inserted or is incorrectly inserted, through mistake or otherwise, this Agreement shall be deemed amended so as to comply strictly with the law.

57. Rules Regulations and Codes

All work will be accomplished in conformance to OSHA safety requirements, and any additional federal, state, or local fire or safety requirements. When specifications or scope of work will result in a violation of a code or result in an unsafe condition, the contractor must inform the Participating

Public Agency of the situation. The contractor will not construct any device or produce any condition that intentionally violates a fire or safety code or standard.

The contractor must advise the Participating Public Agency whenever work is expected to be hazardous to Participating Public Agency employees or their charges (i.e. school children, citizens, etc.).

58. Severance

If the Contract Documents contains any unlawful provision not an essential part of the Contract Documents and which will not appear to have been a controlling or material inducement to the making thereof, the same will be deemed of no effect and will, upon notice by either party, be deemed stricken without affecting the binding force of the remainder.

59. Worksite

The condition of the site before start-up will be agreed upon between the buyer and the contractor and will be written into the contract.

Upon prior written agreement between the contractor and the Participating Public Agency, payment may be made for materials not incorporated in the work but delivered and suitably stored at the worksite or some other location, for installation at a later date. An inventory of the stored materials must be provided to the Participating Public Agency prior to payment. Such materials must be stored and protected in a secure location and be insured for their full value by the contractor against loss and damage. The contractor agrees to provide proof of coverage and/or addition of the Participating Public Agency as an additional insured upon the Participating Public Agency's request. Additionally, if stored offsite, the materials must also be clearly identified as property of the Participating Public Agency and be separated from other materials. The Participating Public Agency must be allowed reasonable opportunity to inspect and take inventory of stored materials, on or offsite, as necessary.

Until final acceptance by the Participating Public Agency, it shall be the contractor's responsibility to protect all materials and equipment. The contractor warrants and guarantees that title for all work, materials and equipment shall pass to the public agency upon final acceptance. Payment for stored materials shall not constitute final acceptance of such materials.

60. Computer Software

The Contractor must maintain at its office for its use a computer with an internet connection. The Contractor will be furnished with a copy of the internet based eGordian[®] software which will allow the Contractor to generate Price Proposals. This software program contains an electronic copy of the Construction Task Catalog and allows the Contractor to select items and quantities for use in a particular Price Proposal. The software generates a Price Proposal in a preset format acceptable to the Participating Public Agency. There is no separate charge to the Contractor for the software and the related software training.

61. Equal Employment Opportunity

All Suppliers, contractors and subcontractors must comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR

chapter 60). (Applies to all construction contracts awarded in excess of \$10,000 by the District and their contractors or subgrantees). (Applies to all contracts, subcontracts and subgrants when required by Federal grant program legislation).

62. Contract Hours And Work Safety Standards Act

All vendors, contractors and subcontractors must comply with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–330) as supplemented by Department of Labor regulations (29 CFR part 5). (Applies to all construction contracts awarded by the District and subgrantees in excess of \$2000, and in excess of \$2500 for other contracts which involve the employment of mechanics or laborers). (Applies to all contracts, subcontracts and subgrants when required by Federal grant program legislation).

63. Davis-Bacon Wage Act

All vendors, contractors and subcontractors must comply with the Davis-Bacon Act (40 U.S.C. 276a to 276a–7) as supplemented by Department of Labor regulations (29 CFR part 5). (Construction contracts in excess of \$2000 awarded by grantees and sub-grantees when required by Federal grant program legislation). (Applies to construction contracts in excess of \$2000 awarded by the District and subgrantees when required by Federal grant program legislation). (Applies to all contracts, subcontracts and subgrants when required by Federal grant program legislation for construction or repair in excess of \$2000).

64. Copeland “Anti-Kickback” Act

All Suppliers, contractors and subcontractors must comply with the Copeland “Anti-Kickback” Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR part 3). (Applies to all contracts and subgrants for construction or repair). (Applies to all contracts, subcontracts and subgrants when required by Federal grant program legislation for construction or repair).

65. Solid Waste Disposal Act

It is the contractor's responsibility for any federally assisted contracts that may result from this ITB or at the Participating Public Agency 's request to comply with section 6002 of the Solid Waste Disposal Act which is incorporated in this contract by the reference:

<https://www3.epa.gov/wastes/conservation/tools/cpg/pdf/rcra-6002.pdf>. It is the Participating Public Agency 's responsibility to inform the vendor before work begins if a project is federally assisted.

66. Claims and Disputes

All claims or disputes between the Participating Public Agency and Contractor will be resolved by Participating Public Agency 's representative.

67. Audits

UNM and OMNIA Partners, whether directly or through an independent auditor or accounting firm, shall have the right to perform audits, including inspection of books, records, and computer data relevant to Winning Supplier's provision of Products & Services to Program Participants pursuant to this Master Agreement, to ensure that pricing, inventory, quality, process, and business controls are maintained; provided, however, that such inspections and audits will be conducted upon reasonable notice to Winning Supplier and so as not to unreasonably interfere with Winning Supplier's business or operations.

68. Warranty

Contractor must guarantee items to be free from manufacturer's defects and that defective items will be replaced. Contractor must guarantee standard commercial warranty be provided on all materials and labor. In the event of failure, the Contractor agrees to repair or replace such units at no cost to the Participating Public Agency s.

During the warranty period, neither the final payment nor any provision of the Contract Documents shall relieve the contractor of responsibility for faulty materials, design, workmanship, manufacture, assembly or installation. If after due notice Contractor fails to comply with warranty provisions, Participating Public Agency s may, at their option, have the defects corrected or items replaced from the best available source and the Contractor shall be liable for all related expenses incurred by the Participating Public Agency.

All Work furnished under this Contract shall be guaranteed against defective materials and workmanship, improper performance and non-compliance with the Contract Documents for a period of one year after final acceptance of the Work, except as otherwise specified in other parts of the Contract Documents, or within such longer period of time as may be prescribed by law or provided by the manufacturer.

69. MATERIAL PRICE SPIKE ADJUSTMENT

Material price spike adjustment: For the purpose of this clause, a "major spike" is defined as a spike in a specific material cost of more than 25% above what the cost of that material was on the date the Construction Task Catalog[®] was issued.

In the event a major spike occurs in a specific material cost, CONTRACTOR may submit a request for a price modification to a Unit Price or individual Job Order. In order to initiate such a request, CONTRACTOR shall,

- i. Identify the specific material that has experienced a major spike,
- ii. Identify Pre-priced Task(s) or Job Orders that require the material experiencing a major spike, and
- iii. Demonstrate that the spike exists by submitting a minimum of three quotes on material supplier letterhead to show that the current price meets the "major spike" definition above.

The Participating Public Agency, after review of a request, may elect to adjust the Unit Price or Job Order by considering it a Non-Pre-Priced item. The adjustment will be for the difference between the material cost at the time the Construction Task Catalog[®] was issued times the quantity stated in the Job Order. The adjustment will not include any other markup, and the Non-Pre-Priced adjustment factor will not apply.

The Participating Public Agency, at its option, may also determine that a drastic decrease in a material cost warrants the same Non-Pre-Priced adjustment downward in the Unit Price or a Job Order.

PROPOSAL EVALUATION AND SELECTION PROCESS

Evaluation Criteria

The completed proposals will be reviewed by a selection committee for accurateness and completeness. Each prospective proposer must address all elements required by this RFP. Proposals will be further evaluated by the selection committee based on the evaluation factors listed below. Proposers are hereby informed that in making evaluations and determinations, UNM is not restricted to the minimum information required for proposals and that any relevant information regarding the evaluation criteria from reliable sources may be considered. Experiences with the UNM and entities that the evaluation committee members represent may be taken into consideration when evaluation qualifications and experience.

UNM may also require additional relevant information related to the proposer's past performance or present capability to perform the construction contract. In order to comprehensively evaluate the proposals received, UNM may seek additional information or clarification from one or more of the Contractors. UNM reserves the right to make such additional investigations as it deems necessary to establish the competence and financial ability of any contractor submitting a response. UNM reserves the right to conduct interviews with some or all of the Contractors at any point during the evaluation process. Interviews are not anticipated however, UNM may determine they are necessary. In the event interviews are conducted, information provided during the interview process shall be taken into consideration when evaluating the stated criteria. UNM shall not reimburse the Contractor for costs associated with an interview process.

Exclusive or concurrent negotiations may be conducted with responsible Contractors for the purpose of altering or otherwise changing the conditions, terms and price of the proposed contract unless prohibited. Contractors shall be accorded fair and equal treatment in conducting negotiations and there shall be no disclosure of any information derived from proposals submitted by competing Contractors.

The following is a summary of the evaluation factors with the point value assigned to each. These, along with the general requirements, will be used in the evaluation of proposer's proposals.

EVALUATION CRITERIA

Questions from Attachment A, Exhibit A, OMNIA Partners Response for Cooperative contract are incorporated into the below evaluation criteria. Responses to the below should highlight experience, demonstrate a strong presence in the market, describe how Contractor will educate its sales force and staff about the Master Agreement, describe how products and services will be distributed to Participating Public Agencies, include a plan for marketing the products and services across the state, and describe how volume will be tracked and reported to Gordian.

1. **Management Plan and Technical and Organizational Capability.....15 points** *(These Criteria will be used to evaluate the proposed management plan to perform the work required by this Contract and the Contractor's organizational capability including company history, client satisfaction, safety, compliance with local laws and regulations.)*

a) Management Plan

Complete Appendix A providing a detailed description of your management plan for this Contract and insert all information below.

- 1) Provide an overview of your experience working in projects related to the Contract being bid:
 - a General Construction
 - b Mechanical, Electrical, and Plumbing (MEP)

c Roofing

- 2) Describe your general understanding of the JOC system to include the joint scoping of work, the preparation of price proposals and Job Order proposals, using the Construction Task Catalog®, meeting the contractual deadlines of proposal development, the rapid mobilization and start-up of Job Orders, and the expedient closeout of Job Orders.)
- 3) Provide a subcontracting plan to include the purchasing of subcontractor services, and work to be accomplished with in-house forces. Identify the amount and type of subcontracting anticipated. Demonstrate in writing your ability to coordinate multiple subcontractors on multiple projects at multiple locations.
- 4) Provide a separate list of contemplated subcontractors.
- 5) The Contractor's input during the development of the Detailed Scope of Work is a valued component of any JOC program. Outline and describe the Value-Engineering processes you have employed over the last 5 years identifying what worked best and what did not.
- 6) Demonstrate your firm's ability to understand the Design and Build environment and how the JOC process can partner with this concept. UNM is seeking a full function contracting relationship that will allow a willing partnership in both design and execution of remodeling projects. Design and flexibility will be crucial to our customer base and successful Proposers must be willing to cooperate with this process.

b) Organization Capability

- 1) **Complete Appendix B**, Contractor's Statement of Qualifications, and insert any required attachments.

c) Quality Control Plan and Safety

Complete Appendix C providing a detailed description of your management plan for this Contract and insert all information below.

- 1) Propose a mechanism for addressing the preparation, submittal and re-submittal of proposals, transmittals, reports, drawings, and data.
- 2) Proposed plan for insuring that the price proposal, submittals, and documents are complete and accurate.
- 3) Proposed organizational approach for quality control and procedures to ensure that projects are constructed according to the scope of work, standards and specifications.
- 4) Explain the firm's approach to safety and procedures that you will follow to insure site safety and accident prevention on all jobs.
- 5) Please describe your company's approach to recycling. (**Complete Appendix D**)

2. **Key Personnel Assigned to the Contract****15 points** *(These criteria will be used to evaluate the experience of the proposed Key Personnel on projects of a similar scope and nature concerning type of work that may be procured under this Contract.)*

a) List of Key Personnel

- 1) **Complete Appendix E**, Project Manager. Complete the appendix for the Project Manager detailing his or her qualifications. Also attach a resume.
 - 2) **Complete Appendix F**, Lead Superintendent. Complete the appendix for the Lead Superintendent detailing his or her qualifications. Also attach a resume.
 - 3) **Complete Appendix G**, Lead Safety Manager. Complete the appendix for the Project Manager detailing his or her qualifications. Also attach a resume.
3. **Comparable Construction Experience15 points** *(These criteria will be used to evaluate experience of the contractor on projects of a similar scope and nature concerning to the Contract they are bidding.)*

a) List of Comparable Construction Experience

- 1) **Complete Appendix H**, General Construction Projects. If bidding the general construction Contract, provide a maximum of five (5) previously completed projects whose scope of work is general construction, preferably for public and educational agencies. Complete a separate Appendix H for each comparable project. Attach additional information as you deem necessary.
- 2) **Complete Appendix I**, MEP Projects. If bidding the Mechanical, Electrical, and Plumbing (MEP) Contract, provide a maximum of five (5) previously completed projects completed whose scope of work involve mechanical, electrical, or plumbing, preferably for public and educational agencies . Complete a separate Appendix I for each comparable project. Attach additional information as you deem necessary.
- 3) **Complete Appendix J**, Roofing Projects. If bidding the Roofing Contract, provide a maximum of five (5) previously completed projects completed whose scope of work involved roofing, preferably for public and educational agencies . Complete a separate Appendix J for each comparable project. Attach additional information as you deem necessary.

Note: All projects submitted as comparable construction experience must have a final completion Date after January 1, 2021. Projects with a final acceptance date prior to January 1, 2021 will not be considered for evaluation. Proposers who submit less than five (5) projects for each Contract of comparable experience will be considered but scored accordingly.

4. **Past Indefinite Quantity Contract Experience.....15 points**

(These criteria will be used to evaluate previous experience Indefinite Quantity Contract experience such as, but not limited to, IDIQ, IQC, JOC, WOC, DOC, SABER.)

a) List of Past Indefinite Quantity Contract Experience

- 1) **Complete Appendix K**, Indefinite Quantity Contract Experience. Provide a maximum of five (5) indefinite quantity contracts as experience. Complete a separate Appendix K for each comparable project. Attach additional information as you deem necessary.

Note: Proposers who submit less than five (5) indefinite quantity contracts will be considered but scored accordingly.

5. Price Proposal40 points

(Based on requirements set forth in this RFP.)

a) Price Proposal

1) **Complete Appendix L, Price Proposal.** Complete Appendix L identifying the Adjustment Factors for each campus, region and trade your firm is bidding.

Note, points for pricing will be distributed in the following manner:

During the initial ranking/rating of proposals, points will be awarded for pricing using a mathematical formula to compare the lowest responsive price proposal submittal against each responsive submittal. Basically, the formula uses the lowest responsive price amount as the numerator and each subsequent price proposal amount as the denominator. The resultant factor is then applied to the total possible point number (70 points); the resultant number becoming the point award.

Example Only based if calculations were based on 100 points:

Total possible points =40 pts

Proposal A = \$100

Point award for A: $100/100 = 1 \times 40 \text{ pts} = 40 \text{ pts}$

Proposal B = \$115

Point award for B: $100/115 = .87 \times 40 \text{ pts} = 34.8\text{pts}$

TOTAL POINTS..... 100 points

Proposers may attach other materials that they feel may improve the quality of their responses. However, these materials should be included as items in a separate appendix.

BASIS OF AWARD: Contracts solicited under these regulations are to be awarded to the responsible Offeror whose proposal represents the best value and is in the University's best interest. The evaluation committee shall prepare a selection recommendation report for the Chief Procurement Officer or his/her designee recommending, in order of preference that are considered to be the most highly qualified. All firms on the most highly qualified selection recommendation report are considered "selected firms" with which the Chief Procurement Officer or his/her designee may negotiate for Best and Final Offer.

The final award decision shall be made by the Chief Procurement Officer or his/her designee. The selection authority will review the recommendations of the evaluation committee and shall, with the advice of appropriate technical and staff representatives, make the final selection.

PREFERENCE AWARDS: RESIDENT/NATIVE AMERICAN RESIDENT BUSINESS PREFERENCE: A Resident Business or Native American Resident Business shall be awarded the equivalent of eight percent of the total possible points to be awarded based on the Resident or Native American business possessing a valid Resident or Native American Resident Business certificate in accordance with NMSA 1978, Section 13-1-21. If applicable, document the residential preference number in the Authorized Signature form and attached your certificate to your response.

RESIDENT/NATIVE AMERICAN RESIDENT VETERANS BUSINESS PREFERENCE In accordance NMSA 1978, Sections 13-1-21 and 13-1-22, Resident/Native American veteran businesses are to receive the following preferences: 4 1. Resident/Native American veteran's businesses with annual revenues of \$6M or less in the preceding tax year are to receive a 10% preference discount on their bids and proposals. This preference is separate from the current in state preference and is not cumulative with that preference. However, veteran businesses will still receive the in-state preference once the veteran's preference cap is exceeded. Points will be awarded based on Offerors ability to provide a copy of a current Resident/Native American Veteran Business Certificate. In addition, the Resident/Native American Resident Veterans Business Preference Certification Form must accompany any RFP and any business wishing to receive a Resident/Native American Veteran Business Preference must complete and sign the form. RFP's are to be evaluated on preference as follows: In addition to the total points on an RFP, 10% must be added for preference award. For example, an RFP has a total value of 1000 points. Five proposals are received: one from a resident business, one from a resident veteran's business with a 10% preference and three non-resident businesses. The two preference businesses would receive 50 points and 100 points to their already evaluated score, making it possible for the highest score 1100.

RFP Standard Terms and Conditions

REQUEST FOR PROPOSAL (RFP) STANDARD TERMS AND CONDITIONS

Note: This document includes the Purchase Order Terms and Conditions as indicated by a preceding double asterisk (**).

The General Terms and Conditions on the reverse side of UNM's purchase order are an equal and integral part of this Request For Proposal (RFP) and are noted by a preceding double asterisk (**) beside the item number. The terms, conditions and specifications contained in this RFP along with any attachments and the proposer's response are hereby incorporated into all purchase orders issued as a result of this RFP, including any addenda. UNM reserves the right to negotiate with a successful proposer (contractor) provisions in addition to those stipulated in this RFP. The contents of this RFP, as revised and/or supplemented, and the successful proposer's proposal will be incorporated into the Contract. Should a proposer object to any of the UNM Standard Terms and Conditions that proposer must propose specific alternative language that would be acceptable to UNM. General references to the proposer's terms and conditions or attempts at complete substitutions are not acceptable to UNM and will result in disqualification of the proposer's proposal. Proposers must provide a brief statement of the purpose and impact, if any, of each proposed change followed by the specific proposed alternate wording. Any proposed changes to the terms and conditions attached to this RFP including the additional terms and conditions must be stated in proposer's proposal in a Section marked "TERMS AND CONDITIONS." Proposers are cautioned that any changes to the terms and conditions that are NOT stated in the RFP response will not be entertained by UNM at a later date. Any provisions in any proposal, quotation, acknowledgment or other forms or contract documents applicable to the services that are inconsistent, or in conflict, with any provisions of this RFP or the resultant contract, will be ineffective and inapplicable. UNM reserves the right to reject a proposal on the basis the compromising language cannot be accepted by UNM. Any additional terms and conditions which may be the subject of negotiation will be discussed only between UNM and the successful proposer and shall not be deemed an opportunity to amend the proposer's proposal. An Awardee of a Price Agreement established with UNM has the opportunity to market the resultant Price Agreement to other local public bodies and state agencies under the State of New Mexico Public Purchases and Property Act, NMSA 1978, Article 1, Procurement, §13-1-129, "Procurement under existing contracts."

1. ****ACCEPTANCE AND REJECTION:** If prior to final acceptance, any goods or services are found to be defective or not as specified, or if UNM is entitled to revoke acceptance of them UNM may reject or revoke acceptance, require Seller to correct without charge within a reasonable time, or require delivery at an equitable reduction in price, at UNM's option. Seller shall reimburse UNM for all incidental and consequential costs related to unaccepted goods or services.

Notwithstanding final acceptance and payment, Seller shall be liable for latent defects, fraud, or such gross mistakes as amount to fraud. Acceptance of goods or services shall not waive the right to claim damages for breach of contract.

2. **ADDRESSES FOR NOTICES:** Any notice required to be given or which may be given under this RFP or a resultant contract shall be in writing and delivered in person or via first class mail.

Address if notice delivered by first class mail:

The University of New Mexico Perovich
Business Center, suite 2600
MSC01 1240
1 University of New Mexico
Albuquerque, NM 87131-0001

Address if notice delivered to physical location:

The University of New Mexico
1700 Lomas NE, Suite 2600
Albuquerque, NM 87131-0001

3. ****AGREEMENT:** Any resultant Purchase Order award as a result of this solicitation shall be the sole and entire Agreement between the parties; any documents incorporated into a resultant purchase agreement will be listed explicitly on the front side of the Purchase Order, or incorporated by implication by the terms of this RFP. Any terms inconsistent with or in addition to this RFP proposed by Seller are deemed rejected unless agreed to in writing by an appropriate College official.

4. ****ASSIGNMENT:** This Purchase Order is assignable by UNM. Except as to any payment due hereunder, this Purchase Order is not assignable by Seller without written approval from UNM.

5. **BID SECURITY:** A Bid Security is not required.

6. **CANCELLATION:** UNM reserves the right to cancel, without penalty, this RFP, the resultant contract or any portion thereof for unsatisfactory performance, convenience, cancellation of the project or unavailability of funds.

7. ****CHANGES:** UNM may make changes within the general scope of this Purchase Order by giving notice to Seller and subsequently confirming such changes in writing. If such changes affect the cost of, or the time required for performance of this Purchase Order, an appropriate equitable adjustment shall be made. No change by Seller shall be recognized without written approval of UNM. Any claim of Seller for an adjustment under this Paragraph must be made in writing within thirty (30) days from the date of receipt by Seller of notification of such change. Nothing in this Paragraph shall excuse Seller from proceeding with the performance of the Purchase Order as changed hereunder.

8. **CHANGES/ALTERATIONS AFTER AWARD:** Changes or alterations after an award can only be made if agreed to in writing by UNM.

9. **CLEAN UP:** It is the Seller's responsibility that the job site be kept clean and free of rubble

while work is performed under this contract. Upon completion of work, all areas shall be cleared of all contractors' equipment excess materials and rubble.

10. ****CONFLICT OF INTEREST:** Seller shall disclose to UNM's purchasing department the name(s) of any College employee or member of the Governing Board who has a direct or indirect financial interest in the Seller or in the proposed transaction. A College employee (or Board member) has a direct or indirect financial interest in the Seller or in the proposed transaction if presently or in the preceding twelve (12) months the employee/Board member or a close relative has an ownership interest in the Seller (other than as owner of less than 1% of the stock of a publicly traded corporation); works for the Seller, is a partner, officer, director, trustee or consultant to the Seller, has received grant, travel, honoraria or other similar support from the Seller, or has a right to receive royalties from the Seller. Seller shall file a Conflict of Interest Disclosure form with UNM purchasing department.

11. **CONFLICT OF INTEREST FORM:** Proposer is required to sign the attached DEBARMENT/ SUSPENSION STATUS, NON-COLLUSION AFFIDAVIT AND CONFLICT OF INTEREST FORM. Failure to provide UNM with this completed Conflict of Interest Form may result in the offer being considered non-responsive.

12. **DAMAGE AND SECURITY OF UNM PROPERTY:** The proposer shall be responsible for all damage to persons or property that occurs as a result of proposer's fault or negligence, or that of any of his employees, agents and/or subcontractors. The proposer shall save and keep harmless UNM against any and all loss, cost, damage, claims, expense or liability in connection with the performance of this contract. Any equipment or facilities damaged by the proposer's operations shall be repaired and/or restored to their original condition at the proposer's expense, including but not limited to cleaning and painting.

13. **DISCLOSURE OF PROPOSAL CONTENTS:** The proposals will be kept confidential until UNM awards a price agreement. At that time, all proposals and documents pertaining to the proposals will be open to the public, except for the material that is proprietary or confidential. The procurement agents will not disclose or make public any pages of a proposal on which the Seller has stamped or imprinted "proprietary" or "confidential" subject to the following requirements. Proprietary or confidential data shall be readily separable from the proposal in order to facilitate eventual public inspection of the non-confidential portion of the proposal. Confidential data is normally restricted to confidential financial information concerning the Seller's organization and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, 57-3A-1 to 57-3A-7 NMSA 1978. The price of products offered or the cost of services proposed shall not be designated a proprietary or confidential information. If a request is received for disclosure of data for which a Seller has made a written request for confidentiality, UNM shall examine the Seller's request and make a written determination that specifies which portions of the proposal should be disclosed. Unless the Seller takes legal action to prevent the disclosure, the proposal will be disclosed. The proposal shall be open to public inspection subject to any continuing prohibition on the disclosure of confidential data.

14. ****DISCOUNTS:** If prompt payment discounts apply to this Purchase Order any discount

time will not begin until the materials, supplies, or services have been received and accepted and a correct invoice received by UNM's accounts payable department. In the event testing is required prior to acceptance, the discount time shall begin upon completion of the tests and acceptance.

15. **DISRUPTION OF NORMAL ACTIVITY:** All work shall be performed so as not to interfere with normal College activities. When it is necessary to disrupt normal activities, the schedule of work, and the areas to be affected must be approved by UNM's authorized representative prior to commencement of the work.

16. ****ELIGIBILITY FOR PARTICIPATION IN GOVERNMENT PROGRAMS:** Each party represents that neither it nor any of its management or any other employees or independent contractors who will have any involvement in the services or products supplied under this Agreement, have been excluded from participation in any government healthcare program, debarred from or under any other federal program (including but not limited to debarment under the Generic Drug Enforcement Act), or convicted of any offense defined in 42 U.S.C. §1320a-7, and that each party, its employees and independent contractors are not otherwise ineligible for participation in federal healthcare programs. Further, each party represents that it is not aware of any such pending action(s) (including criminal actions) against each party or its employees or independent contractors. Each party shall notify the other immediately upon becoming aware of any pending or final action in any of these areas.

17. **EMPLOYEE CERTIFICATION:** The Seller and all Seller's employees utilized on the work to be performed under this RFP must have the proper certification(s) and license(s) to comply with State and Local requirements in regard to the work to be performed under this RFP. The Seller shall use only fully qualified and approved service technicians to perform inspections, service and/or repairs covered under this RFP.

18. ****EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION:** In performing the services required under this Purchase Order, each party shall be an equal opportunity employer and shall conform to all affirmative action and other applicable requirements; accordingly, each party shall neither discriminate nor permit discrimination in its operations or employment practices against any person or group of persons on the basis of race, age, religion, color, national origin, ancestry, sex, physical or mental handicap or medical condition, sexual preference, prior military involvement or any other manner prohibited by law.

19. **EQUIPMENT REQUIRED:** The proposer shall be responsible for supplying and maintaining all equipment and materials necessary to complete the work to be performed under this RFP except as otherwise noted in the Specifications.

20. ****F.O.B.:** Unless stated otherwise, the price for goods is F.O.B. the place of destination, and the place of destination is UNM's designated campus address.

21. ****FOREIGN PAYMENTS:** Payment for service performed by a foreign individual or a foreign corporation while in the US may be subject to 30% withholding per IRS Publication 515.

22. **** GOVERNING LAW:** This Agreement shall be construed in accordance with the laws of the State of New Mexico as they pertain to agreements executed and fully to be performed within New Mexico, or federal law where applicable, but in either case excluding that body of law relating to choice of law.

23. **GRAMM-LEACH-BLILEY ACT:** Pursuant to the Gramm-Leach-Bliley Act and the regulations set forth at 16 CFR Part 314, The University of New Mexico (“College”) requires its Service Providers to implement and maintain appropriate safeguards for the protection of Customer Information. Accordingly, the Service Provider shall implement and maintain a comprehensive information security program that contains administrative, technical and physical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of confidential Customer Information that it creates, receives, maintains, or transmits on behalf of UNM. In addition, the Service Provider will require and ensure that any of its agents, subcontractors, or sub- consultants, to which it provides confidential Customer Information of UNM, implements appropriate security measures to protect confidential Customer Information of UNM.

Service Provider shall not use or disclose covered data and information received from or created on behalf of UNM except as permitted or required by this Agreement, as required by law, or as otherwise authorized in writing by UNM. Upon becoming aware of a security breach in which College Customer Information is used or disclosed in a manner not authorized or covered by this Agreement, including any reasonable belief that an unauthorized individual has accessed a database containing covered data and information, or in violation of any applicable state or federal laws, Service Provider will report to UNM any security incident immediately upon being aware of such a breach and take such corrective steps/action to remedy the breach as requested by UNM and required by law.

Upon termination, cancellation, expiration or other conclusion of this Agreement, Service Provider shall return to UNM covered Customer Information and data unless UNM requests in writing that such Customer Information and data be destroyed. Service Provider shall complete such return or destruction not less than 30 days after the conclusion of this Agreement. Within such 30 day period, Service Provider shall certify in writing to UNM that such return or destruction has been completed. To the extent return or destruction is not feasible; this Agreement shall remain in full force and effect.

Service Provider means any person or entity that receives, maintains, processes, or otherwise is permitted access to Customer Information through its direct provision of services to a financial institution. The Gramm-Leach-Bliley Act broadly defines “financial institution” as any institution engaging in the financial activities enumerated under the Bank Holding Company Act of 1956, including “making, acquiring, brokering, or servicing loans” and “collection agency services”. Because higher education institutions participate in financial activities, such as processing student financial aid and student loans, FTC regulations consider them financial institutions for purposes of the Gramm-Leach-Bliley Act.

Customer Information means any record containing nonpublic information as defined in 16 CFR 313.3(n), about a customer of a Financial Institution, whether in paper, electronic or other

form that UNM has obtained from a customer in the process of offering a financial product or service including offering student aid and loans to students as defined in 12 CFR 225.28. Any and all Customer Information provided by UNM to the Service Provider or which the Service Provider acquires through its own efforts in rendering or providing any goods or services under this Agreement, shall be considered confidential and held in strict confidence and shall only be released to the Service Provider's own personnel, agents, subcontractors and sub-consultants only to the extent necessary to provide or perform the goods and/or services required by this Agreement. Such information shall not be released by the Service Provider to any other person or organization without the prior written consent and approval of UNM.

24. ****HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA):** The parties agree to enter into a mutually acceptable amendment to this Agreement as necessary to comply with applicable federal laws and regulations governing the use and/or disclosure of individually identifiable health information. Such amendment shall be entered into on or before the date by which hospitals are required to be in compliance with the privacy regulations promulgated under the Health Insurance Portability and Accountability Act of 1996.

25. ****INDEMNIFICATION AND INSURANCE:** Seller assumes the entire responsibility and liability for losses, expenses, damages, demands and claims in connection with or arising out of any actual or alleged personal injury (including death) and/or damage or destruction to property sustained or alleged to have been sustained in connection with or arising out of the goods delivered by Seller or the performance of the work by Seller its agents, employees, subcontractors or consultants, except to the extent of liability arising out of the negligent performance of the work by or willful misconduct of UNM. Seller shall indemnify, defend and hold harmless UNM, its officers, agents, and employees from any and all liability for such losses, expenses, damages, demands, and claims and shall defend any suit or action brought against any or all of them based on any actual or alleged personal injury or damages and shall pay any damage costs and expenses including attorneys' fees, in connection with or resulting from such suit or action. Seller will also indemnify, defend and hold harmless UNM against any joint and several liabilities imposed against UNM with respect to strict products liability claims attributable to the fault of the Seller.

Seller agrees that it and its subcontractors will maintain general liability, product liability and property damage insurance in reasonable amounts (at least equal to the New Mexico Tort Claims Act limits) covering the above obligation and will maintain workers' compensation coverage covering all employees performing under this Purchase Order on premises occupied by or under the control of UNM. The liability of UNM will be subject to all cases to the immunities and limitations of the New Mexico Tort Claims Act, §41-4-1 Et Seq. NMSA 1978, as amended.

26. ****INDEPENDENT BUSINESS:** Neither Seller nor any of its agents shall be treated as an employee of UNM for any purpose whatsoever. Seller declares that Seller is engaged in an independent business and has complied with all Federal, State and Local laws regarding business permits and licenses of any kind that may be required to carry out the said business and the tasks to be performed under this Purchase Order. Seller further declares that it is engaged

in the same or similar activities for other clients and that UNM is not Seller's sole or only client or customer.

27. ****INSPECTION:** UNM may inspect, at any reasonable time, any part of Seller's plant or place of business, which is related to performance of this Purchase Order. Final Inspection will be made at the destination upon completion of delivery of goods and services. Acceptance of delivery shall not be considered acceptance of the goods and/or services furnished. Final inspection shall include any testing or Inspection procedures required by the Specifications.

28. **INSPECTIONS, SELLER:** The Seller shall be responsible for securing at Seller's expense, all required inspections to comply with Federal, State and/or Local regulations governing the work performed under this RFP.

29. ****INSTRUMENTALITIES:** Seller shall supply all equipment, tools, materials and supplies to accomplish the designated tasks except as set forth in this purchase order or its attachments.

30. **INSURANCE REQUIREMENTS:** The Seller is required to carry insurance that meets the requirements in the RFP or as noted in the specifications. Seller must submit the Certificate of Insurance to the appropriate Buyer prior to commencing work under an agreement. Insurance shall remain in effect for the entire term of the contract and must be extended to coincide with any future contract extensions. This RFP Number must appear on the Certificate of Insurance.

31. **LICENSES/PERMITS/EASEMENTS:** The seller shall be responsible for obtaining, at his Seller's expense, all easements, right-of-ways, accesses, licenses, permits, and utility locations required to perform the work under this RFP.

32. ****MINIMUM WAGE RATES AND PAYROLL SUBMITTALS:** For all federally funded construction projects greater than \$2,000, the contractor and all subcontractors and their tiers shall deliver or mail legible copies of the certified weekly payrolls for all costs/services invoiced for the project awarded resulting from this IFB/RFP to the appropriate oversight agency and UNM's Planning Design and Construction. The Contractor shall certify that all payrolls submitted meet or exceed the applicable wage determination as shown in this IFB/RFP. Contractor shall be responsible for the collection and submittal of all certified payrolls and shall retain a copy of all payrolls for a period of 3 years from the completion of the project. An electronic copy of all certified payrolls shall be sent monthly to UNM Planning Design and Construction. The Contractor shall be responsible for labeling each submittal with the project name; payroll period; and contractor and/or subcontractor name; each employee's full name and social security number, address and zip code, birth date, sex and occupation, time and day of when employees work week begins, hours worked each day, total hours worked each workweek, basis on which employees' wages are paid, regular hourly pay rate, total daily or weekly straight-time earnings, total overtime earnings for the workweek, all additions to or deductions from the employee's wages, date of payment and the pay period covered by the payment.

33. **NEW MATERIALS REQUIRED:** All materials and equipment delivered and/or installed under this RFP shall be new and be the standard products of a manufacturer regularly engaged

in the production of the materials and equipment. Where two or more units of the same class of materials and/or equipment are required, the units shall be the products of the same manufacturer. Any manufacturer's data supplied with the item(s) shall be submitted to UNM's authorized representative.

34. **OSHA REGULATIONS:** The Seller shall abide by Federal Occupational Safety and Health Administration (OSHA) regulations, the State of New Mexico Environmental Improvement Board's Occupational Health and Safety Regulations that apply to the work performed under this RFP. The Seller shall defend, indemnify, and hold UNM free and harmless against any and all claims, loss, liability and expense resulting from any alleged violation(s) of said regulation(s) including but not limited to, fines or penalties, judgments, court costs and attorney's fees.

35. ****OTHER APPLICABLE LAWS:** Any provision required to be included in a purchase order of this type by any applicable and valid executive order, federal, state or local law, ordinance, rule or regulation shall be deemed to be incorporated herein.

36. ****OWNERSHIP:** Ownership of Documents – All documents which are prepared by the Vendor/Contractor or any member of the consulting team that form a part of its services under this Agreement are the sole property of the University of New Mexico and such works may not be reproduced nor distributed without the express written consent of the University of New Mexico and shall be delivered to UNM upon termination and or completion of this Agreement if UNM so requests. The vendor/Contractor shall be responsible for the protection and/or replacement of any original documents in its possession. UNM shall receive all original drawings and the Vendor/Contractor shall retain a reproducible copy.

Work Made for Hire – For the consideration payable under this Agreement, the work product required by this Agreement shall be considered a work made for hire within the meaning of that term under the copyright laws of the United States applicable common law and corresponding laws of other countries. UNM shall have the sole right and authority to seek statutory copyright protection and to enjoy the benefits of ownership of the work. The party performing the work hereby assigns all rights, title and interest in and to the work to UNM and shall require all members of the consulting team to agree in writing that they assign all right, title and interest in work product required by the Agreement to UNM.

Inventions – For consideration payable under this Agreement, the Vendor/Contractor agrees to report any invention arising out of the Work required by this Agreement to UNM. UNM shall have sole right and authority to seek statutory patent protection under United States and Foreign patent laws and to enjoy the benefits of ownership of the invention, whether or not the invention was required of the Vendor/Contractor or member of the consulting team as part of the performance of Work. The Vendor/Contractor hereby assigns all right, title and interest in and to inventions made

in the course of the Work to UNM and agrees to execute and deliver all documents and do any and all things necessary and proper to effect such assignment. Vendor/Contractor shall require all members of the Consulting Team to agree in writing that they will execute and deliver all documents and do any and all things necessary and proper to effect assignment of inventions

arising out of the Work required by this Agreement to UNM.

Survival of Provision – This provision shall survive expiration and termination of this Agreement.

37. ****PATENT AND COPYRIGHT INDEMNITY:** Seller shall indemnify, defend and hold harmless UNM against all losses, liabilities, lawsuits, claims, expenses (including attorneys' fees), costs, and judgments incurred through third party claims of infringement of any copyright, patent, trademark or other intellectual property rights.

38. ****PAYMENT TERMS:** Upon written request from Seller for payment, UNM shall, within 30 days, issue a written certification of complete or partial acceptance or rejection, with payment to follow within 30 days after certificate of acceptance. Late payment charges shall be ½ of 1% per month.

39. ****PAYROLL OR EMPLOYMENT TAXES:** No federal, state, or local income, payroll or employment taxes of any kind shall be withheld or paid by UNM with respect to payments to Seller or on behalf of Seller its agents or employees. Seller shall withhold and pay any such taxes on behalf of its employees as required by law. The payroll or employment taxes that are the subject to this paragraph include but are not limited to FICA, FUTA, federal personal income tax, state personal income tax, state disability insurance tax, and state unemployment insurance tax. If Seller is not a corporation, Seller further understands that Seller may be liable for self-employment (Social Security) tax, to be paid by Seller according to law.

40. ****PENALTIES:** The Procurement Code, §13-1-28 et seq. NMSA 1978, as amended imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose criminal penalties for bribes, gratuities and kickbacks.

41. **PERFORMANCE AND PAYMENT BONDS:** All Job Orders greater than \$25,000 will require individual performance and payment bonds. A performance bond and a payment bond, covering materials and labor, each in the amount of one hundred percent (100%) of the Job Order Price is required. The bond must be executed by the bidder with a surety company authorized to do business in New Mexico or other sureties approved by the State Board of Finance. The performance and payment bonds must be received by the Buyer issuing the award within five (5) days of the issuance of the Job Order.

42. **PROPOSAL NEGOTIATION:** Proposers submitting proposals may be afforded an opportunity for discussion and revision of proposals. Revisions may be permitted after opening and prior to award for the purpose of obtaining a best and final offer. Negotiations may be conducted with responsible proposers who submit offers found to be reasonably like to be selected for award. UNM is under no obligation to conduct discussions with any or all proposers.

43. ****PROTECTION OF CONFIDENTIAL DATA:** Service Provider agrees to abide by the limitations on re-disclosure of personally identifiable information from education records set forth in the Family Educational Rights and Privacy Act (34 CFR § 99.33 (a)(2) and with the terms set forth below. 34 CFR 99.33 (a)(2) states that the officers, employees and agents of a party that received education record information from the Institution may use the information, but only for the purposes for which the disclosure was made.

Definition: Covered data and information (CDI) includes paper and electronic student education record information supplied by Institution, as well as any data proved by Institution's students to the Service Provider.

Acknowledgement of Access to CDI: Service Provider acknowledges that the Agreement allows the Service Provider access to CDI.

Prohibition on Unauthorized Use of Disclosure of CDI: Service Provider agrees to hold CDI in strict confidence. Service Provider shall not use or disclose CDI received from or on behalf of Institution (or its students) except as permitted or required by the Agreement, as required by law, or as otherwise authorized in writing by Institution. Service Provider agrees not to use CDI for any purpose other than the purpose for which the disclosure was made. If the Family Policy Compliance Office of the U.S. Department of Education determines that the Service Provider improperly disclosed personally identifiable information obtained from Institution's education records, Institution may not allow the Service Provider access to education records for at least five years.

Return or Destruction of CDI: upon termination, cancellation, expiration or other conclusion of the Agreement. Service Provider shall return all CDI to Institution or, if return is not feasible, destroy any and all CDI. If the Service Provider destroys the information, the Service Provider shall provide Institution with a certificate confirming the date of destruction of the data.

Maintenance of the Security of Electronic Information: Service Provider shall develop, implement, maintain and use appropriate administrative, technical and physical security measures to preserve the confidentiality, integrity and availability of all electronically maintained or transmitted CDI received from, or on behalf of Institution or its students. These measures will be extended by contract to all subcontractors used by Service Provider.

Reporting of Unauthorized Disclosures or Misuse of Covered Data and Information: Service Provider shall, within one day of discovery, report to Institution any use or disclosure of CDI not authorized by this agreement or in writing by Institution. Service Provider's report shall identify: (i) the nature of the unauthorized use or disclosure; (ii) the CDI used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, (iv) what Service Provider has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action Service Provider has taken or shall take to prevent future similar unauthorized use of disclosure. Service Provider shall provide such other information, including a written report, as reasonably requested by Institution.

Indemnity: Service Provider shall defend and hold Institution harmless from all claims, liabilities, damages, or judgments involving a third party, including Institution's costs and attorney fees, which arise as a result of Service Provider's failure to meet any of its obligation under this agreement.

Note: Inclusion of data by students into the terms of the contract will depend upon the contract any not be needed.

44. **PUBLIC WORKS BOND:** Performance bonds must meet the requirements of §13-4-18 NMSA, 1978, as amended.

45. **RIGHT TO PROTEST:** In accordance with §13-1-172 NMSA 1978, any proposer who is aggrieved in connection with a solicitation or the award of a contract may protest to the UNM procurement agent. The protest must be submitted in writing within fifteen (15) calendar days after knowledge of the facts or occurrences giving rise to the protest. Protests must be submitted in written form to the procurement agent. Protests must include the name and address of the protestor, the RFP number, and a statement of grounds for protest, including appropriate supporting exhibits. Protests received after the deadline will not be accepted.

46. **RIGHT TO WAIVE MINOR IRREGULARITIES:** The selection committee reserves the right to waive minor irregularities. The selection committee also reserves the right to waive mandatory requirements provided that all of the otherwise responsive proposals failed to meet the same mandatory requirements and the failure to do so does not otherwise materially affect the procurement. This right is at the sole discretion of the selection committee.

47. **SCHEDULE DELAYS:** If after the award, the Seller becomes aware of possible problems that could result in delay in completion of the work on the agreed-to schedule; the Seller must immediately notify the Buyer or the designated representative. The initial notification of the delay may be verbal with a written confirmation, giving the probable cause and effect, with recommendations for alternate action. Nothing in this paragraph will be interpreted as relieving the Seller of its contractual obligations; however, failure to notify UNM promptly will be basis for determining the Seller responsibility in an otherwise excusable delay.

48. ****SELLER'S EMPLOYEES AND AGENTS:** Seller shall have complete charge and responsibility for persons employed by Seller and engaged in the performance of the specified work. The Seller, its agents and employees state that they are independent contractors and not employees of UNM. Seller, its agents and employees shall not accrue leave, retirement, insurance, bonding or any other benefit afforded to employees of UNM as a result of this Purchase Order.

49. **SITE INSPECTION:** The site(s) referenced in this RFP are available for inspection. Arrangements may be made by contacting the individual listed on the cover sheet.

50. **SITE FAMILIARITY:** The Seller shall be responsible for thoroughly inspecting the site and work to be done prior to submission of an offer. The Seller warrants by this submission that the site has been thoroughly inspected and the work to be done and that the offer includes all costs required to complete the work. The failure of the Seller to be fully informed regarding the requirements of this Request will not constitute grounds or any claim, demand for adjustment or the withdrawal of an offer after the opening.

51. **STATE AND LOCAL ORDINANCES:** The Seller shall perform work under the resultant contract in strict accordance with the latest adopted version of all State and local codes, ordinances, and regulations governing the work involved. All materials and labor necessary to comply with the rules, regulations and ordinances shall be provided by the Seller. Where the drawings and/or specifications indicate materials or construction in excess of the

code requirements, the drawings and/or specifications shall govern. The Seller shall be responsible for the final execution of the work to meet these requirements. In the event of a conflict between various codes and standards, the more stringent shall apply.

52. ****TAX SEGRGATION (CONSTRUCTION RELATED PROJECTS):** In the performance of the construction related services under this solicitation, the Seller agrees to work with and cooperate with the University's Tax Cost Segregation consultant. The University's tax cost segregation consultant will be responsible for coordination, oversight and analysis of the effective application of New Mexico Gross Receipts Tax for each general contractor involved with the construction projects at UNM. Such services of the segregation consultant will be performed in accordance with New Mexico Statutes and relative regulations governing the application of New Mexico gross receipts tax to tangible personal property acquisition made by UNM for various construction projects.

Contractor agrees to cooperate with the Regents of the University of New Mexico and its external accounting firm in a study at the request of UNM for purposes of identifying and segregating deductible sales for tangible personal property in order to claim Gross Receipts Tax deductions on Construction Project identified within this solicitation.

If deductions claimed by Contractor upon the tax advice of UNM's external accounting firm are later rejected by the New Mexico Taxation and Revenue Department, causing a NMGRT tax deficiency notice to be sent to Contractor, Contractor agrees that it will promptly notify and without delay provide such notice to UNM.

At the discretion of UNM, Contractor will first cooperate with any protest or appeal efforts by UNM against such tax deficiency. After any such desired appeal efforts have been exhausted; UNM understands and agrees that Contractor shall not be required to pay such deficiency amounts from Contractor's own funds. Contractor agrees that it will promptly and without delay provide UNM a copy of the ultimate tax deficiency notice. After receipt of ultimate notice, UNM will promptly transmit the GRT, interests and penalties assessed against Contractor to Contractor for Contractor's prompt submission to New Mexico Taxation and Revenue Department.

53. ****TERMINATION AND DELAYS:** UNM may by written notice stating the extent and effective date, terminate this Purchase Order for convenience in whole or in part, at any time. UNM shall pay Seller as full compensation for performance until such termination: (1) the unit or pro rata order price for the delivered and accepted portion; and (2) incidental damages, not otherwise recoverable from other sources by Seller, as approved by UNM, with respect to the undelivered or unaccepted portion of this Purchase Order provided compensation hereunder shall in no event exceed the total Purchase Order price. Such amount will be limited to Seller's actual cost, and may not include anticipated profits. UNM shall not be liable for consequential damages. UNM may by written notice terminate this Purchase Order in whole or in part for Seller's default if Seller refuses or fails to comply with the provisions of this Purchase Order or fails to make progress so as to endanger performance and does not cure such failure within a reasonable period of time. In such event, UNM may otherwise secure the materials, supplies or services ordered, and Seller shall be liable for damages suffered by UNM thereby, including incidental and

consequential damages. If after notice of termination, UNM determines Seller was not in default, or if Seller's default is due to failure of UNM, termination shall be deemed for the convenience of UNM. The rights and remedies of UNM provided in this paragraph shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Purchase Order as used in this paragraph, the word "Seller" includes Seller and Seller's sub-suppliers at any tier.

54. ****TITLE AND DELIVERY:** Title to the materials and supplies passed hereunder shall pass to UNM upon acceptance at the FOB point specified, subject to the right of UNM to reject. For any exception to the delivery date specified, Seller shall give prior notification and obtain approval thereto from UNM's purchasing department. Time is of the essence and the Purchase Order is subject to termination for failure to deliver on time.

55. **WAGE RATES:** Jobs with an estimate cost >\$60,000 done under this RFP will be subject to the Public Works Minimum Wage Act (13-4-11 through 13-4-17, NMSA, 1978 as amended) and per exhibit labeled "Wage Act." Minimum wages will be supplied at time of award or may be obtained from the State of New Mexico Labor & Industrial Commission.

56. **WAGE RATES AND PAYROLL SUBMITTALS:** For all federally funded construction projects greater than \$2,000, the contractor and all subcontractors and their tiers shall email legible copies of the certified weekly payrolls for all costs/services invoiced for the project awarded resulting from this IFB/RFP to the appropriate oversight agency and UNM's purchasing department. The Contractor shall certify that all payrolls submitted meet or exceed the applicable wage determination as shown in this IFB/RFP. Contractor shall be responsible for the collection and submittal of all certified payrolls and shall retain a copy of all payrolls for a period of 3 years from the completion of the project. A copy of all certified payrolls shall be sent monthly to UNM's Planning Design and Construction. The Contractor shall be responsible for labeling each submittal with the project name; payroll period; and contractor and/or subcontractor name; each employee's full name and social security number, address and zip code, birth date, sex and occupation, time and day of when employees work week begins, hours worked each day, total hours worked each workweek, basis on which employees wages are paid, regular hourly pay rate, total daily or weekly straight- time earnings, total overtime earnings for the workweek, all additions to or deductions from the employee's wages, date of payment and the pay period covered by the payment.

57. ****WARRANTIES:** Seller warrants the goods and/or services furnished to be exactly as specified in this Purchase Order, free from defects in Seller's design, labor, materials and manufacture, and to be in compliance with any drawings or specifications incorporated herein and with any samples furnished by Seller. All applicable UCC warranties express and implied are incorporated herein.

58. ****WORKERS COMPENSATION:** No workers compensation insurance has been or will be obtained by UNM on account of Seller or its employees or agents. Seller shall comply with the workers compensation laws with respect to Seller and Seller's employees and agents.

59. **WORKMANSHIP/COOPERATION:** All work shall be done in a neat, workman-like

manner using acceptable equipment and methods. The Seller will cooperate with UNM and other contractors and coordinate their work involving other contractors through UNM's authorized representative.

**THE UNIVERSITY OF NEW MEXICO SUPPLIER CONFLICT OF INTEREST AND
DEBARMENT/SUSPENSION CERTIFICATION FORM**

THE FOLLOWING MUST BE CERTIFIED IF THIS PURCHASE ORDER IS \$60,000 OR GREATER

CONFLICT OF INTEREST

The authorized Person, Firm and/or Corporation states that to the best of his/her belief and knowledge:

No employee or Regent of The University of New Mexico (or close relative), with the exception of the person(s) identified below, has a direct or indirect financial interest in the Vendor or in the proposed transaction. Vendor neither employs, nor is negotiating to employ, any University of New Mexico employee, Regent or close relative, with the exception of the person(s) identified below. Vendor did not participate, directly or indirectly, in the preparation of specifications upon which the quote or offer is made. If the Vendor is a New Mexico State Legislator or if a New Mexico State Legislator holds a controlling interest in Vendor, please identify the legislator: _____ List below the name(s) of any University or New Mexico employee, Regent or close relative who now or within the preceding 12 months (1) works for the Vendor; (2) has an ownership interest in the Vendor (other than as an owner of less than 1% of Vendor's stock, if Vendor is a publicly traded corporation); (3) is a partner, officer, director, trustee or consultant to the Vendor; (4) has received grant, travel, honoraria or other similar support from Vendor; or (5) has a right to receive royalties from the vendor.

DEBARMENT/SUSPENSION STATUS

The Vendor certifies that it is not suspended, debarred or ineligible from entering into contracts with the Executive Branch of the Federal Government, or in receipt of a notice or proposed debarment from any Agency. The vendor agrees to provide immediate notice to The University of New Mexico Purchasing Department Buyer in the event of being suspended, debarred or declared ineligible by any department or federal agency, or upon receipt of a notice of proposed debarment that is received after the submission of the quote or offer but prior to the award of the purchase order or contract.

CERTIFICATION

The undersigned hereby certifies that he/she has read the above CONFLICT OF INTEREST and DEBARMENT/SUSPENSION Status requirements and that he/she understands and will comply with these requirements. The undersigned further certifies that they have the authority to certify compliance for the vendor named **and that the information contained in this document is true and accurate to the best of their knowledge.**

Signature: _____ Title: _____ Date: _____
Name: _____ Company Name: _____
Address: _____ City/State/zip: _____

THE FOLLOWING MUST BE CERTIFIED IF THIS PURCHASE ORDER IS \$100,000 OR GREATER:

CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (September, 2005)

(a) In accordance with FAR 52.203-11, the definitions and prohibitions contained in the clause at FAR 52.203-12, Limitation on Payments to influence Certain Federal Transactions, included in this solicitation, are hereby incorporated by reference in paragraph (b) of this certification.

(b) The offeror, by signing its offer, hereby certifies to the best of his or her knowledge and belief that on or after; December 23, 1989

1) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to Influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of any Federal contract.

2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal Transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the offeror shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, to the Contracting Officer; and

3) He or she will include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.

(c) Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by section 1352, title 31, United States Code. Any person who makes expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

The undersigned company agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.)

CERTIFICATION

The undersigned hereby certifies that he/she has read the above CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTION (APR 1991) and CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT requirements and that he/she understands and will comply with these requirements. The undersigned further certifies that they have the authority to certify compliance for the vendor named below.

Signature: _____ Title: _____ Date: _____
Name Typed: _____ Company: _____
Address: _____ City/State/zip: _____

New Mexico Wage Rate Determination

To be issued on a job-by-job basis

IMPORTANT: ARE YOU REGISTERED WITH THE NM DEPARTMENT OF WORKFORCE SOLUTIONS?

UNDER NEW MEXICO STATE LAW(State Statute 13-4-13-1-1) ALL CONSTRUCTION PROJECTS DONE THROUGH A PUBLIC AGENCY FOR A COST OF \$60,000 OR MORE ARE CONSIDERED PUBLIC WORKS PROJECTS.

WHAT DOES THAT MEAN TO YOU?

THIS MEANS IF YOU SUBMIT A BIC, EITHER AS A PRIME CONTRACTOR OR A SUBCONTRACTOR, THAT IS \$60,000 OR MORE, YOU MUST BE CURRENTLY REGISTERED WITH THE NEW MEXICO DEPARTMENT OF WORKFORCE SOLUTION AT THE TIME THE BID SUBMITTED

IF YOU ARE SUBMITTING AS A PRIME CONTRACTOR AND ARE NOT REGISTERED, THE UNIVERSITY OF NEW MEXICO CANNOT CONSIDER YOUR BID FOR AWARD.

IF YOUR ARE A SUBCONTRACTOR SUBMITTING THROUGH A PRIME CONTRACTOR AND NOT REGISTERED, THE UNIVERSITY OF NEW MEXICO WILL MANDATE THAT ANOTHER CONTRACTOR WITH A VALID REGISTRATION BE USED INSTEAD.

THIS ALSO MEANS THAT YOU WILL BE MANDATED BY THE STATE TO PAY EMPLOYEES WHO WORK ON THE PROJECT CERTAIN WAGES SET FORTH IN THE WAGE DETERMINATION FOR THAT PROJECT AND SUBMIT VARIOUS FORMS AS REQUIRED THROUGHOUT THE PROJECT.

PLEASE VERIFY THAT YOU ARE CURRENTLY REGISTERED AND BE PREPARED TO PROVIDE PROOF OF SUCH, CALL 505/841-4415 OR 505/841-4417 OR GO ONLINE TO <http://www.dws.state.nm.us/dws-pubwage.html>

SUBMITTAL LETTER FORM

Identity of Submitting Business (including d/b/a):

Mailing Address:

Who can contractually obligate:

Name/Title:

E-Mail:

Phone:

Contact for Inquiries/Clarifications/Negotiations:

Inquiries/Clarifications Name/Title:	E-Mail:	Phone:
Contact for Negotiations Name/Title:	E-Mail:	Phone:

Department of Labor Number: _____

New Mexico Contractor's License No. _____

Appendix A – Management Plan

Attach a copy of the firm's management plan for this project. Per the evaluation criteria set forth in the Proposal Evaluation, the management plan shall include the following:

- 1) Provide an overview of your experience working in projects relating to the Contract being bid:
 - General Construction
 - Mechanical, Electrical, and Plumbing (MEP)
 - Roofing
- 2) Describe your general understanding of the JOC system to include the joint scoping of work, the preparation of price proposals and Job Order proposals, using the Construction Task Catalog®, meeting the contractual deadlines of proposal development, the rapid mobilization and start-up of Job Orders, and the expedient closeout of Job Orders)
- 2) Provide a subcontracting plan to include the purchasing of subcontractor services, and work to be accomplished with in-house forces. Identify the amount and type of subcontracting anticipated. Demonstrate in writing your ability to coordinate multiple subcontractors on multiple projects at multiple locations.
- 3) Provide a list of contemplated subcontractors.
- 4) The Contractor's input during the development of the Detailed Scope of Work is a valued component of any JOC program. Outline and describe the Value-Engineering processes you have employed over the last 5 years identifying what worked best and what did not.
- 5) Demonstrate your firm's ability to understand the Design and Build environment and how the JOC process can partner with this concept. UNM is seeking a full function contracting relationship that will allow a willing partnership in both design and execution of remodeling projects. Design and flexibility will be crucial to our customer base and successful. Proposers must be willing to cooperate with this process.

Appendix A – Management Plan

Attach a copy of the firm's management plan for this project. Per the evaluation criteria set forth in the Proposal Evaluation, the management plan shall include the following:

- 1) Provide an overview of your experience working in projects relating to the Contract being bid:
 - General Construction
 - Mechanical, Electrical, and Plumbing (MEP)
 - Roofing
- 2) Describe your general understanding of the JOC system to include the joint scoping of work, the preparation of price proposals and Job Order proposals, using the Construction Task Catalog®, meeting the contractual deadlines of proposal development, the rapid mobilization and start-up of Job Orders, and the expedient closeout of Job Orders)
- 2) Provide a subcontracting plan to include the purchasing of subcontractor services, and work to be accomplished with in-house forces. Identify the amount and type of subcontracting anticipated. Demonstrate in writing your ability to coordinate multiple subcontractors on multiple projects at multiple locations.
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- 4) The Contractor's input during the development of the Detailed Scope of Work is a valued component of any JOC program. Outline and describe the Value-Engineering processes you have employed over the last 5 years identifying what worked best and what did not.
- 5) Demonstrate your firm's ability to understand the Design and Build environment and how the JOC process can partner with this concept. UNM is seeking a full function contracting relationship that will allow a willing partnership in both design and execution of remodeling projects. Design and flexibility will be crucial to our customer base and successful. Proposers must be willing to cooperate with this process.

Appendix A – Management Plan

Attach a copy of the firm's management plan for this project. Per the evaluation criteria set forth in the Proposal Evaluation, the management plan shall include the following:

- 1) Provide a brief history and description of your company, including an overview and experience providing similar projects and services relating to the Contract being bid:
 - General Construction
 - Mechanical, Electrical, and Plumbing (MEP)
 - Roofing

- 2) Describe your general understanding of the JOC system to include the joint scoping of work, the preparation of price proposals and Job Order proposals, using the Construction Task Catalog®, meeting the contractual deadlines of proposal development, the rapid mobilization and start-up of Job Orders, and the expedient closeout of Job Orders)

- 3) Provide a subcontracting plan to include the purchasing of subcontractor services, and work to be accomplished with in-house forces. Identify the amount and type of subcontracting anticipated. Demonstrate in writing your ability to coordinate multiple subcontractors on multiple projects at multiple locations.

- 4) Provide a list of contemplated subcontractors.

- 5) The Contractor's input during the development of the Detailed Scope of Work is a valued component of any JOC program. Outline and describe the Value-Engineering processes you have employed over the last 5 years identifying what worked best and what did not.

- 6) Demonstrate your firm's ability to understand the Design and Build environment and how the JOC process can partner with this concept. UNM is seeking a full function contracting relationship that will allow a willing partnership in both design and execution of remodeling projects. Design and flexibility will be crucial to our customer base and successful Proposers must be willing to cooperate with this process.

- 7) Please provide contact information for the person(s) who will be responsible for the following areas. If not applicable, write "Not Applicable"

Executive Contact:

Contact Person: _____

Title: _____

Phone: _____ Fax: _____

Email: _____

Marketing:

Contact Person: _____

Title: _____

Phone: _____ Fax: _____

Email: _____

Account Manager/Sales Lead:

Contact Person: _____

Title: _____

Phone: _____ Fax: _____

Email: _____

Sales Support:

Contact Person: _____

Title: _____

Phone: _____ Fax: _____

Email: _____

Contract Management (if different than sales lead):

Contact Person: _____

Title: _____

Phone: _____ Fax: _____

Email: _____

Financial Reporting:

Contact Person: _____

Title: _____

Phone: _____ Fax: _____

Email: _____

Appendix B – Contractor’s Statement of Qualification

1. ORGANIZATION

Name: _____ Address: _____

Principal Office:

Corporation Partnership Sole Proprietorship Joint
Venture
 Other

- a. How many years has your organization been in business as a contractor?
- b. How many years has your organization been in business under its present business name?

- c. Under what other or former names has your organization operated? _____

- d. Department of Work Force Solutions Contracting Registration # _____
Effective Dates: _____ to _____
- e. Submit FEIN and Dunn & Bradstreet report.
- f. Describe any present or past litigation, bankruptcy or reorganization involving supplier.
- g. Felony Conviction Notice: Indicate if the supplier
 - is a publicly held corporation and this reporting requirement is not applicable;
 - is not owned or operated by anyone who has been convicted of a felony; or
 - is owned or operated by and individual(s) who has been convicted of a felony and provide the names and convictions.
- h. Describe any debarment or suspension actions taken against supplier

2. LICENSING

- a. Name of license holder (or qualifying party) exactly as on file with the State of New Mexico Construction Industries Division:

- b. License Classification: _____ License Code: _____
- c. License Number: _____
- d. Issue Date: _____ Expiration Date: _____
- e. Is the firm's contractor's license free of ever being suspended or revoked by the CID or by the appropriate licensing agency in any other state?
 Yes No (attach explanation)
- f. Does your firm hold all applicable business licenses required by state and local law?
- License Number: _____ Jurisdiction: _____
Name of License Holder, exactly as it appears on file with jurisdictional authorities.

Issue Date: _____ Expiration Date: _____
 - License Number: _____ Jurisdiction: _____
Name of License Holder, exactly as it appears on file with jurisdictional authorities.

Issue Date: _____ Expiration Date: _____
 - License Number: _____ Jurisdiction: _____
Name of License Holder, exactly as it appears on file with jurisdictional authorities.

Issue Date: _____ Expiration Date: _____
- g. Is your firm registered with the State of New Mexico's Purchasing Department with a Resident Preference Number? Yes No
Resident Preference Number: _____ Issue Date: _____
Name of number holder, exactly as it appears on file with State Purchasing.

- h. Is your firm free from formal debarment from public works, federal, state or local jurisdictions?
 Yes No (attach explanation*)

3. CAPACITY AND CAPABILITY TO PERFORM THE WORK

a. Resources.

(1) Total number of current employees:
Project Managers _____
Estimators _____

Superintendents	_____
Foremen	_____
Tradesmen	_____
Administration	_____
Others	_____

(2) Does your firm have the immediate capacity to perform the work required for this project?

Yes

No

(3) What is the number and location of support centers, if applicable, and location of corporate offices?

(4) What was your annual construction volume over the last three (3) fiscal years?

(5) What are your overall public sector sales, excluding Federal Government, for last three (3) years?

(6) What is your strategy to increase market share in the public sector?

(7) What differentiates your company from competitors in the public sector?

(8) Describe any green or environmental initiatives or policies.

(9) Provide any necessary detail as it relates to standard ordering methods and payment terms.

(10) If Contractor requires additional agreements with Participating Public Agencies, provide a copy of the proposed agreement herein.

4. SURETY

a. Firm's current surety company: _____

Will this surety be used for the construction contract for this project?

Yes

No (attach explanation*)

Contact Agent: _____ Telephone: _____

Years utilizing this surety: _____ Maximum capacity: _____

Aggregate Total of current surety in force: _____

- b. Is the surety company to be used on this project licensed to do business in the State of New Mexico?

Yes No (attach explanation*)

- c. Is your firm free of having any construction contracts taken over by a surety for completion in the past five (5) years?

Yes No (attach explanation*)

- d. **Complete Attachment A Provide a letter from your bonding company setting forth your company's available bonding capacity and availability and confirming that, if required, your company could provide labor and material payment bonds and performance bonds for certain projects up to the bonding capacity.**

5. SAFETY

- a. Does your firm have a written safety program compliant with current state regulations?
 Yes No (attach explanation*)

(NOTE: Selected contractor will be required to provide a copy of their firm's written safety program at the time of contracting.)

- b. Provide the Recordable Incident Rate for the past calendar year: _____

- c. Is your firm free of committing serious or willful violations of federal or state safety laws as determined by a final non-appealable decision of a court or government agency?

Yes No (attach explanation*)

- d. Provide your safety record, safety rating, EMR and worker's compensation rate where available.

6. INSURANCE & CLAIMS HISTORY

- a. Is your firm free from any court judgments, pending litigation, arbitration and final agency decisions filed within the last five (5) years in a construction related matter in which the contractor, or any officer, is or was party?

Yes No (attach explanation*)

- b. Has your firm during the past five (5) years been free of a determination by a court of competent jurisdiction that it filed a false claim with any federal, state, or local government entity?

Yes No (attach explanation*)

c. Does your firm have the ability to provide the required insurance in the limit stated in the project documents?

Yes No (attach explanation*)

d. **Complete Attachment B** by providing a letter from an insurance carrier stating that the firm is able to obtain insurance in the limits required in the RFP.

7. QUALITY ASSURANCE

a. Does your firm have a written Quality Assurance Program?

Yes No (attach explanation*)

b. **Complete Attachment C** by providing a copy of the written Quality Assurance Program.

8. PROJECT SCHEDULING

a. Has the firm been involved with a construction project within the past five (5) years, where the schedule was not met?

Yes No

If yes, please explain

▪ Project 1 Name: _____

Reason for Delay: _____

▪ Project 2 Name: _____

Reason for Delay: _____

▪ Project 3 Name: _____

Reason for Delay: _____

b. Has the firm been assessed liquidated damages due to scheduling for any project in the past five (5) years?

Yes No

If yes, please list project(s)

▪ Project 1 Name: _____

- Project 2 Name: _____
- Project 3 Name: _____

9. LABOR CODE VIOLATIONS

- a. Has your firm, during the past five (5) years, been free of any determinations by a court or an administrative agency of repeated or willful violations of laws and/or regulations pertaining to the payment of prevailing wages or employment of apprentices of public works projects?
 Yes No (attach explanation*)
- b. **Complete Attachment D** by providing requested affidavit of non-violation of labor codes.
- c. Is the firm free of all sub-contractor Fair Practices Act violations for the past five (5) years?
 Yes No (attach explanation*)

10. VALUE STATEMENT

UNM places a strong emphasis on diversity, quality management and sustainable efforts and strives to utilize these practices in its everyday activities. **Complete Attachment E** by describing your firm's value system and note how you would demonstrate such practices on this project?

11. CONTRACTOR'S COMMENTS

- a. ***Complete Attachment F** if you have selected any answers in the qualification statement that require further explanation. Note the question number and proceed with the explanation. This attachment may also be used if necessary to further clarify any of the answers to the above qualification questions, by noting the question number and posting the clarification.
- b. **Complete Attachment G** if you would like to provide additional information about your firm and/or proposal.

The undersigned certifies that all of the qualification information submitted with this form is true and correct.

Signature of authorized representative _____

Printed or typed name _____

Title _____

Date _____

Company name _____

Address _____

City/State/Zip _____

Telephone _____ Fax _____

Email _____

ATTACHMENTS INCLUDED - 12

Please check all attachments included in the
proposal A Notarized Declaration of
Surety

- B Proof of Insurance
- C Copy of Quality Assurance Program
- D Affidavit of Non-Violation of Labor Codes
- E Copy of Value Statement
- F Clarifications, and Explanations
- G Additional Information (Optional)

----- END OF **PRIMARY CONTRACTOR'S** QUALIFICATION STATEMENT -----

Appendix C – Quality Control Plan and Safety

Attach a copy of the firm's quality control plan and safety. Per the evaluation criteria set forth in proposal evaluation, the quality control plan shall include the following:

- 1) Propose a mechanism for addressing the preparation, submittal and re-submittal of proposals, transmittals, reports, drawings, and data.
- 2) Proposed plan for insuring that the price proposal, submittals, and documents are complete and accurate.
- 3) Proposed organizational approach for quality control and procedures to ensure that projects are constructed according to the scope of work, standards and specifications.
- 4) Explain the firm's approach to safety and procedures that you will follow to ensure site safety and accident prevention on all jobs.

Appendix D – Approach to Recycling

Complete Appendix D by describing your company's approach to recycling.

Appendix E - Key Personnel Project Manager

Name: _____

Name: _____

Title: _____

of Years with the Firm: _____

Experience with the Following Type of Construction Services:

General Construction Mechanical, Electrical, and Plumbing Roofing Painting

of Years as a Project Manager for Type of Construction Services Selected Above: _____

Check All Relevant Experience:

- Projects for Higher Education Owners Laboratory Renovations Clinical / Medical Environment
- General Construction Roofing Replacement/Repair Mechanical Upgrades Electrical Upgrades
- Interior Renovation Asbestos abatement Exterior / Interior painting Boiler Replacement
- Bituminous Paving Concrete Masonry Exterior Facade Security Camera Installation
- Canopy Replacement/Repair Elevator Repair/Replacement Escalator Repair/Replacement
- Overhead Doors Glass Installation Steel Erection Concrete Floor
- Duct bank repair / installation Outdoor light installation Fire Suppression System Installation
- Landscaping Fencing Earthwork / Site Work Demolition Painting

ATTACH RESUME

Yes

Client Reference #1 for Construction: (It is your responsibility to assure that the contact information listed is correct. If your reference can not be contacted, this project may not be considered.)

Agency's contact: Name _____ **Title** _____

Telephone: _____ Email Address: _____

Client Reference #2 for Construction: (It is your responsibility to assure that the contact information listed is correct. If your reference can not be contacted, this project may not be considered.)

Agency's contact: Name _____ **Title** _____

Telephone: _____ Email Address: _____

Appendix F - Key Personnel Lead Superintendent

Name: _____

Name: _____

Title: _____

of Years with the Firm: _____

Experience with the Following Type of Construction Services:

General Construction Electrical Mechanical Roofing

Experience with the Following Type of Construction Services:

General Construction Mechanical, Electrical, and Plumbing Roofing Painting

of Years as a Project Manager for Type of Construction Services Selected Above: _____

Check All Relevant Experience:

- Projects for Higher Education Owners Laboratory Renovations Clinical / Medical Environment
- General Construction Roofing Replacement/Repair Mechanical Upgrades Electrical Upgrades
- Interior Renovation Asbestos abatement Exterior / Interior painting Boiler Replacement
- Bituminous Paving Concrete Masonry Exterior Facade Security Camera Installation
- Canopy Replacement/Repair Elevator Repair/Replacement Escalator Repair/Replacement
- Overhead Doors Glass Installation Steel Erection Concrete Floor
- Duct bank repair / installation Outdoor light installation Fire Suppression System Installation
- Landscaping Fencing Earthwork / Site Work Demolition Painting

ATTACH RESUME Yes

Client Reference #1 for Construction: (It is your responsibility to assure that the contact information listed is correct. If your reference can not be contacted, this project may not be considered.)

Agency's contact: Name _____ **Title** _____

Telephone: _____ Email Address: _____

Client Reference #2 for Construction: (It is your responsibility to assure that the contact information listed is correct. If your reference can not be contacted, this project may not be considered.)

Agency's contact: Name _____ **Title** _____

Telephone: _____ Email Address: _____

Appendix G – Key Personnel Safety Manager

Name: _____

Name: _____

Title: _____

of Years with the Firm: _____

Experience with the Following Type of Construction Services:

General Construction Mechanical, Electrical, and Plumbing Roofing Painting

of Years as a Project Manager for Type of Construction Services Selected Above: _____

Check All Relevant Experience:

- Projects for Higher Education Owners Laboratory Renovations Clinical / Medical Environment
- General Construction Roofing Replacement/Repair Mechanical Upgrades Electrical Upgrades
- Interior Renovation Asbestos abatement Exterior / Interior painting Boiler Replacement
- Bituminous Paving Concrete Masonry Exterior Facade Security Camera Installation
- Canopy Replacement/Repair Elevator Repair/Replacement Escalator Repair/Replacement
- Overhead Doors Glass Installation Steel Erection Concrete Floor
- Duct bank repair / installation Outdoor light installation Fire Suppression System Installation
- Landscaping Fencing Earthwork / Site Work Demolition Painting

ATTACH RESUME Yes

Client Reference #1 for Construction: (It is your responsibility to assure that the contact information listed is correct. If your reference can not be contacted, this project may not be considered.)

Agency's contact: Name _____ **Title** _____

Telephone: _____ Email Address: _____

Client Reference #2 for Construction: (It is your responsibility to assure that the contact information listed is correct. If your reference can not be contacted, this project may not be considered.)

Agency's contact: Name _____ **Title** _____

Telephone: _____ Email Address: _____

Appendix L – Price Proposal

University of New Mexico

BID FOR JOB ORDER CONTRACT (PRICE PROPOSAL)

Date of Bid:

New Mexico State Contractor's License No.

Resident Contractor's Preference Certificate No.

Contractor's New Mexico Gross Receipts Tax No.

Contractor's Federal Employee Identification No.

Dept. Workforce Solutions Registered Contractors Number

UNM _____

Request for Proposals No. _____

Bid (Price Proposal) of (company name): _____
(hereinafter called the "Bidder") organized and existing under the laws of the State of New Mexico, doing business as a Corporation, Partnership or Individual. (Circle correct one).

To: The Regents of The University of New Mexico, Albuquerque, New Mexico
(hereinafter called the "Owner").

The undersigned, as an authorized representative for the Bidder named above, in compliance with the Request For proposals (RFP) for Job Order Contracting services, having examined the Contract Documents, hereby proposes to furnish all labor, materials and supplies, and to construct the project in accordance with the contract documents at the prices stated below. These prices are to cover all expenses incurred in performing the work required under the contract documents, of which this proposal is a part.

Offeror must agree to commence work on a date specified in a written "Notice to Proceed" issued by the Owner. The Offeror must agree to complete the Project within the Job Order Completion Time stipulated date in the "Notice of Proceed". At the sole discretion of the Owner, liquidated damages will be assessed, if at all, on a Job Order-by-Job-Order basis. For each calendar day that the Detailed Scope of Work for a Job Order shall remain incomplete after the Job Order Completion Time, as amended pursuant to this Contract, the amount per calendar will be determined with each Job Order, and that amount will be deducted from any money due the Contractor, not as a penalty but as liquidated damages.

The following information is required for state reporting purposes only, and will not be used in evaluating or awarding the contract.

Is project material offered grown, produced or wholly manufactured in New Mexico? _____

Business Size / Classification:

Small Business Concern

Disadvantaged Business Concern

Large Business Concern

Women Owned Business Concern

The Contractor shall perform all Work required called for in each individual Job Order issued under this Contract using the Construction Task Catalog[®] and Technical Specifications incorporated herein. Contractor shall perform any or all functions called for in the Contract Documents in the quantities specified in individual Job Orders against this Contract for the Unit Prices specified in the Construction Task Catalog[®] (CTC) multiplied by the Adjustment Factors being proposed.

The Bidder shall set forth Adjustment Factors in clearly legible figures in the respective space provided. Failure to submit Adjustment Factors for all categories may result in the Proposal being deemed non-responsive. **All amounts shall exclude NM Gross Receipts Tax.** The Contractor shall perform the Tasks required by each individual Job Order using the following Adjustment Factors:

The Schedule of Prices is contained in a separate Microsoft Excel document. Complete the Microsoft Excel document and submit as part of this Appendix L. Be sure to enter Adjustment Factors for each campus and trade being proposed.

PART 1: SCHEDULE OF PRICES:

Attach Schedule of Prices from the Microsoft Excel document. On the Microsoft Excel document, be sure to enter Adjustment Factors for each campus and trade being proposed.

Has the Part 1: Schedule of Prices been attached to this Appendix L: Yes No

PART 2: SIGNATURES

The Bidder understands that the contract(s) will be awarded in accordance with the all terms and conditions contained in this RFP and that the Owner reserves the right to reject any or all bids and to waive any formalities in the bidding.

The Bidder agrees that this response will be good and may not be withdrawn for a period of thirty (30) calendar days after the scheduled closing time for receiving bids.

Respectfully Submitted,

By:(Authorized Signature) _____ Date: _____

By:(Same Name, Printed or Typed) _____

Title: _____

Company: _____

Address: _____

Zip: _____

Phone: _____ Fax: _____ Email: _____

(Affix Corporate Seal if response by Corporation):

Appendix H – Comparable Construction Experience General Construction Projects

Applicable to Firms Submitting a Proposal for General Construction Contracts

Proponent's Name: _____

Agency / Client Name: _____

Project Name: _____

Project Number: _____ Project Value: _____

Achieved or Anticipated Final Acceptance after January 1, 2018 Yes No

Company Role: Sub Contractor Prime / JV Contractor

Agency: Public Private

Location: On a UNM Campus Within State of New Mexico

Estimated Self Performance (%): _____

(Based on actual hours through the working foreperson. **Supervisory hours do NOT apply.**)

Project Type: (The project type should correspond to the applicable Contract the proposal is being submitted for: General Construction, MEP, Roofing)

General Construction Mechanical, Electrical, and Plumbing Roofing Painting

Project Scope: (Briefly describe the scope of work and the trades involved. The project scope should correspond to the applicable trade Contract the proposer is submitting for: General Construction, MEP, Roofing)

Client Reference for Construction: (It is your responsibility to assure that the contact information listed is correct. If your reference can not be contacted, this project may not be considered.)

Agency's contact: Name _____ Title _____

Telephone: _____ Email Address: _____

Briefly describe the project: Attached additional page, if necessary.

Appendix I – Comparable Construction Experience Mechanical, Electrical, and Plumbing (MEP) Projects

Applicable to Firms Submitting a Proposal for the Mechanical, Electrical, and Plumbing (MEP) Contract

Proponent's Name: _____

Agency / Client Name: _____

Project Name: _____

Project Number: _____ Project Value: _____

Achieved or Anticipated Final Acceptance after January 1, 2018 Yes No

Company Role: Sub Contractor Prime / JV Contractor

Agency: Public Private

Location: On a UNM Campus Within State of New Mexico

Estimated Self Performance (%): _____

(Based on actual hours through the working foreperson. **Supervisory hours do NOT apply.**)

Project Type: (The project type should correspond to the applicable Contract the proposal is being submitted for: General Construction, MEP, Roofing)

General Construction Mechanical, Electrical, and Plumbing Roofing Painting

Project Scope: (Briefly describe the scope of work and the trades involved. The project scope should correspond to the applicable trade Contract the proposer is submitting for: General Construction, MEP, Roofing)

Client Reference for Construction: (It is your responsibility to assure that the contact information listed is correct. If your reference can not be contacted, this project may not be considered.)

Agency's contact: Name _____ **Title** _____

Telephone: _____ Email Address: _____

Briefly describe the project: Attached additional page, if necessary.

Appendix J – Comparable Construction Experience Roofing Projects

Applicable to Firms Submitting a Proposal for Roofing Contracts

Proponent's Name: _____

Agency / Client Name: _____

Project Name: _____

Project Number: _____ **Project Value:** _____

Achieved or Anticipated Final Acceptance after January 1, 2018 Yes No

Company Role: Sub Contractor Prime / JV Contractor

Agency: Public Private

Location: On a UNM Campus Within State of New Mexico

Estimated Self Performance (%): _____

(Based on actual hours through the working foreperson. **Supervisory hours do NOT apply.**)

Project Type: (The project type should correspond to the applicable Contract the proposal is being submitted for: General Construction, MEP, Roofing)

General Construction Mechanical, Electrical, and Plumbing Roofing Painting

Project Scope: (Briefly describe the scope of work and the trades involved. The project scope should correspond to the applicable trade Contract the proposer is submitting for: General Construction, MEP, Roofing)

Client Reference for Construction: (It is your responsibility to assure that the contact information listed is correct. If your reference can not be contacted, this project may not be considered.)

Agency's contact: Name _____ **Title** _____

Telephone: _____ Email Address: _____

Briefly describe the project: Attached additional page, if necessary.

Appendix K – Indefinite Quantity Contract Experience

General

- 1 Agency Name: _____
2 Contract #: _____

Reference Information

- 3 Reference Name, Position: _____
4 Address: _____
5 City, State Zip Code: _____
6 Phone Number: _____
7 E-mail Address: _____

Contract Time:

- 8 Potential Maximum Time:* _____
9 Award Date: _____
10 Expiration / Termination Date (Or Still Active): _____

Contract Amounts:

- 11 Potential Maximum Amount:** _____
12 Total Amount of Work Issued (\$): _____
13 Total Number of Job Orders Issued (#): _____

Key Personnel

- 14 Name and Position: _____
15 Name and Position: _____
16 Name and Position: _____
17 Name and Position: _____
18 Yes or No, Did Any of the Key Personnel Proposed for the Naperville Contract Work on this Contract? _____
19 If Answer to Above Question is "Yes," and if Those Individuals are NOT Listed as a Key Personnel Above, List the Name and Position Below:

* Potential Maximum Time shall mean the the entire possible duration of the Contract. The Potential Maximum Time is calculated by adding together the base term plus all possible option terms.

** Potential Maximum Amount shall be the sum of the Potential Maximum for the base term and ALL possible option terms. Expressed as a Dollar Amount.

DIVERSITY VENDOR CERTIFICATION PARTICIPATION

Diversity Vendor Certification Participation - It is the policy of some Members participating in Omnia Partners to involve minority and women business enterprises (M/WBE), small and/or disadvantaged business enterprises, disabled veterans business enterprises, historically utilized businesses (HUB) and other diversity recognized businesses in the purchase of goods and services. Respondents shall indicate below whether or not they hold certification in any of the classified areas and include proof of such certification with their response.

1. Minority Women Business Enterprise

Respondent certifies that this firm is an MWBE Yes No

List certifying agency: _____

2. Small Business Enterprise (SBE) or Disadvantaged Business Enterprise (DBE)

Respondent certifies that this firm is a SBE or DBE Yes No

List certifying agency: _____

3. Disabled Veterans Business Enterprise (DVBE)

Respondent certifies that this firm is an DVBE Yes No

List certifying agency: _____

4. Historically Underutilized Businesses (HUB)

Respondent certifies that this firm is an HUB Yes No

List certifying agency: _____

5. Historically Underutilized Business Zone Enterprise (HUBZone)

Respondent certifies that this firm is an HUBZone Yes No

List certifying agency: _____

6. Other

Respondent certifies that this firm is a recognized diversity certificate holder Yes No

List certifying agency: _____

Attachment E Federal Funds Certifications

FEDERAL CERTIFICATIONS ADDENDUM FOR AGREEMENT FUNDED BY U.S. FEDERAL GRANT

TO WHOM IT MAY CONCERN:

Participating Agencies may elect to use federal funds to purchase under the Master Agreement. This form should be completed and returned.

DEFINITIONS

Contract means a legal instrument by which a non-Federal entity purchases property or services needed to carry out the project or program under a Federal award. The term as used in this part does not include a legal instrument, even if the non-Federal entity considers it a contract, when the substance of the transaction meets the definition of a Federal award or subaward

Contractor means an entity that receives a contract as defined in Contract.

Cooperative agreement means a legal instrument of financial assistance between a Federal awarding agency or pass-through entity and a non-Federal entity that, consistent with 31 U.S.C. 6302-6305:

- (a) Is used to enter into a relationship the principal purpose of which is to transfer anything of value from the Federal awarding agency or pass-through entity to the non-Federal entity to carry out a public purpose authorized by a law of the United States (see 31 U.S.C. 6101(3)); and not to acquire property or services for the Federal government or pass-through entity's direct benefit or use;
- (b) Is distinguished from a grant in that it provides for substantial involvement between the Federal awarding agency or pass-through entity and the non-Federal entity in carrying out the activity contemplated by the Federal award.
- (c) The term does not include:
 - (1) A cooperative research and development agreement as defined in 15 U.S.C. 3710a; or
 - (2) An agreement that provides only:
 - (i) Direct United States Government cash assistance to an individual;
 - (ii) A subsidy;
 - (iii) A loan;
 - (iv) A loan guarantee; or
 - (v) Insurance.

Federal awarding agency means the Federal agency that provides a Federal award directly to a non-Federal entity

Federal award has the meaning, depending on the context, in either paragraph (a) or (b) of this section:

- (a)(1) The Federal financial assistance that a non-Federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity, as described in § 200.101 Applicability; or
- (2) The cost-reimbursement contract under the Federal Acquisition Regulations that a non-Federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity, as described in § 200.101 Applicability.
- (b) The instrument setting forth the terms and conditions. The instrument is the grant agreement, cooperative agreement, other agreement for assistance covered in paragraph (b) of § 200.40 Federal financial assistance, or the cost-reimbursement contract awarded under the Federal Acquisition Regulations.
- (c) Federal award does not include other contracts that a Federal agency uses to buy goods or services from a contractor or a contract to operate Federal government owned, contractor operated facilities (GOCOs).
- (d) See also definitions of Federal financial assistance, grant agreement, and cooperative agreement.

Non-Federal entity means a state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out a Federal award as a recipient or subrecipient.

Nonprofit organization means any corporation, trust, association, cooperative, or other organization, not including IHEs, that:

- (a) Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;
- (b) Is not organized primarily for profit; and
- (c) Uses net proceeds to maintain, improve, or expand the operations of the organization.

Obligations means, when used in connection with a non-Federal entity's utilization of funds under a Federal award, orders placed for property and services, contracts and subawards made, and similar transactions during a given period that require payment by the non-Federal entity during the same or a future period.

Pass-through entity means a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.

Recipient means a non-Federal entity that receives a Federal award directly from a Federal awarding agency to carry out an activity under a Federal program. The term recipient does not include subrecipients.

Simplified acquisition threshold means the dollar amount below which a non-Federal entity may purchase property or services using small purchase methods. Non-Federal entities adopt small purchase procedures in order to expedite the purchase of items costing less than the simplified acquisition threshold. The simplified acquisition threshold is set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions) and in accordance with 41 U.S.C. 1908. As of the publication of this part, the simplified acquisition threshold is \$250,000, but this threshold is periodically adjusted for inflation. (Also see definition of § 200.67 Micro-purchase.)

Subaward means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

Subrecipient means a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

Termination means the ending of a Federal award, in whole or in part at any time prior to the planned end of period of performance.

The following provisions may be required and apply when Participating Agency expends federal funds for any purchase resulting from this procurement process. Per FAR 52.204-24 and FAR 52.204-25, solicitations and resultant contracts shall contain the following provisions.

52.204-24 Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment (Oct 2020)

The Offeror shall not complete the representation at paragraph (d)(1) of this provision if the Offeror has represented that it "does not provide covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument" in paragraph (c)(1) in the provision at [52.204-26](#), Covered Telecommunications Equipment or Services—Representation, or in paragraph (v)(2)(i) of the provision at [52.212-3](#), Offeror Representations and Certifications-Commercial Items. The Offeror shall not complete the representation in paragraph (d)(2) of this provision if the Offeror has represented that it "does not use covered telecommunications equipment or services, or any equipment, system, or service that uses covered telecommunications equipment or services" in paragraph (c)(2) of the provision at [52.204-26](#), or in paragraph (v)(2)(ii) of the provision at [52.212-3](#).

(a) *Definitions.* As used in this provision—

Backhaul, covered telecommunications equipment or services, critical technology, interconnection arrangements, reasonable inquiry, roaming, and substantial or essential component have the meanings provided in the clause [52.204-25](#), Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

(b) *Prohibition.*

(1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Nothing in the prohibition shall be construed to—

(i) Prohibit the head of an executive agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2020, from entering into a contract or extending or renewing a contract with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. This prohibition applies to the use of covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract. Nothing in the prohibition shall be construed to—

(i) Prohibit the head of an executive agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(c) *Procedures.* The Offeror shall review the list of excluded parties in the System for Award Management (SAM) (<https://www.sam.gov>) for entities excluded from receiving federal awards for "covered telecommunications equipment or services".

(d) *Representation.* The Offeror represents that—

(1) It will, will not provide covered telecommunications equipment or services to the Government in the performance of any contract, subcontract or other contractual instrument resulting from this solicitation. The Offeror shall provide the additional disclosure information required at paragraph (e)(1) of this section if the Offeror responds "will" in paragraph (d)(1) of this section; and

(2) After conducting a reasonable inquiry, for purposes of this representation, the Offeror represents that—

It does, does not use covered telecommunications equipment or services, or use any equipment, system, or service that uses covered telecommunications equipment or services. The Offeror shall provide the additional disclosure information required at paragraph (e)(2) of this section if the Offeror responds "does" in paragraph (d)(2) of this section.

(e) *Disclosures.*

(1) Disclosure for the representation in paragraph (d)(1) of this provision. If the Offeror has responded "will" in the representation in paragraph (d)(1) of this provision, the Offeror shall provide the following information as part of the offer.

(i) For covered equipment—

(A) The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the original equipment manufacturer (OEM) or a distributor, if known);

(B) A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and

(C) Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of this provision.

(ii) For covered services—

(A) If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or

(B) If not associated with maintenance, the Product Service Code (PSC) of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of this provision.

(2) Disclosure for the representation in paragraph (d)(2) of this provision. If the Offeror has responded "does" in the representation in paragraph (d)(2) of this provision, the Offeror shall provide the following information as part of the offer:

(i) For covered equipment—

(A) The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the OEM or a distributor, if known);

(B) A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and

(C) Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of this provision.

(ii) For covered services—

(A) If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or

(B) If not associated with maintenance, the PSC of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of this provision.

Does offeror agree? YES _____ Initials of Authorized Representative of offeror

52.204-25 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment (Aug 2020).

(a) *Definitions.* As used in this clause—

Backhaul means intermediate links between the core network, or backbone network, and the small subnetworks at the edge of the network (e.g., connecting cell phones/towers to the core telephone network). Backhaul can be wireless (e.g., microwave) or wired (e.g., fiber optic, coaxial cable, Ethernet).

Covered foreign country means The People's Republic of China.

Covered telecommunications equipment or services means—

(1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);

(2) For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);

(3) Telecommunications or video surveillance services provided by such entities or using such equipment; or

(4) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

Critical technology means—

(1) Defense articles or defense services included on the United States Munitions List set forth in the International Traffic in Arms Regulations under subchapter M of chapter I of title 22, Code of Federal Regulations;

(2) Items included on the Commerce Control List set forth in Supplement No. 1 to part 774 of the Export Administration Regulations under subchapter C of chapter VII of title 15, Code of Federal Regulations, and controlled-

(i) Pursuant to multilateral regimes, including for reasons relating to national security, chemical and biological weapons proliferation, nuclear nonproliferation, or missile technology; or

(ii) For reasons relating to regional stability or surreptitious listening;

(3) Specially designed and prepared nuclear equipment, parts and components, materials, software, and technology covered by part 810 of title 10, Code of Federal Regulations (relating to assistance to foreign atomic energy activities);

(4) Nuclear facilities, equipment, and material covered by part 110 of title 10, Code of Federal Regulations (relating to export and import of nuclear equipment and material);

(5) Select agents and toxins covered by part 331 of title 7, Code of Federal Regulations, part 121 of title 9 of such Code, or part 73 of title 42 of such Code; or

(6) Emerging and foundational technologies controlled pursuant to section 1758 of the Export Control Reform Act of 2018 (50 U.S.C. 4817).

Interconnection arrangements means arrangements governing the physical connection of two or more networks to allow the use of another's network to hand off traffic where it is ultimately delivered (e.g., connection of a customer of telephone provider A to a customer of telephone company B) or sharing data and other information resources.

Reasonable inquiry means an inquiry designed to uncover any information in the entity's possession about the identity of the producer or provider of covered telecommunications equipment or services used by the entity that excludes the need to include an internal or third-party audit.

Roaming means cellular communications services (e.g., voice, video, data) received from a visited network when unable to connect to the facilities of the home network either because signal coverage is too weak or because traffic is too high.

Substantial or essential component means any component necessary for the proper function or performance of a piece of equipment, system, or service.

(b) *Prohibition.*

(1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. The Contractor is prohibited from providing to the Government any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR [4.2104](#).

(2) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2020, from entering into a contract, or extending or renewing a contract, with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR [4.2104](#). This prohibition applies to the use of covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract.

(c) *Exceptions.* This clause does not prohibit contractors from providing—

(1) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements;
or

(2) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(d) *Reporting requirement.*

(1) In the event the Contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the Contractor is notified of such by a subcontractor at any tier or by any other source, the Contractor shall report the information in paragraph (d)(2) of this clause to the Contracting Officer, unless elsewhere in this contract are established procedures for reporting the information; in the case of the Department of Defense, the Contractor shall report to the website at <https://dibnet.dod.mil>. For indefinite delivery contracts, the Contractor shall report to the Contracting Officer for the indefinite delivery contract and the Contracting Officer(s) for any affected order or, in the case of the Department of Defense, identify both the indefinite delivery contract and any affected orders in the report provided at <https://dibnet.dod.mil>.

(2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause

(i) Within one business day from the date of such identification or notification: the contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

(ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: any further available information about mitigation actions undertaken or recommended. In addition, the Contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(e) *Subcontracts.* The Contractor shall insert the substance of this clause, including this paragraph (e) and excluding paragraph (b)(2), in all subcontracts and other contractual instruments, including subcontracts for the acquisition of commercial items.

Does offeror agree? YES _____ Initials of Authorized Representative of offeror

The following certifications and provisions may be required and apply when Participating Agency expends federal funds for any purchase resulting from this procurement process. Pursuant to 2 C.F.R. § 200.326, all contracts, including small purchases,

awarded by the Participating Agency and the Participating Agency's subcontractors shall contain the procurement provisions of Appendix II to Part 200, as applicable.

APPENDIX II TO 2 CFR PART 200

(A) Contracts for more than the simplified acquisition threshold currently set at \$250,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

Pursuant to Federal Rule (A) above, when a Participating Agency expends federal funds, the Participating Agency reserves all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach of contract by either party.

Does offeror agree? YES _____ Initials of Authorized Representative of offeror

(B) Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)

Pursuant to Federal Rule (B) above, when a Participating Agency expends federal funds, the Participating Agency reserves the right to immediately terminate any agreement in excess of \$10,000 resulting from this procurement process in the event of a breach or default of the agreement by Offeror as detailed in the terms of the contract.

Does offeror agree? YES _____ Initials of Authorized Representative of offeror

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 CFR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

Pursuant to Federal Rule (C) above, when a Participating Agency expends federal funds on any federally assisted construction contract, the equal opportunity clause is incorporated by reference herein.

Does offeror agree to abide by the above? YES _____ Initials of Authorized Representative of offeror

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

Pursuant to Federal Rule (D) above, when a Participating Agency expends federal funds during the term of an award for all contracts and subgrants for construction or repair, offeror will be in compliance with all applicable Davis-Bacon Act provisions.

Does offeror agree? YES _____ Initials of Authorized Representative of offeror

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Pursuant to Federal Rule (E) above, when a Participating Agency expends federal funds, offeror certifies that offeror will be in compliance with all applicable provisions of the Contract Work Hours and Safety Standards Act during the term of an award for all contracts by Participating Agency resulting from this procurement process.

Does offeror agree? YES _____ Initials of Authorized Representative of offeror

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

Pursuant to Federal Rule (F) above, when federal funds are expended by Participating Agency, the offeror certifies that during the term of an award for all contracts by Participating Agency resulting from this procurement process, the offeror agrees to comply with all applicable requirements as referenced in Federal Rule (F) above.

Does offeror agree? YES _____ Initials of Authorized Representative of offeror

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA)

Pursuant to Federal Rule (G) above, when federal funds are expended by Participating Agency, the offeror certifies that during the term of an award for all contracts by Participating Agency member resulting from this procurement process, the offeror agrees to comply with all applicable requirements as referenced in Federal Rule (G) above.

Does offeror agree? YES _____ Initials of Authorized Representative of offeror

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the Executive Office of the President Office of Management and Budget (OMB) guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Pursuant to Federal Rule (H) above, when federal funds are expended by Participating Agency, the offeror certifies that during the term of an award for all contracts by Participating Agency resulting from this procurement process, the offeror certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency. If at any time during the term of an award the offeror or its principals becomes debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency, the offeror will notify the Participating Agency.

Does offeror agree? YES _____ Initials of Authorized Representative of offeror

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

Pursuant to Federal Rule (I) above, when federal funds are expended by Participating Agency, the offeror certifies that during the term and after the awarded term of an award for all contracts by Participating Agency resulting from this procurement process, the offeror certifies that it is in compliance with all applicable provisions of the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). The undersigned further certifies that:

- (1) No Federal appropriated funds have been paid or will be paid for on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with the awarding of a Federal contract, the making of a Federal grant, the making of a Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of a Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all covered sub-awards exceeding \$100,000 in Federal funds at all appropriate tiers and that all subrecipients shall certify and disclose accordingly.

Does offeror agree? YES _____ Initials of Authorized Representative of offeror

RECORD RETENTION REQUIREMENTS FOR CONTRACTS INVOLVING FEDERAL FUNDS

When federal funds are expended by Participating Agency for any contract resulting from this procurement process, offeror certifies that it will comply with the record retention requirements detailed in 2 CFR § 200.333. The offeror further certifies that offeror will retain all records as required by 2 CFR § 200.333 for a period of three years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

Does offeror agree? YES _____ Initials of Authorized Representative of offeror

CERTIFICATION OF COMPLIANCE WITH THE ENERGY POLICY AND CONSERVATION ACT

When Participating Agency expends federal funds for any contract resulting from this procurement process, offeror certifies that it will comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.; 49 C.F.R. Part 18).

Does offeror agree? YES _____ Initials of Authorized Representative of offeror

CERTIFICATION OF COMPLIANCE WITH BUY AMERICA PROVISIONS

To the extent purchases are made with Federal Highway Administration, Federal Railroad Administration, or Federal Transit Administration funds, offeror certifies that its products comply with all applicable provisions of the Buy America Act and agrees to provide such certification or applicable waiver with respect to specific products to any Participating Agency upon request. Purchases made in accordance with the Buy America Act must still follow the applicable procurement rules calling for free and open competition.

Does offeror agree? YES _____ Initials of Authorized Representative of offeror

CERTIFICATION OF ACCESS TO RECORDS – 2 C.F.R. § 200.336

Offeror agrees that the Inspector General of the Agency or any of their duly authorized representatives shall have access to any documents, papers, or other records of offeror that are pertinent to offeror's discharge of its obligations under the Contract for the purpose of making audits, examinations, excerpts, and transcriptions. The right also includes timely and reasonable access to offeror's personnel for the purpose of interview and discussion relating to such documents.

Does offeror agree? YES _____ Initials of Authorized Representative of offeror _____

CERTIFICATION OF APPLICABILITY TO SUBCONTRACTORS

Offeror agrees that all contracts it awards pursuant to the Contract shall be bound by the foregoing terms and conditions.

Does offeror agree? YES _____ Initials of Authorized Representative of offeror _____

Offeror agrees to comply with all federal, state, and local laws, rules, regulations and ordinances, as applicable. It is further acknowledged that offeror certifies compliance with all provisions, laws, acts, regulations, etc. as specifically noted above.

Offeror's Name:

Address, City, State, and Zip Code:

Phone Number: _____ Fax Number:

Printed Name and Title of Authorized Representative:

Email Address:

Signature of Authorized Representative: _____ Date: _____

FEMA SPECIAL CONDITIONS

Awarded Supplier(s) may need to respond to events and losses where products and services are needed for the immediate and initial response to emergency situations such as, but not limited to, water damage, fire damage, vandalism cleanup, biohazard cleanup, sewage decontamination, deodorization, and/or wind damage during a disaster or emergency situation. By submitting a proposal, the Supplier is accepted these FEMA Special Conditions required by the Federal Emergency Management Agency (FEMA).

“Contract” in the below pages under FEMA SPECIAL CONDITIONS is also referred to and defined as the “Master Agreement”.

“Contractor” in the below pages under FEMA SPECIAL CONDITIONS is also referred to and defined as “Supplier” or “Awarded Supplier”.

Conflicts of Interest

No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a FEMA award if he or she has a real or apparent conflict of interest. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of these parties, has a financial or other interest in or a tangible personal benefit from a firm considered for award. 2 C.F.R. § 200.318(c)(1); See also Standard Form 424D, ¶ 7; Standard Form 424B, ¶ 3. i. FEMA considers a “financial interest” to be the potential for gain or loss to the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of these parties as a result of the particular procurement. The prohibited financial interest may arise from ownership of certain financial instruments or investments such as stock, bonds, or real estate, or from a salary, indebtedness, job offer, or similar interest that might be affected by the particular procurement. ii. FEMA considers an “apparent” conflict of interest to exist where an actual conflict does not exist, but where a reasonable person with knowledge of the relevant facts would question the impartiality of the employee, officer, or agent participating in the procurement. c. Gifts. The officers, employees, and agents of the Participating Public Agency nor the Participating Public Agency (“NFE”) must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, NFE’s may set standards for situations in which the financial interest is de minimus, not substantial, or the gift is an unsolicited item of nominal value. 2 C.F.R. § 200.318(c)(1). d. Violations. The NFE’s written standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the NFE. 2 C.F.R. § 200.318(c)(1). For example, the penalty for a NFE’s employee may be dismissal, and the penalty for a contractor might be the termination of the contract.

Contractor Integrity

A contractor must have a satisfactory record of integrity and business ethics. Contractors that are debarred or suspended, as described in and subject to the debarment and suspension regulations implementing Executive Order 12549, *Debarment and Suspension* (1986) and Executive Order 12689, *Debarment and Suspension* (1989) at 2 C.F.R. Part 180 and the Department of Homeland Security’s regulations at 2 C.F.R. Part 3000 (Non-procurement Debarment and Suspension), must be rejected and cannot receive contract awards at any level.

Public Policy

A contractor must comply with the public policies of the Federal Government and state, local government, or tribal government. This includes, among other things, past and current compliance with the:

- a. Equal opportunity and nondiscrimination laws
- b. Five affirmative steps described at 2 C.F.R. § 200.321(b) for all subcontracting under contracts supported by FEMA financial assistance; and FEMA Procurement Guidance June 21, 2016 Page IV- 7
- c. Applicable prevailing wage laws, regulations, and executive orders

Affirmative Steps

For any subcontracting opportunities, Contractor must take the following Affirmative steps:

1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
2. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and
5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

Prevailing Wage Requirements

When applicable, the awarded Contractor (s) and any and all subcontractor(s) agree to comply with all laws regarding prevailing wage rates including the Davis-Bacon Act, applicable to this solicitation and/or Participating Public Agencies. The Participating Public Agency shall notify the Contractor of the applicable pricing/prevailing wage rates and must apply any local wage rates requested. The Contractor and any subcontractor(s) shall comply with the prevailing wage rates set by the Participating Public Agency.

Federal Requirements

If products and services are issued in response to an emergency or disaster recovery the items below, located in this FEMA Special Conditions section of the Federal Funds Certifications, are activated and required when federal funding may be utilized.

2 C.F.R. § 200.326 and 2 C.F.R. Part 200, Appendix II, Required Contract Clauses

1. CONTRACT REMEDIES

Contracts for more than the federal simplified acquisition threshold (SAT), the dollar amount below which an NFE may purchase property or services using small purchase methods, currently set at \$250,000 for procurements made on or after June 20, 2018, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms and must provide for sanctions and penalties as appropriate.

1.1 Applicability

This contract provision is required for contracts over the SAT, currently set at \$250,000 for procurements made on or after June 20, 2018. Although not required for contracts at or below the SAT, FEMA suggests including a remedies provision.

1.2 Additional Considerations

For FEMA's Assistance to Firefighters Grant (AFG) Program, recipients must include a penalty clause in all contracts for any AFG-funded vehicle, regardless of dollar amount. In that situation, the contract must include a clause addressing that non-delivery by the contract's specified date or other vendor nonperformance will require a penalty of no less than \$100 per day until such time that the vehicle, compliant with the terms of the contract, has been accepted by the recipient. This penalty clause should, however, account for force majeure or acts of God. AFG recipients should refer to the applicable year's Notice of Funding Opportunity (NOFO) for additional information, which can be accessed at FEMA.gov.

2. TERMINATION FOR CAUSE AND CONVENIENCE

- a. Standard. All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity, including the manner by which it will be effected and the basis for settlement. See 2 C.F.R. Part 200, Appendix II(B).

- b. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs.

3. EQUAL EMPLOYMENT OPPORTUNITY

When applicable:

- a. Standard. Except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. § 60- 1.4(b), in accordance with Executive Order 11246, *Equal Employment Opportunity* (30 Fed. Reg. 12319, 12935, 3 C.F.R. Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, *Amending Executive Order 11246 Relating to Equal Employment Opportunity*, and implementing regulations at 41 C.F.R. Part 60 (Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor). See 2 C.F.R. Part 200, Appendix II(C).

- b. Key Definitions.

- i. Federally Assisted Construction Contract. The regulation at 41 C.F.R. § 60-1.3 defines a “federally assisted construction contract” as any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.
- ii. Construction Work. The regulation at 41 C.F.R. § 60-1.3 defines “construction work” as the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.

- c. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs.

- d. Required Language. The regulation at 41 C.F.R. Part 60-1.4(b) requires the insertion of the following contract clause.

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, 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 in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened

with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

4. DAVIS-BACON ACT

- a. Standard.** All prime construction contracts in excess of \$2,000 awarded by non- Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. §§ 3141-3144 and 3146-3148) as supplemented by Department of Labor regulations at 29 C.F.R. Part 5 (Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction). See 2 C.F.R. Part 200, Appendix II(D). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week.
- b. Applicability.** The Davis-Bacon Act applies to the Emergency Management Preparedness Grant Program, Homeland Security Grant Program, Nonprofit Security Grant Program, Tribal Homeland Security Grant Program, Port Security Grant Program, and Transit Security Grant Program.
- c. Requirements.** If applicable, the non-federal entity must do the following:
 - i.** The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or

reported violations to the Federal awarding agency.

- ii. Additionally, pursuant 2 C.F.R. Part 200, Appendix II(D), contracts subject to the Davis-Bacon Act, must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations at 29 C.F.R. Part 3 (Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States). The Copeland Anti- Kickback Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to FEMA.
- iii. Include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”).

Suggested Language. The following provides a sample contract clause:

Compliance with the Davis-Bacon Act.

- a. All transactions regarding this contract shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29C.F.R. pt. 5 as may be applicable. The contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.
- b. Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.
- c. Additionally, contractors are required to pay wages not less than once a week.

5. COPELAND ANTI-KICKBACK ACT

- a. Standard. Recipient and subrecipient contracts must include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”).
- b. Applicability. This requirement applies to all contracts for construction or repair work above \$2,000 in situations where the Davis-Bacon Act also applies. It DOES NOT apply to the FEMA Public Assistance Program.
- c. Requirements. If applicable, the non-federal entity must include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations at 29 C.F.R. Part 3 (Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States). Each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to FEMA. Additionally, in accordance with the regulation,

each contractor and subcontractor must furnish each week a statement with respect to the wages paid each of its employees engaged in work covered by the Copeland Anti-Kickback Act and the Davis Bacon Act during the preceding weekly payroll period. The report shall be delivered by the contractor or subcontractor, within seven days after the regular payment date of the payroll period, to a representative of a Federal or State agency in charge at the site of the building or work.

Sample Language. The following provides a sample contract clause:

Compliance with the Copeland "Anti-Kickback" Act.

- a. Contractor. The contractor shall comply with 18 U.S.C. §874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
- b. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
- c. Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. §5.12."

6. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

- a. Standard. Where applicable (see 40 U.S.C. §§ 3701-3708), all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II(E). Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Further, no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous.
- b. Applicability. This requirement applies to all FEMA contracts awarded by the non-federal entity in excess of \$100,000 under grant and cooperative agreement programs that involve the employment of mechanics or laborers. It is applicable to construction work. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- c. Suggested Language. The regulation at 29 C.F.R. § 5.5(b) provides contract clause language concerning compliance with the Contract Work Hours and Safety Standards Act. FEMA suggests including the following contract clause:

Compliance with the Contract Work Hours and Safety Standards Act.

- (1) *Overtime requirements.* No contractor or subcontractor contracting for any part of

the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) *Withholding for unpaid wages and liquidated damages.* The Federal agency or loan/grant recipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) *Subcontracts.* The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

7. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

- a.** Standard. If the FEMA award meets the definition of “funding agreement” under 37C.F.R. § 401.2(a) and the non-Federal entity wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the non-Federal entity must comply with the requirements of 37 C.F.R. Part 401 (Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements), and any implementing regulations issued by FEMA. See 2 C.F.R. Part 200, Appendix II(F).
- b.** Applicability. This requirement applies to “funding agreements,” but it DOES NOT apply to the Public Assistance, Hazard Mitigation Grant Program, Fire Management Assistance Grant Program, Crisis Counseling Assistance and Training Grant Program, Disaster Case Management Grant Program, and Federal Assistance to Individuals and Households – Other Needs Assistance Grant Program, as FEMA awards under these programs do not meet the definition of “funding agreement.”
- c.** Funding Agreements Definition. The regulation at 37 C.F.R. § 401.2(a) defines “funding agreement” as any contract, grant, or cooperative agreement entered into between any

Federal agency, other than the Tennessee Valley Authority, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal government. This term also includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as defined in the first sentence of this paragraph.

8. CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT

- a.** Standard. If applicable, contracts must contain a provision that requires the contractor to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401-7671q.) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387). Violations must be reported to FEMA and the Regional Office of the Environmental Protection Agency. See 2 C.F.R. Part 200, Appendix II(G).
- b.** Applicability. This requirement applies to contracts awarded by a non-federal entity of amounts in excess of \$150,000 under a federal grant.
- c.** Suggested Language. The following provides a sample contract clause.

Clean Air Act

1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
2. The contractor agrees to report each violation to the Participating Public Agency and understands and agrees that the Participating Public Agency will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

Federal Water Pollution Control Act

1. The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
2. The contractor agrees to report each violation to the Participating Public Agency and understands and agrees that the Participating Public Agency will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

9. DEBARMENT AND SUSPENSION

- a. Standard. Non-Federal entities and contractors are subject to the debarment and suspension regulations implementing Executive Order 12549, *Debarment and Suspension* (1986) and Executive Order 12689, *Debarment and Suspension* (1989) at 2 C.F.R. Part 180 and the Department of Homeland Security's regulations at 2 C.F.R. Part 3000 (Non-procurement Debarment and Suspension).
- b. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs.
- c. Requirements.
- i. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs and activities. See 2 C.F.R. Part 200, Appendix II(H); and 2 C.F.R. § 200.213. A contract award must not be made to parties listed in the SAM Exclusions. SAM Exclusions is the list maintained by the General Services Administration that contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. SAM exclusions can be accessed at www.sam.gov. See 2 C.F.R. § 180.530.
 - ii. In general, an "excluded" party cannot receive a Federal grant award or a contract within the meaning of a "covered transaction," to include subawards and subcontracts. This includes parties that receive Federal funding indirectly, such as contractors to recipients and subrecipients. The key to the exclusion is whether there is a "covered transaction," which is any non-procurement transaction (unless excepted) at either a "primary" or "secondary" tier. Although "covered transactions" do not include contracts awarded by the Federal Government for purposes of the non-procurement common rule and DHS's implementing regulations, it does include some contracts awarded by recipients and subrecipients.
 - iii. Specifically, a covered transaction includes the following contracts for goods or services:
 1. The contract is awarded by a recipient or subrecipient in the amount of at least \$25,000.
 2. The contract requires the approval of FEMA, regardless of amount.
 3. The contract is for federally-required audit services.
 4. A subcontract is also a covered transaction if it is awarded by the contractor of a recipient or subrecipient and requires either the approval of FEMA or is in excess of \$25,000.
- d. Suggested Language. The following provides a debarment and suspension clause. It incorporates an optional method of verifying that contractors are not excluded or disqualified.

Suspension and Debarment

- (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R.

pt. 3000. As such, the contractor is required to verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

- (2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (3) This certification is a material representation of fact relied upon by the Participating Public Agency. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the Participating Public Agency, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- (4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

10. BYRD ANTI-LOBBYING AMENDMENT

- a. Standard. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. § 1352. FEMA's regulation at 44 C.F.R. Part 18 implements the requirements of 31 U.S.C. § 1352 and provides, in Appendix A to Part 18, a copy of the certification that is required to be completed by each entity as described in 31 U.S.C. § 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the Federal awarding agency.
- b. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs. Contractors that apply or bid for a contract of \$100,000 or more under a federal grant must file the required certification. See 2 C.F.R. Part 200, Appendix II(I); 31 U.S.C. § 1352; and 44 C.F.R. Part 18.
- c. Suggested Language.

Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

- d. Required Certification. If applicable, contractors must sign and submit to the non-federal entity the following certification.

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date

11. PROCUREMENT OF RECOVERED MATERIALS

- a. Standard. A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. See 2 C.F.R. Part 200, Appendix II(J); and 2 C.F.R. §200.322.
- b. Applicability. This requirement applies to all contracts awarded by a non- federal entity under FEMA grant and cooperative agreement programs.
- c. Requirements. The requirements of Section 6002 include procuring only items designated in guidelines of the EPA at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- d. Suggested Language.
 - i. In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—
 1. Competitively within a timeframe providing for compliance with the contract performance schedule;
 2. Meeting contract performance requirements; or
 3. At a reasonable price.
 - ii. Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
 - iii. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act."

12. DOMESTIC PREFERENCES FOR PROCUREMENTS

As appropriate, and to the extent consistent with law, CONTRACTOR should, to the greatest extent practicable under a federal award, provide a preference for the purchase, acquisition, or use of goods, products or materials produced in the United States. This includes, but is not limited to, iron, aluminum, steel, cement, and other manufactured products.

Applicability For purchases in support of FEMA declarations and awards issued on or after November 12, 2020, all FEMA recipients and subrecipients are required to include in all contracts and purchase orders for work or products a contract provision encouraging domestic preference for procurements.

Domestic Preference for Procurements As appropriate, and to the extent consistent with law, the contractor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products. For purposes of this clause: Produced in the United States means, for iron and steel products, that all

manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. Manufactured products mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.”

13. ACCESS TO RECORDS

- a. Standard. All recipients, subrecipients, successors, transferees, and assignees must acknowledge and agree to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff. Recipients must give DHS/FEMA access to, and the right to examine and copy, records, accounts, and other documents and sources of information related to the federal financial assistance award and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by DHS regulations *and* other applicable laws or program guidance. See DHS Standard Terms and Conditions: Version 8.1 (2018). Additionally, Section 1225 of the Disaster Recovery Reform Act of 2018 prohibits FEMA from providing reimbursement to any state, local, tribal, or territorial government, or private non-profit for activities made pursuant to a contract that purports to prohibit audits or internal reviews by the FEMA administrator or Comptroller General.

Access to Records. The following access to records requirements apply to this contract:

- i. The Contractor agrees to provide Participating Public Agency, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- ii. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- iii. The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
- iv. In compliance with the Disaster Recovery Act of 2018, the Participating Public Agency and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

14. CHANGES

- a. Standard. To be eligible for FEMA assistance under the non-Federal entity's FEMA grant or cooperative agreement, the cost of the change, modification, change order, or constructive change must be allowable, allocable, within the scope of its grant or cooperative agreement, and reasonable for the completion of project scope.
- b. Applicability. FEMA recommends, therefore, that a non-Federal entity include a changes clause in its contract that describes how, if at all, changes can be made by either party to alter the method, price, or schedule of the work without breaching the contract. The language of the clause may differ depending on the nature of the contract and the end-item procured.

15. DHS SEAL, LOGO, AND FLAGS

- a. Standard. Recipients must obtain permission prior to using the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials. See DHS Standard Terms and Conditions: Version 8.1 (2018).
- b. Applicability. FEMA recommends that all non-Federal entities place in their contracts a provision that a contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.
- c. "The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval."

16. COMPLIANCE WITH FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS

- a. Standard. The recipient and its contractors are required to comply with all Federal laws, regulations, and executive orders.
- b. Applicability. FEMA recommends that all non-Federal entities place into their contracts an acknowledgement that FEMA financial assistance will be used to fund the contract along with the requirement that the contractor will comply with all applicable Federal law, regulations, executive orders, and FEMA policies, procedures, and directives.
- c. "This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives."

17. NO OBLIGATION BY FEDERAL GOVERNMENT

- a. Standard. FEMA is not a party to any transaction between the recipient and its contractor. FEMA is not subject to any obligations or liable to any party for any matter relating to the contract.
- b. Applicability. FEMA recommends that the non-Federal entity include a provision in its contract that states that the Federal Government is not a party to the contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.
- c. "The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract."

18. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

- a. Standard. Recipients must comply with the requirements of The False Claims Act (31 U.S.C. §§ 3729-3733) which prohibits the submission of false or fraudulent claims for payment to the federal government. See DHS Standard Terms and Conditions: Version 8.1 (2018); and 31 U.S.C. §§ 3801-3812, which details the administrative remedies for false claims and statements made. The non-Federal entity must include a provision in its contract that the contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to its actions pertaining to the contract.
- b. Applicability. FEMA recommends that the non-Federal entity include a provision in its contract that the contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to its actions pertaining to the contract.
- c. "The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this contract."

Offeror agrees to comply with all terms and conditions outlined in the FEMA Special Conditions section of this solicitation.

Offeror's Name: _____

Address, City, State, and Zip Code:

Phone Number: _____ Fax Number: _____

Printed Name and Title of Authorized Representative:

Email Address: _____

Signature of Authorized Representative: _____

Date: _____

FEMA SPECIAL CONDITIONS

Awarded Supplier(s) may need to respond to events and losses where products and services are needed for the immediate and initial response to emergency situations such as, but not limited to, water damage, fire damage, vandalism cleanup, biohazard cleanup, sewage decontamination, deodorization, and/or wind damage during a disaster or emergency situation. By submitting a proposal, the Supplier is accepted these FEMA Special Conditions required by the Federal Emergency Management Agency (FEMA).

“Contract” in the below pages under FEMA SPECIAL CONDITIONS is also referred to and defined as the “Master Agreement”.

“Contractor” in the below pages under FEMA SPECIAL CONDITIONS is also referred to and defined as “Supplier” or “Awarded Supplier”.

Conflicts of Interest

No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a FEMA award if he or she has a real or apparent conflict of interest. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of these parties, has a financial or other interest in or a tangible personal benefit from a firm considered for award. 2 C.F.R. § 200.318(c)(1); See also Standard Form 424D, ¶ 7; Standard Form 424B, ¶ 3. i. FEMA considers a “financial interest” to be the potential for gain or loss to the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of these parties as a result of the particular procurement. The prohibited financial interest may arise from ownership of certain financial instruments or investments such as stock, bonds, or real estate, or from a salary, indebtedness, job offer, or similar interest that might be affected by the particular procurement. ii. FEMA considers an “apparent” conflict of interest to exist where an actual conflict does not exist, but where a reasonable person with knowledge of the relevant facts would question the impartiality of the employee, officer, or agent participating in the procurement. c. Gifts. The officers, employees, and agents of the Participating Public Agency nor the Participating Public Agency (“NFE”) must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, NFE’s may set standards for situations in which the financial interest is de minimus, not substantial, or the gift is an unsolicited item of nominal value. 2 C.F.R. § 200.318(c)(1). d. Violations. The NFE’s written standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the NFE. 2 C.F.R. § 200.318(c)(1). For example, the penalty for a NFE’s employee may be dismissal, and the penalty for a contractor might be the termination of the contract.

Contractor Integrity

A contractor must have a satisfactory record of integrity and business ethics. Contractors that are debarred or suspended as described in Chapter III, ¶ 6.d must be rejected and cannot receive contract awards at any level.

Public Policy

A contractor must comply with the public policies of the Federal Government and state, local government, or tribal government. This includes, among other things, past and current compliance with the:

- a. Equal opportunity and nondiscrimination laws

b. Five affirmative steps described at 2 C.F.R. § 200.321(b) for all subcontracting under contracts supported by FEMA financial assistance; and FEMA Procurement Guidance June 21, 2016 Page IV- 7

c. Applicable prevailing wage laws, regulations, and executive orders

Affirmative Steps

For any subcontracting opportunities, Contractor must take the following Affirmative steps:

1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
2. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and
5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

Prevailing Wage Requirements

When applicable, the awarded Contractor (s) and any and all subcontractor(s) agree to comply with all laws regarding prevailing wage rates including the Davis-Bacon Act, applicable to this solicitation and/or Participating Public Agencies. The Participating Public Agency shall notify the Contractor of the applicable pricing/prevailing wage rates and must apply any local wage rates requested. The Contractor and any subcontractor(s) shall comply with the prevailing wage rates set by the Participating Public Agency.

Federal Requirements

If products and services are issued in response to an emergency or disaster recovery the items below, located in this FEMA Special Conditions section of the Federal Funds Certifications, are activated and required when federal funding may be utilized.

2 C.F.R. § 200.326 and 2 C.F.R. Part 200, Appendix II, Required Contract Clauses

1. Termination for Convenience:

The right to terminate this Contract for the convenience of the Participating Public Agency is retained by the Participating Public Agency. In the event of a termination for convenience by the Participating Public Agency, the Participating Public Agency shall, at least ten (10) calendar days in advance, deliver written notice of the termination for convenience to Contractor. Upon Contractor's receipt of such written notice, Contractor immediately shall cease the performance of the Work and shall take reasonable and appropriate action to secure and protect the Work then in place. Contractor shall then be paid by the Participating Public Agency, in accordance with the terms and provisions of the Contract Documents, an amount not to exceed the actual labor costs incurred, the actual cost of all materials installed and the actual cost of all materials stored at the project site or away from the project site, as approved in writing by the Participating Public Agency but not yet paid for and which cannot be returned, and actual, reasonable and documented demobilization costs, if any, paid by Contractor and approved by the Participating Public Agency in connection with the Scope of Work in place which is completed as of the date of termination by the Participating Public Agency and that is in conformance with the Contract Documents, less all amounts previously paid for the Work. No amount ever shall be owed or paid to

Contractor for lost or anticipated profits on any part of the Scope of Work not performed or for consequential damages of any kind.

2. Equal Employment Opportunity:

The Participating Public Agency highly encourages Contractors to implement Affirmative Action practices in their employment programs. This means Contractor should not discriminate against any employee or applicant for employment because of race, color, religion, sex, pregnancy, sexual orientation, political belief or affiliation, age, disability or genetic information.

During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, 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 in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- (4) The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: *Provided*, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

3. "During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, 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 in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
- (3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules,

- regulations, and orders.
- (6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided bylaw.
 - (7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States."

4. Davis Bacon Act and Copeland Anti-KickbackAct.

- a. Applicability of Davis-Bacon Act. The Davis-Bacon Act only applies to the emergency Management Preparedness Grant Program, Homeland Security Grant Program, Nonprofit Security Grant Program, Tribal Homeland Security Grant Program, Port Security Grant Program, and Transit Security Grant Program. **It does not apply to other FEMA grant and cooperative agreement programs, including the Public Assistance Program.**
- b. All prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. §§ 3141-3144 and 3146-3148) as supplemented by Department of Labor regulations at 29 C.F.R. Part 5 (Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction)). See 2 C.F.R. Part 200, Appendix II, ¶ D.
- c. In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week.
- d. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.
- e. In contracts subject to the Davis-Bacon Act, the contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations at 29 C.F.R. Part 3 (Contractors

and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States). The Copeland Anti- Kickback Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to FEMA.

- f. The regulation at 29 C.F.R. § 5.5(a) does provide the required contract clause that applies to compliance with both the Davis-Bacon and Copeland Acts. However, as discussed in the previous subsection, the Davis-Bacon Act does not apply to Public Assistance recipients and subrecipients. **In situations where the Davis-Bacon Act does not apply, neither does the Copeland “Anti-Kickback Act.”** However, for purposes of grant programs where both clauses do apply, FEMA requires the following contract clause:

“Compliance with the Copeland “Anti-Kickback” Act.

- (1) Contractor. The contractor shall comply with 18 U.S.C. § 874, 40U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
- (2) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses
- (3) Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.”

5. Contract Work Hours and SafetyStandards Act.

- a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.
- b. Where applicable (see 40 U.S.C. § 3701), all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II, ¶ E.
- c. Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the workweek.
- d. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

- e. The regulation at 29 C.F.R. § 5.5(b) provides the required contract clause concerning compliance with the Contract Work Hours and Safety Standards Act:

“Compliance with the Contract Work Hours and Safety Standards Act.

- (1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- (2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
- (3) Withholding for unpaid wages and liquidated damages. The (write in the name of the Federal agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
- (4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.”

6. Rights to Inventions Made Under a Contract or Agreement.

- a. Stafford Act Disaster Grants. This requirement **does not apply to the Public Assistance, Hazard Mitigation Grant Program, Fire Management Assistance Grant Program, Crisis Counseling Assistance and Training Grant Program, Disaster Case Management Grant Program, and Federal Assistance to Individuals and Households – Other Needs**

Assistance Grant Program, as

FEMA awards under these programs do not meet the definition of “funding agreement.”

- b. If the FEMA award meets the definition of “funding agreement” under 37 C.F.R. § 401.2(a) and the non-Federal entity wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the non-Federal entity must comply with the requirements of 37 C.F.R. Part 401 (Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements), and any implementing regulations issued by FEMA. See 2 C.F.R. Part 200, Appendix II, ¶ F.
 - c. The regulation at 37 C.F.R. § 401.2(a) currently defines “funding agreement” as any contract, grant, or cooperative agreement entered into between any Federal agency, other than the Tennessee Valley Authority, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal government. This term also includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as defined in the first sentence of this paragraph.
7. Clean Air Act and the Federal Water Pollution Control Act. Contracts of amounts in excess of \$150,000 must contain a provision that requires the contractor to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387). Violations must be reported to FEMA and the Regional Office of the Environmental Protection Agency. See 2 C.F.R. Part 200, Appendix II, ¶ G.

- a. The following provides a sample contract clause concerning compliance for contracts of amounts in excess of \$150,000:

“Clean Air Act

- (1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- (2) The contractor agrees to report each violation to the (name of the state agency or local or Indian tribal government) and understands and agrees that the (name of the state agency or local or Indian tribal government) will, in turn, report each violation as required to assure notification to the (name of recipient), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

Federal Water Pollution Control Act

- (1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

- (2) The contractor agrees to report each violation to the (name of the state agency or local or Indian tribal government) and understands and agrees that the (name of the state agency or local or Indian tribal government) will, in turn, report each violation as required to assure notification to the (name of recipient), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.”

8. Debarment and Suspension.

- a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.
- b. Non-federal entities and contractors are subject to the debarment and suspension regulations implementing Executive Order 12549, *Debarment and Suspension* (1986) and Executive Order 12689, *Debarment and Suspension* (1989) at 2 C.F.R. Part 180 and the Department of Homeland Security’s regulations at 2 C.F.R. Part 3000 (Non procurement Debarment and Suspension).
- c. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs and activities. See 2 C.F.R. Part 200, Appendix II, ¶ H; and *Procurement Guidance for Recipients and Subrecipients Under 2 C.F.R. Part 200 (Uniform Rules): Supplement to the Public Assistance Procurement Disaster Assistance Team (PDAT) Field Manual* Chapter IV, ¶ 6.d, and Appendix C, ¶ 2 [hereinafter *PDAT Supplement*]. A contract award must not be made to parties listed in the SAM Exclusions. SAM Exclusions is the list maintained by the General Services Administration that contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. SAM exclusions can be accessed at www.sam.gov. See 2 C.F.R. § 180.530; *PDAT Supplement*, Chapter IV, ¶ 6.d and Appendix C, ¶ 2.
- d. In general, an “excluded” party cannot receive a Federal grant award or a contract within the meaning of a “covered transaction,” to include subawards and subcontracts. This includes parties that receive Federal funding indirectly, such as contractors to recipients and subrecipients. The key to the exclusion is whether there is a “covered transaction,” which is any non-procurement transaction (unless excepted) at either a “primary” or “secondary” tier. Although “covered transactions” do not include contracts awarded by the Federal Government for purposes of the non-procurement common rule and DHS’s implementing regulations, it does include some contracts awarded by recipients and subrecipient.
- e. Specifically, a covered transaction includes the following contracts for goods or services:
 - (1) The contract is awarded by a recipient or subrecipient in the amount of at least \$25,000.
 - (2) The contract requires the approval of FEMA, regardless of amount.
 - (3) The contract is for federally required audit services.
 - (4) A subcontract is also a covered transaction if it is awarded by the contractor of a recipient or subrecipient and requires either the approval of FEMA or is in excess of \$25,000.

- d. The following provides a debarment and suspension clause. It incorporates an optional method of verifying that contractors are not excluded or disqualified:

“Suspension and Debarment

- (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- (2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (3) This certification is a material representation of fact relied upon by (insert name of subrecipient). If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to (name of state agency serving as recipient and name of subrecipient), the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- (4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.”

9. Byrd Anti-Lobbying Amendment.

- a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.
- b. Contractors that apply or bid for an award of \$100,000 or more must file the required certification. See 2 C.F.R. Part 200, Appendix II, ¶ I; 44 C.F.R. Part 18; *PDAT Supplement*, Chapter IV, 6.c; Appendix C, ¶ 4.
- c. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. § 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award. See *PDAT Supplement*, Chapter IV, ¶ 6.c and Appendix C, ¶ 4.
- d. The following provides a Byrd Anti-Lobbying contract clause:

“Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract,

grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.”

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements (To be submitted with each bid or offer exceeding \$100,000)

The undersigned [Contractor] certifies, to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form- LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 *et seq.*, apply to this certification and disclosure, if any.

Signature of Contractor’s Authorized Official

Name and Title of Contractor's Authorized Official

_____ **Date**

10. Procurement of Recovered Materials.

- a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.
- b. A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, Pub. L. No. 89-272 (1965) (codified as amended by the Resource Conservation and Recovery Act at 42 U.S.C. § 6962). See 2 C.F.R. Part 200, Appendix II, ¶ J; 2 C.F.R. § 200.322; *PDAT Supplement*, Chapter V, ¶ 7.
- c. The requirements of Section 6002 include procuring only items designated in guidelines of the EPA at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- d. The following provides the clause that a state agency or agency of a political subdivision of a state and its contractors can include in contracts meeting the above contract thresholds:

“(1) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA- designated items unless the product cannot be acquired—

- (i) Competitively within a timeframe providing for compliance with the contract performance schedule;
- (ii) Meeting contract performance requirements; or
- (iii) At a reasonable price.

(2) Information about this requirement, along with the list of EPA- designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.”

11. Additional FEMA Requirements.

- a. The Uniform Rules authorize FEMA to require additional provisions for non-Federal entity contracts. FEMA, pursuant to this authority, requires or recommends the following:
- b. Changes.
To be eligible for FEMA assistance under the non-Federal entity's FEMA grant or cooperative agreement, the cost of the change, modification, change order, or constructive change must be allowable, allocable, within the scope of its grant or

cooperative agreement, and reasonable for the completion of project scope. FEMA recommends, therefore, that a non-Federal entity include a changes clause in its contract that describes how, if at all, changes can be made by either party to alter the method, price, or schedule of the work without breaching the contract. The language of the clause may differ depending on the nature of the contract and the end-item procured.

c. Access to Records.

All non-Federal entities must place into their contracts a provision that all contractors and their successors, transferees, assignees, and subcontractors acknowledge and agree to comply with applicable provisions governing Department and FEMA access to records, accounts, documents, information, facilities, and staff. See DHS Standard Terms and Conditions, v 3.0, ¶ XXVI (2013).

d. The following provides a contract clause regarding access to records:

“Access to Records. The following access to records requirements apply to this contract:

(1) The contractor agrees to provide (insert name of state agency or local or Indian tribal government), (insert name of recipient), the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

(2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(3) The contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.”

12. DHS Seal, Logo, and Flags.

a. All non-Federal entities must place in their contracts a provision that a contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval. See DHS Standard Terms and Conditions, v 3.0, ¶ XXV (2013).

b. The following provides a contract clause regarding DHS Seal, Logo, and Flags: “The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre- approval.”

13. Compliance with Federal Law, Regulations, and Executive Orders.

a. All non-Federal entities must place into their contracts an acknowledgement that FEMA financial assistance will be used to fund the contract along with the requirement that the contractor will comply with all applicable federal law, regulations, executive orders, and FEMA policies, procedures, and directives.

b. The following provides a contract clause regarding Compliance with Federal Law, Regulations, and Executive Orders: “This is an acknowledgement that FEMA financial assistance will be used to fund the contract only. The contractor will comply will all applicable federal law, regulations, executive orders, FEMA policies, procedures, and

directives.”

14. No Obligation by Federal Government.

- a. The non-Federal entity must include a provision in its contract that states that the Federal Government is not a party to the contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.
- b. The following provides a contract clause regarding no obligation by the Federal Government: “The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.”

15. Program Fraud and False or Fraudulent Statements or Related Acts.

- a. The non-Federal entity must include a provision in its contract that the contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to its actions pertaining to the contract.
- b. The following provides a contract clause regarding Fraud and False or Fraudulent or Related Acts: “The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor’s actions pertaining to this contract.”

Additional contract clauses per 2 C.F.R. § 200.325

For applicable construction/reconstruction/renovation and related services: A payment and performance bond are both required for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor’s obligations under such contract. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided in the contract.

Offeror agrees to comply with all terms and conditions outlined in the FEMA Special Conditions section of this solicitation.

Offeror’s Name:

Address, City, State, and Zip Code:

Phone Number: _____ Fax Number: _____

Printed Name and Title of Authorized

Representative: _____

Email Address:

Signature of Authorized Representative: _____

Date: _____

Insurance Coverage

1. The proposer shall submit evidence of current insurance to cover the following required coverage. Proposers must submit with the proposal a Certificate of Insurance showing current coverage equal to or greater than what is required in this RFP.
 - a) Worker's Compensation and Employer's Liability Insurance – In accordance with applicable laws the minimum amount should be the amount required by New Mexico law, but no less than \$1,000,000.
 - b) Commercial General Bodily Injury and Property Damage Liability – Including automobile (owned, non-owned, and hired) of not less than \$3,000,000 for each occurrence and in the aggregate of \$5,000,000.
 - c) Owner's and Contractor's Protective Liability Insurance - Covering bodily injury to or death of persons and/or loss of or damage to property, in a combined single limit of \$3,000,000 per Occurrence and \$5,000,000 Aggregate
 - d) Builders Risk Insurance - The Contractor shall procure and shall maintain during the life of this contract Builder's Risk insurance as required by applicable State law. The minimum limits shall be for the total amount of the project.

Each certificate of insurance required shall remain in effect for the entire term of the contract and shall not be reduced or canceled without prior written acceptance by UNM. Commercial General Liability and Auto liability policies required hereunder shall name UNM as additional insured. Coverage shall be primary. All insurance required under this section shall be with companies acceptable to UNM. Stated minimums shall not be interpreted as limiting the contractor's insurance coverage.

CONSTRUCTION INSURANCE REQUIREMENTS

CERTIFICATES OF INSURANCE:

The Contractor shall furnish the Owner one copy each of Certificates of Insurance herein required for each copy of the Agreement, showing coverage, limits of liability, covered operations, effective dates of expiration of policies of Insurance carried by the Contractor. The Contractor shall furnish to the Owner copies of limits. The Certificate of Insurance shall be in the form of AIA Document G-705 or similar format acceptable to the Owner. Such certificates shall be filed with the Owner and shall also contain the following statements:

1. "The Regents of The University of New Mexico, The University of New Mexico, its agents, servants and employees are held as additional insured." The following contact information should be listed:

**University of New Mexico-Purchasing Department
700 Lomas Blvd. NE #2600 MSC01 1740 Albuquerque, NM 87131-0001**

2. "The insurance coverage certified herein shall not be canceled or materially changed except after forty-five (45) Days written notice has been provided to the owner."

COMPENSATION INSURANCE:

The Contractor shall procure and shall maintain during the life of this contract Worker's Compensation insurance as required by applicable State law for all Contractor's employees to be engaged at the site of the project under this project and in case of any such work sublet, the Contractor shall require the subcontractor or sub subcontractor similarly to provide Worker's Compensation Insurance for all the subcontractor's or sub subcontractor's Workers which are covered under the Contractor's Worker's Compensation insurance. In case any class of employee engaged in work on the project under this contract is not protected under a Worker's Compensation Statute, the Contractor shall provide and shall cause each subcontractor or sub subcontractor to provide Employer's Insurance in an amount of not less than **\$500,000**.

CONTRACTOR'S PUBLIC LIABILITY INSURANCE:

The contractor shall maintain general liability insurance OR professional liability insurance coverage. The insurance must remain in force for the life of the contract including all contract extensions and renewals.

Bodily Injury:	\$1,000,000 Each Occurrence	\$2,000,000 Aggregate
Property Damage:	\$1,000,000 Each Occurrence	\$2,000,000 Aggregate

BUILDERS RISK INSURANCE - The Contractor shall procure and shall maintain during the life of this contract Builder's Risk insurance as required by applicable State law. The minimum limits shall be for the total amount of the project.

CONTRACTOR'S VEHICLE LIABILITY INSURANCE:

The Contractor shall procure and shall maintain during the life of this contract Vehicle Liability Insurance coverage. The insurance must remain in force for the life of the contract including all contract extensions and renewals.

Bodily Injury:	\$1,000,000 Each Occurrence	\$2,000,000 Aggregate
Property Damage:	\$1,000,000 Each Occurrence	\$2,000,000 Aggregate

SUBCONTRACTOR'S AND SUB SUBCONTRACTOR'S PUBLIC AND VEHICLE LIABILITY INSURANCE:

The Contractor shall either:

1. Require each subcontractor or sub subcontractor to procure and maintain during the life of the subcontract or sub subcontract public Liability Insurance of the types and amounts specified above (OR)
2. Insure the activities of the subcontractors of sub subcontractors in the Contractor's Policy as required under this Article.

GENERAL:

All insurance policies are to be issued by companies authorized to do business under the laws of the state in which work is to be done and acceptable to owner. The Contractor shall not violate, permit to be violated, any conditions of any said policies, and shall at all times satisfy the requirements for the insurance companies writing said policies

ATTACHMENT A



REQUIREMENTS FOR COOPERATIVE CONTRACT TO BE ADMINISTERED BY OMNIA PARTNERS AND GORDIAN

The following documents are used in evaluating and administering cooperative contracts and are included for Supplier's review and response.

EXHIBIT A

RESPONSE FOR PIGGYBACK CONTRACT

1.0 Scope of Piggyback Contract

Capitalized terms not otherwise defined herein shall have the meanings given to them in the Master Agreement between Supplier and OMNIA Partners or Gordian.

1.1 Requirement

The University of New Mexico (hereinafter defined and referred to as "Principal Procurement Agency"), on behalf of itself and the National Intergovernmental Purchasing Alliance Company, a Delaware corporation d/b/a OMNIA Partners, Public Sector ("OMNIA Partners"), is requesting responses for Job Order Contracting Products and Services. The intent of this Solicitation is any contract between Principal Procurement Agency and Supplier resulting from this Solicitation ("Master Agreement") be made available to other public agencies, including state and local governmental entities, public and private primary, secondary and higher education entities, non-profit entities, and agencies for the public benefit ("Public Agencies"), through OMNIA Partners' purchasing program. The Principal Procurement Agency has executed a Principal Procurement Agency Certificate with OMNIA Partners, an example of which is included as Exhibit D, and has agreed to pursue the Master Agreement. Use of the Master Agreement by any Public Agency is preceded by their registration with OMNIA Partners as a Participating Public Agency in OMNIA Partners' purchasing program. Registration with OMNIA Partners as a Participating Public Agency is accomplished by Public Agencies entering into a Master Intergovernmental Cooperative Purchasing Agreement ("MICPA"), an example of which

is attached as Exhibit B, and by using the Master Agreement, any such Participating Public Agency agrees that it is registered with OMNIA Partners, whether pursuant to the terms of the Master Intergovernmental Purchasing Cooperative Agreement or as otherwise agreed to. When Public Agencies register with OMNIA Partners, they are not obligated or committed to use contracts that may be awarded as a result of this Solicitation but may piggyback the contract(s) if they choose. The terms and pricing established in the resulting Master Agreement between the Supplier and the Principal Procurement Agency will be the same as that available to Participating Public Agencies through OMNIA Partners.

All transactions, purchase orders, invoices, payments etc., will occur directly between Gordian and/or the Supplier and each Participating Public Agency individually, and neither OMNIA Partners, any Principal Procurement Agency nor any Participating Public Agency, including their respective agents, directors, employees or representatives, shall be liable to Gordian and/or the Supplier for any acts, liabilities, damages, etc., incurred by any other Participating Public Agency. Supplier is responsible for knowing the tax laws in each state they service, including but not limited to New Mexico.

This Exhibit A defines the expectations for qualifying Suppliers based on OMNIA Partners' requirements to market the resulting Master Agreement to Public Agencies. Each section in this Exhibit A refers to the capabilities, requirements, obligations, and prohibitions of competing Suppliers in order to serve Participating Public Agencies through OMNIA Partners.

These requirements are incorporated into and are considered an integral part of this Solicitation. OMNIA Partners reserves the right to determine whether or not to make the Master Agreement awarded by the Principal Procurement Agency available to Participating Public Agencies, in its sole and absolute discretion, and any party submitting a response to this Solicitation acknowledges that any award by the Principal Procurement Agency does not obligate OMNIA Partners to make the Master Agreement available to Participating Procurement Agencies.

1.2 Marketing, Sales and Administrative Support

During the term of the Master Agreement, OMNIA Partners intends to provide marketing, sales, partnership development and administrative support for Supplier pursuant to this section that directly promotes the Supplier's products and services to Participating Public Agencies through multiple channels, each designed to promote specific products and services to Public Agencies on a national or regional basis.

OMNIA Partners has assigned a Director of Partner Development and will also assign the Supplier a Director of Partner Development who, in conjunction with Gordian, will serve as the main point of contact for the Supplier and will be responsible for managing the overall relationship between Gordian, the Supplier, and OMNIA Partners. The Director of Partner Development will work with Gordian and the Supplier to develop a comprehensive strategy to promote the Master Agreement and will connect Gordian and the Supplier with appropriate stakeholders within OMNIA Partners including, Sales, Marketing, Contracting, Training, and Operations & Support.

The OMNIA Partners marketing team will work in conjunction with Gordian and the Supplier to promote the Master Agreement to both existing Participating Public Agencies and prospective Public Agencies through channels that may include:

- A. Marketing collateral (print, electronic, email, presentations)
- B. Website
- C. Trade shows/conferences/meetings
- D. Advertising
- E. Social Media

The OMNIA Partners sales teams will work in conjunction with Gordian and the Supplier to promote the Master Agreement to both existing Participating Public Agencies and prospective Public Agencies through initiatives that may include:

- A. Individual sales calls
- B. Joint sales calls
- C. Communications/customer service
- D. Training sessions for Public Agency teams
- E. Training sessions for Supplier teams

The OMNIA Partners contracting teams will work in conjunction with Gordian and the Supplier to promote the Master Agreement to both existing Participating Public Agencies and prospective Public Agencies through:

- A. Serving as the subject matter expert for questions regarding joint powers authority and state statutes and regulations for cooperative purchasing
- B. Training sessions for Public Agency teams
- C. Training sessions for Supplier teams
- D. Regular business reviews to monitor program success
- E. General contract administration

1.3 Estimated Volume

The dollar volume purchased under the Master Agreement is estimated to be approximately \$200M annually. While no minimum volume is guaranteed to Supplier, the estimated annual volume is projected based on the current annual volumes among the Principal Procurement Agency, other Participating Public Agencies that are anticipated to utilize the resulting Master Agreement to be made available to them through OMNIA Partners, and volume growth into other Public Agencies through a coordinated marketing approach between Supplier and OMNIA Partners.

1.4 Award Basis

The basis of any contract award resulting from this Solicitation made by Principal Procurement Agency will, at OMNIA Partners' option, be the basis of award on a local,

regional, and/or national level through OMNIA Partners. If multiple Suppliers are awarded by Principal Procurement Agency under the Master Agreement, those same Suppliers will be required to extend the Master Agreement to Participating Public Agencies through OMNIA Partners and Gordian. Utilization of the Master Agreement by Participating Public Agencies will be at the discretion of the individual Participating Public Agency. Certain terms of the Master Agreement specifically applicable to the Principal Procurement Agency (e.g. governing law) are subject to modification for each Participating Public Agency as Supplier, such Participating Public Agency and OMNIA Partners shall agree without being in conflict with the Master Agreement. Participating Agencies may request to enter into a separate supplemental agreement to further define the level of service requirements over and above the minimum defined in the Master Agreement (i.e. invoice requirements, order requirements, specialized delivery, diversity requirements such as minority and woman owned businesses, historically underutilized business, governing law, etc.) (“Supplemental Agreement”). It shall be the responsibility of the Supplier to comply, when applicable, with the prevailing wage legislation in effect in the jurisdiction of the Participating Agency. It shall further be the responsibility of the Supplier to monitor the prevailing wage rates as established by the appropriate department of labor for any increase in rates during the term of the Master Agreement and adjust wage rates accordingly. In instances where supplemental terms and conditions create additional risk and cost for Supplier, Supplier and Participating Public Agency may negotiate additional pricing above and beyond the stated contract not-to-exceed pricing so long as the added price is commensurate with the additional cost incurred by the Supplier. Any supplemental agreement developed as a result of the Master Agreement is exclusively between the Participating Agency and the Supplier (Contract Sales are reported to OMNIA Partners).

All signed Supplemental Agreements and purchase orders issued and accepted by the Supplier may survive expiration or termination of the Master Agreement. Participating Agencies’ purchase orders may exceed the term of the Master Agreement if the purchase order is issued prior to the expiration of the Master Agreement.

1.5 Objectives of Piggyback Program

This Solicitation is intended to achieve the following objectives regarding availability through OMNIA Partners’ program:

- A. Provide a comprehensive competitively solicited and awarded piggyback agreement offering the Services and/or Products covered by this solicitation to Participating Public Agencies;
- B. Establish the Master Agreement as the Supplier’s primary go to market strategy to Public Agencies;
- C. Achieve cost savings for Supplier and Public Agencies through a single solicitation process that will reduce the Supplier’s need to respond to multiple solicitations and Public Agencies need to conduct their own solicitation process;
- D. Combine the aggregate purchasing volumes of Participating Public Agencies to achieve cost effective pricing.

2.0 REPRESENTATIONS AND COVENANTS

As a condition to Supplier entering into the Master Agreement, which would be available to all Public Agencies, Supplier must make certain representations, warranties and covenants to both the Principal Procurement Agency and OMNIA Partners designed to ensure the success of the Master Agreement for all Participating Public Agencies as well as the Supplier.

2.1 Corporate Commitment

Supplier commits that (1) the Master Agreement has received all necessary corporate authorizations and support of the Supplier's executive management, (2) the Master Agreement is Supplier's primary "go to market" strategy for Public Agencies, (3) the Master Agreement will be promoted to all Public Agencies, including any existing customers, and Supplier will transition existing customers, upon their request, to the Master Agreement, and (4) that the Supplier has read and agrees to the terms and conditions of the Administration Agreement with OMNIA Partners and will execute such agreement concurrent with and as a condition of its execution of the Master Agreement with the Principal Procurement Agency. Supplier will identify an executive corporate sponsor and a separate cooperative account manager within the Solicitation response that will be responsible for the overall management of the Master Agreement.

2.2 Pricing Commitment

Supplier commits the not-to-exceed pricing provided under the Master Agreement pricing is its lowest available (net to buyer) to Public Agencies and further commits that if a Participating Public Agency is eligible for lower pricing through a different contract (to include a national, state, regional or local or cooperative contract held by the Supplier), the Supplier will match such lower pricing to that Participating Public Agency under the Master Agreement.

2.3 Sales Commitment

Supplier commits to aggressively market the Master Agreement as its go to market strategy in this defined sector and that its sales force will be trained, engaged and committed to offering the Master Agreement to Public Agencies through OMNIA Partners whether state or nationwide. Supplier commits that all Master Agreement sales will be accurately and timely reported to Gordian. Supplier also commits its sales force will be compensated, including sales incentives, for sales to Public Agencies under the Master Agreement in a consistent or better manner compared to sales to Public Agencies if the Supplier were not awarded the Master Agreement.

3.0 SUPPLIER RESPONSE

Supplier should supply the following information, to the best of their ability, in order for the Principal Procurement Agency to determine Supplier's abilities to extend the resulting Master Agreement to Participating Public Agencies through OMNIA Partners.

3.1 Company

- A. Brief history and description of Supplier to include experience providing similar products and services.
- B. Total number and location of employees, and if applicable sales persons, sales persons) employed by Supplier.
- C. Number and location of support centers (if applicable) and location of corporate office.
- D. Annual sales for the three previous fiscal years.
 - a. Submit FEIN and Dunn & Bradstreet report.
- E. Describe any green or environmental initiatives or policies.
- F. Describe any diversity programs or partners supplier does business with and how Participating Agencies may use diverse partners through the Master Agreement. Indicate how, if at all, pricing changes when using the diversity program. If there are any diversity programs, provide a list of diversity alliances and a copy of their certifications.
- G. Indicate if supplier holds any of the below certifications in any classified areas and include proof of such certification in the response:
 - a. Minority Women Business Enterprise
 Yes No
If yes, list certifying agency: _____
 - b. Small Business Enterprise (SBE) or Disadvantaged Business Enterprise (DBE)
 Yes No
If yes, list certifying agency: _____
 - c. Historically Underutilized Business (HUB)
 Yes No
If yes, list certifying agency: _____
 - d. Historically Underutilized Business Zone Enterprise (HUBZone)
 Yes No
If yes, list certifying agency: _____
 - e. Other recognized diversity certificate holder
 Yes No

If yes, list certifying agency: _____
- H. List any relationships with subcontractors or affiliates intended to be used when providing services and identify if subcontractors meet minority-owned standards. If any, list which certifications subcontractors hold and certifying agency.
- I. Describe how supplier differentiates itself from its competitors.

- J. Describe any present or past litigation, bankruptcy or reorganization involving supplier.
- K. Felony Conviction Notice: Indicate if the supplier
 - a. is a publicly held corporation and this reporting requirement is not applicable;
 - b. is not owned or operated by anyone who has been convicted of a felony; or
 - c. is owned or operated by and individual(s) who has been convicted of a felony and provide the names and convictions.
- L. Describe any debarment or suspension actions taken against supplier

3.2 Distribution, Logistics

- A. Each offeror awarded an item under this solicitation may offer their complete product and service offering/a balance of line. Describe the full line of products and services offered by supplier.
- B. While the intention is for products and services to be provided locally to agencies within the Principal Procurement Agency's region and/or state, include both any region or additional states where products and services will not be offered under the Master Agreement, including U.S. Territories and Outlying Areas.
- C. Identify all other companies that will be involved in providing the products/service to the end user.
- D. Provide the number, size and location of Supplier's offices or facilities.

3.3 Marketing and Sales

- A. Provide a detailed plan beginning from award date of the Master Agreement describing the strategy to immediately implement the Master Agreement as supplier's primary go to market strategy for Public Agencies to supplier's teams, to include, but not limited to:
 - i. Executive leadership endorsement and sponsorship of the award as the public sector go-to-market strategy within first 10 days
 - ii. Training and education of Supplier's employees (and if applicable sales force)with participation from the Supplier's executive leadership, along with the OMNIA Partners team within first 90 days
- B. Provide a detailed plan beginning from award date of the Master Agreement describing the strategy to market the Master Agreement to current Participating Public Agencies, existing Public Agency customers of Supplier, as well as to prospective Public Agencies nationwide immediately upon award, that could include, but is not limited to:
 - i. Creation and distribution of a co-branded press release to trade publications
 - ii. Announcement, Master Agreement details and contact information published on the Supplier's website within first 90 days
 - iii. Design, publication and distribution of co-branded marketing materials within first 90 days

- iv. Commitment to attendance and participation with OMNIA Partners at national (i.e. NIGP Annual Forum, NPI Conference, etc.), regional (i.e. Regional NIGP Chapter Meetings, Regional Cooperative Summits, etc.) and supplier-specific trade shows, conferences and meetings throughout the term of the Master Agreement
 - v. Commitment to attend, exhibit and participate at the NIGP Annual Forum in an area reserved by OMNIA Partners for partner suppliers. Booth space will be purchased and staffed by Supplier. In addition, Supplier commits to provide reasonable assistance to the overall promotion and marketing efforts for the NIGP Annual Forum, as directed by OMNIA Partners.
 - vi. Design and publication of national and regional advertising in trade publications throughout the term of the Master Agreement
 - vii. Ongoing marketing and promotion of the Master Agreement throughout its term (case studies, collateral pieces, presentations, promotions, etc.)
 - viii. Dedicated OMNIA Partners internet web-based homepage on Supplier's website with:
 - OMNIA Partners standard logo;
 - Copy of original Request for Proposal;
 - Copy of Master Agreement and amendments between Principal Procurement Agency and Supplier;
 - Summary of Products and pricing;
 - Marketing Materials
 - Electronic link to OMNIA Partners' website including the online registration page;
 - A dedicated toll-free number and email address for OMNIA Partners
- C. Describe how Supplier will transition any existing Public Agency customers' accounts to the Master Agreement available through OMNIA Partners. Include a list of current cooperative contracts (regional and national) Supplier holds and describe how the Master Agreement will be positioned among the other cooperative agreements.
- D. Acknowledge Supplier agrees to provide its logo(s) to OMNIA Partners and agrees to provide permission for reproduction of such logo in marketing communications and promotions. Acknowledge that use of OMNIA Partners logo will require permission for reproduction, as well.
- E. Confirm Supplier will be proactive in direct sales of Supplier's goods and services to Public Agencies and the timely follow up to leads established by OMNIA Partners. All sales materials are to use the OMNIA Partners logo. At a minimum, the Supplier's sales initiatives should communicate:
- i. Master Agreement was competitively solicited and publicly awarded by a Principal Procurement Agency
 - ii. Best government pricing

- iii. No cost to participate
 - iv. Non-exclusive
- F. Confirm Supplier will train its sales force on the Master Agreement. At a minimum, sales training should include:
- i. Key features of Master Agreement
 - ii. Working knowledge of the solicitation process
 - iii. Awareness of the range of Public Agencies that can utilize the Master Agreement through OMNIA Partners
 - iv. Knowledge of benefits of the use of cooperative contracts
- G. Provide the name, title, email and phone number for the person(s), who will be responsible for:
- i. Executive Support
 - ii. Marketing
 - iii. Sales
 - iv. Sales Support
 - v. Financial Reporting
 - vi. Accounts Payable
 - vii. Contracts
- H. Describe in detail how Supplier's organization (and if applicable, sales force) is structured, including contact information for the highest-level executive in charge of the sales team.
- I. Explain in detail how the sales teams will work with Gordian and the OMNIA Partners team to implement, grow and service the program.
- I. Explain in detail how Supplier will manage the overall program throughout the term of the Master Agreement, including ongoing coordination of marketing and sales efforts, timely new Participating Public Agency account set-up, timely contract administration, etc.
- J. State the amount of Supplier's Public Agency sales for the previous fiscal year. Provide a list of Supplier's top 5 Public Agency customers, the total purchases for each for the previous fiscal year along with a key contact for each.
- K. Describe Supplier's information systems capabilities and limitations regarding order management through receipt of payment, including description of multiple platforms that may be used for any of these functions.

- L. Even though it is anticipated many Public Agencies will be able to utilize the Master Agreement without further formal solicitation, there may be circumstances where Public Agencies will issue their own solicitations. The following options are available when responding to a solicitation for Products covered under the Master Agreement.
- i. Respond with Master Agreement pricing (Contract Sales reported to OMNIA Partners).
 - ii. If competitive conditions require pricing lower than the standard Master Agreement not-to-exceed pricing, Supplier may respond with lower pricing through the Master Agreement. If Supplier is awarded the contract, the sales are reported as Contract Sales to OMNIA Partners under the Master Agreement.
 - iii. Respond with pricing higher than Master Agreement only in the unlikely event that the Public Agency refuses to utilize Master Agreement (Contract Sales are not reported to OMNIA Partners).
 - iv. If alternative or multiple proposals are permitted, respond with pricing higher than Master Agreement, and include Master Agreement as the alternate or additional proposal.
 - v. Detail Supplier's strategies under these options when responding to a solicitation.

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EXHIBIT B

MASTER INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT, EXAMPLE

MASTER INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT

This Master Intergovernmental Cooperative Purchasing Agreement (this “**Agreement**”) is entered into by and between those certain government agencies that execute a Principal Procurement Agency Certificate (“**Principal Procurement Agencies**”) with National Intergovernmental Purchasing Alliance Company, a Delaware corporation d/b/a OMNIA Partners, Public Sector and/or Communities Program Management, LLC, a California limited liability company d/b/a U.S. Communities (collectively, “**OMNIA Partners**”), in its capacity as the cooperative administrator, to be appended and made a part hereof and such other public agencies (“**Participating Public Agencies**”) who register to participate in the cooperative purchasing programs administered by OMNIA Partners and its affiliates and subsidiaries (collectively, the “**OMNIA Partners Parties**”) by either registering on the OMNIA Partners website (www.omniapartners.com/publicsector or any successor website), or by executing a copy of this Agreement.

RECITALS

WHEREAS, after a competitive solicitation and selection process by Principal Procurement Agencies, in compliance with their own policies, procedures, rules and regulations, a number of suppliers have entered into “**Master Agreements**” (herein so called) to provide a variety of goods, products and services (“**Products**”) to the applicable Principal Procurement Agency and the Participating Public Agencies;

WHEREAS, Master Agreements are made available by Principal Procurement Agencies through the OMNIA Partners Parties and provide that Participating Public Agencies may purchase Products on the same terms, conditions and pricing as the Principal Procurement Agency, subject to any applicable federal and/or local purchasing ordinances and the laws of the State of purchase; and

WHEREAS, in addition to Master Agreements, the OMNIA Partners Parties may from time to time offer Participating Public Agencies the opportunity to acquire Products through other group purchasing agreements.

NOW, THEREFORE, in consideration of the mutual promises contained in this Agreement, and of the mutual benefits to result, the parties hereby agree as follows:

1. Each party will facilitate the cooperative procurement of Products.
2. The Participating Public Agencies shall procure Products in accordance with and subject to the relevant federal, state and local statutes, ordinances, rules and regulations that govern Participating Public Agency’s procurement practices. The Participating Public Agencies hereby acknowledge and agree that it is the intent of the parties that all provisions of this Agreement and

that Principal Procurement Agencies' participation in the program described herein comply with all applicable laws, including but not limited to the requirements of 42 C.F.R. § 1001.952(j), as may be amended from time to time. The Participating Public Agencies further acknowledge and agree that they are solely responsible for their compliance with all applicable "safe harbor" regulations, including but not limited to any and all obligations to fully and accurately report discounts and incentives.

3. The Participating Public Agency represents and warrants that the Participating Public Agency is not a hospital or other healthcare provider and is not purchasing Products on behalf of a hospital or healthcare provider; provided that the foregoing shall not prohibit Participating Public Agency from furnishing health care services so long as the furnishing of healthcare services is not in furtherance of a primary purpose of the Participating Public Agency.

4. The cooperative use of Master Agreements shall be in accordance with the terms and conditions of the Master Agreements, except as modification of those terms and conditions is otherwise required by applicable federal, state or local law, policies or procedures.

5. The Principal Procurement Agencies will make available, upon reasonable request, Master Agreement information which may assist in improving the procurement of Products by the Participating Public Agencies.

6. The Participating Public Agency agrees the OMNIA Partners Parties may provide access to group purchasing organization ("**GPO**") agreements directly or indirectly by enrolling the Participating Public Agency in another GPO's purchasing program, provided that the purchase of Products through the OMNIA Partners Parties or any other GPO shall be at the Participating Public Agency's sole discretion.

7. The Participating Public Agencies (each a "**Procuring Party**") that procure Products through any Master Agreement or GPO Product supply agreement (each a "**GPO Contract**") will make timely payments to the distributor, manufacturer or other vendor (collectively, "**Supplier**") for Products received in accordance with the terms and conditions of the Master Agreement or GPO Contract, as applicable. Payment for Products and inspections and acceptance of Products ordered by the Procuring Party shall be the exclusive obligation of such Procuring Party. Disputes between Procuring Party and any Supplier shall be resolved in accordance with the law and venue rules of the State of purchase unless otherwise agreed to by the Procuring Party and Supplier.

8. The Procuring Party shall not use this Agreement as a method for obtaining additional concessions or reduced prices for purchase of similar products or services outside of the Master Agreement. Master Agreements may be structured with not-to-exceed pricing, in which cases the Supplier may offer the Procuring Party and the Procuring Party may accept lower pricing or additional concessions for purchase of Products through a Master Agreement.

9. The Procuring Party shall be responsible for the ordering of Products under this Agreement. A non-procuring party shall not be liable in any fashion for any violation by a

Procuring Party, and, to the extent permitted by applicable law, the Procuring Party shall hold non-procuring party harmless from any liability that may arise from the acts or omissions of the Procuring Party.

10. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, THE OMNIA PARTNERS PARTIES EXPRESSLY DISCLAIM ALL EXPRESS OR IMPLIED REPRESENTATIONS AND WARRANTIES REGARDING ANY PRODUCT, MASTER AGREEMENT AND GPO CONTRACT. THE OMNIA PARTNERS PARTIES SHALL NOT BE LIABLE IN ANY WAY FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, EXEMPLARY, PUNITIVE, OR RELIANCE DAMAGES, EVEN IF THE OMNIA PARTNERS PARTIES ARE ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. FURTHER, THE PROCURING PARTY ACKNOWLEDGES AND AGREES THAT THE OMNIA PARTNERS PARTIES SHALL HAVE NO LIABILITY FOR ANY ACT OR OMISSION BY A SUPPLIER OR OTHER PARTY UNDER A MASTER AGREEMENT OR GPO CONTRACT.

11. This Agreement shall remain in effect until termination by either party giving thirty (30) days' written notice to the other party. The provisions of Paragraphs 6 - 10 hereof shall survive any such termination.

12. This Agreement shall take effect upon (i) execution of the Principal Procurement Agency Certificate, or (ii) registration on the OMNIA Partners website or the execution of this Agreement by a Participating Public Agency, as applicable.

Participating Public Agency:

OMNIA Partners, as the cooperative administrator on behalf of Principal

Procurement Agencies:

**NATIONAL INTERGOVERNMENTAL
PURCHASING ALLIANCE COMPANY
COMMUNITIES PROGRAM
MANAGEMENT, LLC**

Authorized Signature

Name

Title and Agency Name

Date

Signature
Sarah E. Vavra

Name
Sr. Vice President, Public Sector Contracting

Title

Date

EXHIBIT C
PRINCIPAL PROCUREMENT AGENCY CERTIFICATE, EXAMPLE

PRINCIPAL PROCUREMENT AGENCY CERTIFICATE

In its capacity as a Principal Procurement Agency (as defined below) for National Intergovernmental Purchasing Alliance Company, a Delaware corporation d/b/a OMNIA Partners, Public Sector (“**OMNIA Partners**”), [NAME OF PPA] agrees to pursue Master Agreements for Products as specified in the attached Exhibits to this Principal Procurement Agency Certificate.

I hereby acknowledge, in my capacity as _____ of and on behalf of [NAME OF PPA] (“**Principal Procurement Agency**”), that I have read and hereby agree to the general terms and conditions set forth in the attached Master Intergovernmental Cooperative Purchasing Agreement regulating the use of the Master Agreements and purchase of Products that from time to time are made available by Principal Procurement Agencies to Participating Public Agencies nationwide through OMNIA Partners.

I understand that the purchase of one or more Products under the provisions of the Master Intergovernmental Cooperative Purchasing Agreement is at the sole and complete discretion of the Participating Public Agency.

Authorized Signature, [PRINCIPAL PROCUREMENT AGENCY]

Signature

Name

Title

Date

EXHIBIT D
ADVERTISING COMPLIANCE REQUIREMENT

Pursuant to certain state notice provisions, including but not limited to Oregon Revised Statutes Chapter 279A.220, the following public agencies and political subdivisions of the referenced public agencies are eligible to register with OMNIA Partners and access the Master Agreement contract award made pursuant to this solicitation, and are hereby given notice of the foregoing invitation to bid for purposes of complying with the procedural requirements of said statutes:

State of Alabama	State of Hawaii	Commonwealth of Massachusetts	State of New Mexico	State of South Dakota
State of Alaska	State of Idaho	State of Michigan	State of New York	State of Tennessee
State of Arizona	State of Illinois	State of Minnesota	State of North Carolina	State of Texas
State of Arkansas	State of Indiana	State of Mississippi	State of North Dakota	State of Utah
State of California	State of Iowa	State of Missouri	State of Ohio	State of Vermont
State of Colorado	State of Kansas	State of Montana	State of Oklahoma	Commonwealth of Virginia
State of Connecticut	Commonwealth of Kentucky	State of Nebraska	State of Oregon	State of Washington
State of Delaware	State of Louisiana	State of Nevada	Commonwealth of Pennsylvania	State of West Virginia
State of Florida	State of Maine	State of New Hampshire	State of Rhode Island	State of Wisconsin
State of Georgia	State of Maryland	State of New Jersey	State of South Carolina	State of Wyoming
District of Columbia				

Lists of political subdivisions and local governments in the above referenced states / districts may be found at http://www.usa.gov/Agencies/State_and_Territories.shtml and <https://www.usa.gov/local-governments>.

EXHIBIT B

SMALL AND SMALL DISADVANTAGED BUSINESS CERTIFICATION

The University of New Mexico participates in the Government's Small and Small Disadvantaged Business programs. This requires written certification from our suppliers and contractors as to their business status. Please furnish the information requested below.

- 1.0 Small Business – An enterprise independently owned and operated, not dominant in its field and meets employment and/or sales standards developed by the Small Business Administration. See 13 CFR 121.201
- 1.a Small Disadvantaged Business – a Small Business Concern owned and controlled by socially and economically disadvantaged individuals; and
- (1) Which is at least 51% owned by one or more socially and economically disadvantaged individuals; or in the case of any publicly owned business, at least 51% of the stock of which is owned by one or more socially and economically disadvantaged individuals and
 - (2) Whose management of daily operations is controlled by one or more such individuals. The contractor shall presume Black Americans, Hispanic Americans, Native Americans (such as American Indians, Eskimos, Aleuts and Native Hawaiians), Asian-Pacific Americans and other minorities or any other individual found to be disadvantaged by the Administration pursuant to Section 8 (a) of the Small Business Act and
 - (3) Is certified by the SBA as a Small Disadvantaged Business.
- 1.b Women-Owned Business Concern – A business that is at least 51% owned by a woman or women who also control and operate it. Control in this context means exercising the power to make policy decisions. Operate in this context means being actively involved in the day-to-day management.
- 1.c HUBZone Small Business Concern – A business that is located in historically underutilized business zones, in an effort to increase employment opportunities, investment and economic development in those areas as determined by the Small Business Administration's (SBA) List of Qualified HUBZone Small Business Concerns.
- 1.d Veteran-Owned Small Business Concern – A business that is at least 51% owned by one or more veterans; or in the case of any publicly owned business, at least 51% of the stock of which is owned and controlled by one or more veterans and the management and daily business operations of which are controlled by one or more veterans.
- 1.e Service Disabled Veteran-Owned Small Business – A business that is at least 51% owned by one or more service disabled veterans; or in the case of any publicly owned business, at least 51% of the stock of which is owned and controlled by one or more service disabled veterans and the management and daily business operations of which are controlled by one or more service disabled veterans. Service disabled veteran means a veteran as defined in 38 U.S.C. 101(2) with a disability that is service connected as defined in 13 U.S.C. 101(16).

Company Name: _____ Telephone: _____
Street Address: _____ County: _____
City: _____ State & Zip: _____
Is this firm a (please check): Division Subsidiary Affiliated? Primary NAICS Code: _____
If an item above is checked, please provide the name and address of the Parent Company below:

Check All Categories That Apply:

- 1. Small Business
- 2. Small Disadvantaged Business (**Must be SBA Certified**)
- 3. Woman Owned Small Business
- 4. HUBZone Small Business Concern (**Must be SBA Certified**)
- 5. Veteran Owned Small Business
- 6. Disabled Veteran Owned Small Business
- 7. Historically Black College/University or Minority Institution
- 8. Large Business

Signature and Title of Individual Completing Form: _____

Date _____

Please return this form to: The University of New Mexico Purchasing Department MSC01 1240 Albuquerque, NM 87131 505-277-2036 (voice) 505-277-7774 (fax)
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NOTE: This certification is valid for a one year period. It is your responsibility to notify us if your size or ownership status changes during this period. After one year, you are required to re-certify with us.
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THANK YOU FOR YOUR COOPERATION

Notice: In accordance with U.S.C. 645(d), any person who misrepresents a firm's proper size classification shall (1) be punished by imposition of a fine, imprisonment, or both; (2) be subject to administrative remedies; and (3) be ineligible for participation in programs conducted under the authority of the Small Business Act.

If you have difficulty determining your size status, you may contact the Small Business Administration at 1-800-U-ASK-SBA or 202-205-6618. You may also access the SBA website at www.sba.gov/size or you may contact the SBA Government Contracting Office at 817-684-5301. (Rev. 6/2002)

VALUE ADD QUESTIONNAIRE

Proposer must agree to work in cooperation with University of New Mexico and OMNIA Partners to develop a marketing strategy and provide avenues to equally market and drive sales through the Contract and program to all current and potential Members. Bidder agrees to actively market in cooperation with UNM and OMNIA Partners all available services to current and potential participating agencies.

1. Provide a copy of all current licenses, registrations and certifications issued by federal, state and local agencies, and any other licenses, registrations or certifications from any other governmental entity with jurisdiction, allowing Respondent to perform the covered services including, but not limited to licenses, registrations or certifications. M/WBE, HUB, DVBE, small and disadvantaged business certifications and other diverse business certifications, as well as manufacturer certifications for sales and service must be included if applicable. If certifications and other documentation were already previously provided in above sections, there is no need to duplicate.

Please also list and include copies of any certificates you hold that would show value for your response not already included above.

2. Acknowledge that your organization agrees to provide its company logo(s) to UNM and OMNIA Partners and agrees to provide permission for reproduction of such logo in marketing communications and promotions.
3. Provide a detailed plan beginning from award date of the Master Agreement describing the strategy to immediately implement the Master Agreement as supplier's primary go to market strategy for Public Agencies to supplier's teams, to include, but not limited to:
 - Executive leadership endorsement and sponsorship of the award as the public sector go-to-market strategy within first 10 days
 - Training and education of Supplier's employees (and if applicable sales force) with participation from the Supplier's executive leadership, along with the OMNIA Partners team within first 90 days
4. Provide a detailed plan beginning from award date of the Master Agreement describing the strategy to market the Master Agreement to current Participating Public Agencies, existing Public Agency customers of Supplier, as well as to prospective Public Agencies immediately upon award, that could include, but is not limited to:
 - Creation and distribution of a co-branded press release to trade publications
 - Announcement, Master Agreement details and contact information published on the Supplier's website within first 90 days
 - Design, publication and distribution of co-branded marketing materials within first 90 days
 - Commitment to attendance and participation with OMNIA Partners at regional (i.e. Regional NIGP Chapter Meetings, Regional Cooperative Summits, etc.) and supplier-specific trade shows, conferences and meetings throughout the term of the Master Agreement

- Design and publication of regional advertising in trade publications throughout the term of the Master Agreement
 - Ongoing marketing and promotion of the Master Agreement throughout its term (case studies, collateral pieces, presentations, promotions, etc.)
 - Dedicated OMNIA Partners internet web-based homepage on Supplier's website with:
 - OMNIA Partners standard logo;
 - Copy of original Request for Proposal;
 - Copy of Master Agreement and amendments between Principal Procurement Agency and Supplier;
 - Summary of Products and pricing;
 - Marketing Materials
 - Electronic link to OMNIA Partners' website including the online registration page;
 - A dedicated toll-free number and email address for OMNIA Partners
5. Describe how Supplier will transition any existing Public Agency customers' accounts to the Master Agreement available through OMNIA Partners. Include a list of current cooperative contracts (regional and national) Supplier holds and describe how the Master Agreement will be positioned among the other cooperative agreements.
 6. Acknowledge Supplier agrees to provide its logo(s) to OMNIA Partners and agrees to provide permission for reproduction of such logo in marketing communications and promotions. Acknowledge that use of OMNIA Partners logo will require permission for reproduction, as well.
 7. Confirm Supplier will be proactive in direct sales of Supplier's goods and services to Public Agencies and the timely follow up to leads established by OMNIA Partners. All sales materials are to use the OMNIA Partners logo. At a minimum, the Supplier's sales initiatives should communicate:
 - a. Master Agreement was competitively solicited and publicly awarded by a Principal Procurement Agency
 - b. Best government pricing
 - c. No cost to participate
 - d. Non-exclusive
 8. Confirm Supplier will train its sales force on the Master Agreement. At a minimum, sales training should include:
 - Key features of Master Agreement
 - Working knowledge of the solicitation process
 - Awareness of the range of Public Agencies that can utilize the Master Agreement through OMNIA Partners
 - Knowledge of benefits of the use of cooperative contracts
 9. Describe in detail how Supplier's organization (and if applicable, sales force) is structured, including contact information for the highest-level executive in charge of the sales team.

- a. Explain in detail how the sales teams will work with Gordian and the OMNIA Partners team to implement, grow and service the program.
10. Explain in detail how Supplier will manage the overall program throughout the term of the Master Agreement, including ongoing coordination of marketing and sales efforts, timely new Participating Public Agency account set-up, timely contract administration, etc.
11. State the amount of Supplier's Public Agency sales for the previous fiscal year. Provide a list of Supplier's top 5 Public Agency customers, the total purchases for each for the previous fiscal year along with a key contact for each.
12. Describe Supplier's information systems capabilities and limitations regarding order management through receipt of payment, including description of multiple platforms that may be used for any of these functions.
13. Even though it is anticipated many Public Agencies will be able to utilize the Master Agreement without further formal solicitation, there may be circumstances where Public Agencies will issue their own solicitations. The following options are available when responding to a solicitation for Products covered under the Master Agreement.
 - Respond with Master Agreement pricing (Contract Sales reported to OMNIA Partners).
 - If competitive conditions require pricing lower than the standard Master Agreement not-to-exceed pricing, Supplier may respond with lower pricing through the Master Agreement. If Supplier is awarded the contract, the sales are reported as Contract Sales to OMNIA Partners under the Master Agreement.
 - Respond with pricing higher than Master Agreement only in the unlikely event that the Public Agency refuses to utilize Master Agreement (Contract Sales are not reported to OMNIA Partners).
 - If alternative or multiple proposals are permitted, respond with pricing higher than Master Agreement, and include Master Agreement as the alternate or additional proposal.
 - Detail Supplier's strategies under these options when responding to a solicitation.
14. Provide a copy of all current licenses, registrations and certifications issued by federal, state and local agencies, and any other licenses, registrations or certifications from any other governmental entity with jurisdiction, allowing Respondent to perform the covered services including, but not limited to licenses, registrations or certifications. M/WBE, HUB, DVBE, small and disadvantaged business certifications and other diverse business certifications, as well as manufacturer certifications for sales and service must be included if applicable

Please also list and include copies of any certificates you hold that would show value for your response not already included above.

15. Please include any additional products and/or services not included in the scope of the solicitation that you think will enhance and/or add value to this contract participating agencies.
16. If applicable, provide details of and propose additional discounts for volume orders, special manufacturer's offers, minimum order quantity, total annual spend.

**RESIDENT/NATIVE AMERICAN VETERANS RESIDENT PREFERENCE
CERTIFICATION**

_____ (NAME OF CONTRACTOR) hereby certifies the following in regard to application of the resident veterans' preference to this procurement:

Please check one box only

I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is less than \$6M allowing me the 10% preference discount on this solicitation. I understand that knowingly giving false or misleading information about this fact constitutes a crime.

I agree to submit a report, or reports, to the State Purchasing Division of the General Services Department declaring under penalty of perjury that during the last calendar year starting January 1 and ending on December 31, the following to be true and accurate:

In conjunction with this procurement and the requirements of this business' application for a Resident Veteran Business Preference /Native American resident veteran Contractor Preference under section 13-1-21 or 13-1-22 NMSA 1978, when awarded a contract which was on the basis of having such veteran's 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 unaward of the procurement involved if the statements are proven incorrect.

**RESIDENT/NATIVE AMERICAN VETERANS RESIDENT PREFERENCE
CERTIFICATION**

_____ (NAME OF CONTRACTOR) hereby certifies the following in regard to application of the resident veterans' preference to this procurement:

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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 /Native American resident veteran Contractor Preference under section 13-1-21 or 13-1-22 NMSA 1978, when awarded a contract which was on the basis of having such veteran's 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.

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