



REQUEST FOR QUALIFICATIONS BASED PROPOSALS

PROPOSAL NUMBER: 21-22-23

ENGINEERING / CONSULTING SERVICES FOR BRIDGE 3121 and 8111 Replacement Projects

Public Works

Return Sealed Proposals to:

SAN JUAN COUNTY
Central Purchasing Office
213 S. Oliver Drive
Aztec, NM 87410

Attn: Jaime Jones
Contract Analyst
Phone: 505-334-4548
E-Mail: jjones@sjcounty.net

PRE-PROPOSAL CONFERENCE:
DATE: April 12, 2022
TIME: 10:00 a.m. (Local Prevailing Time)

CLOSING DATE: April 21, 2022
TIME: 5:00 p.m. (Local Prevailing Time)

LOCATION: Central Purchasing Conference Room, 213 S. Oliver Dr., Aztec, NM 87410

NIGP Commodity/Services Codes: 925-13 Engineering Services, Bridge

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- **Proposal of Offeror Form must be completed in full and returned with the Proposal Offer.**
 - This proposal is subject to the Terms and Conditions shown on the following pages and any/all additional instructions.
 - Do not return the Request for Proposal (RFP) in case of "No Response".
 - Proposal must be received in the County's Central Purchasing Office by the Proposal Closing Date and Local Time as indicated above. **Any proposal received after the specified time and/or date will not be accepted and will be returned to the sender unopened. Emailed Proposals will not be accepted.**
 - **Proposals shall be submitted sealed. The outside package should clearly identify the Project Name, Proposal Number, Proposal Closing Date and Name of Offeror. Submit Proposal Offer in accordance with the Request for Proposal.**

Failure to complete the proposal documents in accordance with all instructions provided is cause for this office to reject the proposal.

THE PROCUREMENT CODE SECTIONS 13-1-28 THROUGH 13-1-99 NMSA 1978, IMPOSES CIVIL AND CRIMINAL PENALTIES FOR ITS VIOLATION. IN ADDITION, THE NEW MEXICO CRIMINAL STATUTES IMPOSE FELONY PENALTIES FOR BRIBES, GRATUITIES AND KICKBACKS.

ACKNOWLEDGEMENT OF RECEIPT FORM

PROPOSAL NO.: 21-22-23

ENGINEERING / CONSULTING SERVICES FOR BRIDGE 3121 AND 8111 REPLACEMENT PROJECTS

22 PAGES (INCLUDING ACKNOWLEDGEMENT, CAMPAIGN DISCLOSURE FORM, AND SAMPLE CONTRACT).

NOTE: ONLY POTENTIAL OFFERORS WHO COMPLETE AND RETURN THIS FORM WILL RECEIVE COPIES OF ADDENDUMS, IF ISSUED.

PROPOSAL INFORMATION:

In acknowledgement of receipt of the above referenced Proposal Packet, the undersigned agrees that he/she has received a complete copy.

OFFEROR NAME

SIGNATURE OF AUTHORIZED REPRESENTATIVE

PRINTED NAME OF AUTHORIZED REPRESENTATIVE

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

PHONE NO.: _____

E-MAIL: _____

RETURN TO:
Jaime Jones
Contracts Analyst
SAN JUAN COUNTY
(505) 334-4548
jjones@sjcounty.net

Emailed copies of the Acknowledgement of Receipt Form will be accepted.
Emailed Proposal responses **will not** be accepted.

SEQUENCE OF EVENTS

The Chief Procurement Officer will make every effort to adhere to the following schedule:

<u>Action</u>	<u>Responsibility</u>	<u>Date</u>
1. Issue of RFP	San Juan County	03/27/2022
2. Pre-Proposal Conference	San Juan County	04/12/2022
3. Deadline to Submit Questions	Offerors	04/14/2022 @ 5:00 pm
4. Response to Written Questions	San Juan County	04/18/2022
5. Submission of Proposal (5:00 pm Local Prevailing Time (atomic clock))	Offerors	04/21/2022
6. Proposal Evaluation	Evaluation Committee	May 2022
7. Evaluation Committee Recommendation/ Approval of Award by SJC Commission	San Juan County	May 2022
8. Execution of Contract	San Juan County/Offeror	May 2022

EXPLANATION OF EVENTS

The following paragraphs describe the activities listed in the sequence of events shown above.

1. Issue of RFP

This RFP is being issued by San Juan County Central Purchasing Office.

2. Pre-Proposal Conference

A non-mandatory pre-proposal conference will be held for Potential Offerors on April 12, 2022 at 10:00 am local time at the San Juan County Central Purchasing Conference Room located at 213 S. Oliver Dr., Aztec, NM 87410.

3. Deadline to Submit Questions

Potential Offerors may submit written questions as to the intent or clarity of this RFP until close of business on **April 14, 2022**. All written questions must be addressed to Jaime Jones, Contract Analyst, jjones@sjcounty.net.

4. Response to Written Questions

Written responses to written questions and any RFP addendums will be distributed on **April 18, 2022** to all potential Offerors who have submitted the Acknowledgement of Receipt form. Potential Offerors may return the Acknowledgement form by hand, mail, or email. Potential Offerors who fail to submit this form will **not** automatically receive any addendums, if issued, or correspondence regarding this RFP.

5. Submission of Proposal

All proposal responses must be received for review and evaluation by San Juan County Central Purchasing no later the **5:00 pm (Local Prevailing Time (atomic clock)) on April 21, 2022**. Proposals received after this deadline will not be accepted. The date and time will be recorded on each proposal. Proposals must be addressed and delivered to the Chief Procurement Officer at **213 S. Oliver Dr., Aztec, NM 87410**. Proposals must be sealed and labeled on the outside of the package to clearly indicate that they are in response to **Proposal 21-22-23, Engineering / Consulting Services for Bridge 3121 and 8111 Replacement Projects**.

Pursuant to Section 13-1-116 NMSA 1978, the contents of any proposal shall not be disclosed to competing Offerors prior to contract award.

6. Proposal Evaluation

The evaluation of proposals will be performed by an evaluation committee appointed by the Central Purchasing Office. This process will take place during the month of **May 2022**. During this time, the Chief Procurement Officer may initiate discussions with Offerors who submit responsive or potentially responsive proposals for the purpose of clarifying aspects of the proposals, but proposals may be accepted and evaluated without such discussion. Discussions SHALL NOT be initiated by the Offerors.

The evaluation committee shall rank each responsive proposal according to the numerical score achieved by the Offeror according to the criteria. A responsive Offeror with the most highly ranked proposal will be recommended to the Board of County Commissioners or its delegate for further consideration.

7. Evaluation Committee Recommendation / Approval of Award by SJC Commission

San Juan County anticipates awarding the contract in **May 2022**. This date is subject to change at the discretion of the County. The contract award by the Board of County Commissioners or its delegate is subject to successful negotiation of the cost of services with the most highly ranked Offeror. No contract will be awarded if fair and reasonable compensation cannot be agreed to.

8. Execution of Contract

The contract will be finalized with the highest ranked Offeror in **May 2022**. If an agreement cannot be reached with the most highly ranked Offeror, negotiations will be terminated with that Offeror, and negotiations undertaken with the second most highly ranked Offeror. If negotiations are successful with any Offeror, the County shall publicly announce the name of the Offeror selected for award.

9. Right to Protest

Any protest by an Offeror must be timely and in conformance with Section 13-1-172 NMSA 1978 and applicable procurement regulations. Protests must be written and must include the name and address of the protester and the RFP number. It must also contain a statement of grounds for protest including appropriate supporting exhibits. The protest must be delivered to:

San Juan County
Central Purchasing
Diana Chapman, Chief Procurement Officer
213 S. Oliver Dr.
Aztec, NM 87410

TERMS AND CONDITIONS (Unless otherwise specified)

1. **GENERAL.** When the County Chief Procurement Officer issues a purchase document in response to the Offeror proposal, a binding contract is created.
2. **FORM OF SUBMISSION.** Each proposal shall be typewritten on standard 8 ½" x 11" paper and placed within a binder with tabs delineating each section. One (1) original and five (5) copies of the Proposal shall be supplied. **Only one Proposal may be submitted by each individual Offeror. Proposals shall be submitted sealed. The outside package should clearly identify the Project Name, Proposal Number, Proposal Closing Date and Name of Offeror.**

In addition to the above requirements, the Offeror must provide one (1) electronic copy organized in the format requested with each tab's information as a separate file on a Flash Drive in one of these formats: Adobe PDF (pdf), Microsoft Word (doc), or Microsoft Excel (xls). The electronic copy must be organized and laid out in the same format as outlined in Contents of Proposal Offer, pgs. 8-9, with each tab as a different folder.
3. **DEBARRED OR SUSPENDED CONTRACTORS.** A business (contractor, subcontractor or supplier) that has either been debarred or suspended pursuant to the requirements of §13-1-177 through §13-1-180, and §13-4-11 through §13-4-17 NMSA 1978 as amended, shall not be permitted to do business with San Juan County and shall not be considered for award of the contract during the period for which it is debarred or suspended.
4. **CONFLICT OF INTEREST.** The successful Offeror covenants that neither it nor its officers, directors, agents and employees, have any interest and shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the required services.
5. **AMENDMENT.** An Offeror may submit an amended proposal before the due date and time. An amended proposal shall be complete, as it will be substituted for the earlier proposal(s), and shall be clearly identified as an amendment. The County will not merge, collate or assemble proposal materials.
6. **WITHDRAWAL.** An Offeror may withdraw its Proposal at any time prior to the deadline for receipt of proposals. An Offeror desiring to withdraw a proposal shall submit a written request to the Bid/Contract Administrator signed by the Offeror's duly authorized representative(s).
7. **PROPOSAL OFFER FIRM.** Responses to the RFP, including costs, shall be firm for ninety (90) days after the due date for receipt of proposals.
8. **COST OF PREPARING RFP.** Any cost incurred by the Offeror in preparation, transmittal, or presentation of any proposal or material submitted in response to this RFP shall be borne solely by the Offeror.
9. **CONFIDENTIALITY.** Each proposal will be kept confidential until a contract is awarded. Following award of a contract, all documents pertaining to each proposal shall be open for public inspection, except for any material, which is designated by the Offeror as proprietary or confidential. Proprietary or confidential data is normally restricted to confidential financial information concerning the Offeror's organization and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, 57-3A-1 to 57-3A-7 NMSA 1978. The price of products offered or the cost of services proposed shall not be designated as proprietary or confidential information. The County will not disclose or make public any pages of a proposal on which the Offeror has stamped or imprinted "proprietary" or "confidential." Such data shall be readily separable from the proposal in order to facilitate eventual public inspection of the non-confidential portion. If a citizen of this State requests disclosure of data for which an Offeror has made a written request for confidentiality, the Central Purchasing Department shall examine the Offeror's Proposal and make a written determination which specifies which portions of the proposal should be disclosed in accordance with applicable New Mexico law. Unless the Offeror takes 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.
10. **PUBLICATION.** Offeror shall secure from the County written approval prior to publication of any information that pertains to the potential work or activities, which are solicited in this procurement.
11. **LEGAL REVIEW.** Since Offerors will be bound by the specifications, terms and conditions herein, it is strongly recommended that each Offeror obtain legal advice concerning the proposal.
12. **GOVERNING LAW / VENUE.** The laws of the State of New Mexico shall govern this procurement and any resulting contract. Any action to enforce terms and conditions herein shall be brought only in the Eleventh Judicial District

Court, San Juan County, State of New Mexico.

13. CONTRACT DOCUMENTS. The Contract Documents shall consist of this Request for Proposal, the Response of the successful Offeror, a separate written contract and the County's Purchase Order.

14. CONTRACT TERMS AND CONDITIONS. A fixed fee contract between the County and the successful Offeror shall follow the format specified by the County. The County reserves the right to impose, as it sees fit, additional terms and conditions upon the successful Offeror, should conditions warrant. The contents of this RFP, as revised and/or supplemented, and the successful Offeror's proposal, will be incorporated into and become part of the contract.

Should an Offeror object to any of the County's terms and conditions, as contained in the document, that Offeror shall propose specific alternative language that would be acceptable to the County. General references to the Offeror's terms and conditions, or attempts at complete substitutions are not acceptable to the County and will result in disqualification of the Offeror's proposal. The Offeror shall provide a brief explanation of the purpose and impact, if any, of each proposed change, following by the specific proposed alternate wording.

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

15. CONTRACT AMENDMENTS. The County reserves the right to make changes or revisions to the scope of work as required during the term of the contract if it determines it to be necessary or desirable. No changes, revisions, modifications, or amendments of any of the terms or conditions of the contract specifications and requirements shall be valid unless reduced to writing by the County. Verbal discussions or agreements shall not bind the County.

16. TERMINATION OF CONTRACT. In case of a breach on any provision of a contract, the County reserves the right to terminate the contract, procure the services from other sources, or take other steps, as it deems appropriate. Additionally, the County reserves the right to cancel a contract at any time, for any reason, without penalty, by giving at least thirty (30) days written notice to the successful Offeror. Written notice shall be deemed delivered when deposited in the United States Mail and certified.

In addition, any contract awarded as a result of the Request for Proposal may be terminated if sufficient appropriations or authorizations do not exist. The County's decision concerning whether sufficient appropriations or authorizations exist will be final.

17. SPECIFICATIONS. It is the intent of the County to make this Request for Proposal in such a manner as to be open to all qualified Offerors. Any specification that tends to limit or eliminate a qualified Offeror shall be brought to the attention of the County not less than ten (10) days before the date when responses are due. Failure to bring such a matter to the attention of the County shall bar the Offeror from asserting a later claim in this regard.

18. INDEMNITY. The Offeror awarded the contract agrees, as material consideration for this Agreement, to defend, indemnify, and hold harmless the County, its Elected Officials, agents, and employees from and against any and all claims arising out of any asserted negligent act, error or omission of the Offeror, its officers, directors, employees or agents or arising in any way from this agreement or the Offeror's activities hereunder. The indemnity agreed to in this paragraph shall not extend to liabilities, claims, damages, losses or expenses, including attorney fees arising out of: The preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs or specifications by the County, or the agents or employees of the County, or the giving of or the failure to give directions or instructions by the County, or the agents or employees of the County, where such giving or failure to give directions or instructions is the primary cause of bodily injury to persons or damage to property.

19. LICENSING. The Offeror awarded the contract shall possess a current license in the State of New Mexico, and shall obtain and hold such additional licenses as are reasonably required to accomplish his or her duties under this Agreement.

20. STATUS OF OFFEROR. The successful Offeror and its officers, directors, agents and employees, are independent contractors performing services for the County and are not employees of the County. The Offeror and its officers, directors, agents and employees, shall not accrue leave, retirement, insurance, bonding, use of County vehicles, or any other benefits afforded to employees of the County. The Offeror shall perform his/her obligations under this Contract as necessary and appropriate under all Federal, State, and local laws, codes, ordinances, rules, regulations, and standards applicable to this type of service. The County will not supervise the Offeror in the day-to-day performance of this Contract.

21. DISCRIMINATION / EQUAL EMPLOYMENT OPPORTUNITY / CIVIL RIGHTS. The successful Offeror shall be an equal opportunity employer, and shall not discriminate with regard to race, age, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, spousal affiliation, physical or mental handicap or serious medical condition as specified in N.M.S.A. 1978, §§ 28-1-7 (as amended) in the performance of this contract. The successful

Offeror agrees to abide by all Federal and State laws, rules, and regulations pertaining to equal employment opportunity, discrimination, and civil rights.

- 22. NOTICE.** The New Mexico Procurement Code, N.M.S.A. 1978, §§ 13-1-28 through 13-1-199, imposes civil and criminal penalties for its violation. In addition, the New Mexico Criminal Statutes impose felony penalties for illegal bribes, gratuities and kickbacks.
- 23. TAXES.** The Offeror awarded the Contract shall be responsible for the payment of all federal, state, and local taxes on monies received pursuant to this Agreement.
- 24. ASSIGNMENT.** An Offeror shall not transfer, sell, assign, sublicense, pledge or otherwise dispose of in any way its interest in any contract which may result from this solicitation, or assign any claims for money due or to become due under any contract, without having first obtained the prior written consent of the County to do so. Any attempt by an Offeror to do any of the foregoing without such consent shall be null and void, and may result in disqualification of the Offeror or termination of any contract resulting from this solicitation. The County's consent to any of the foregoing shall not constitute consent to any other act, nor shall such consent relieve the Offeror from any of its duties to perform all agreements, covenants, and conditions set forth in this solicitation or any resulting contract.
- 25. RECORDS.** All records and documents are property of San Juan County and shall be returned to San Juan County upon termination of any contract.
- 26. OWNERSHIP OF PLANS.** The County shall receive a Mylar original of the bid plans which will include a San Juan County cover sheet. The Offeror awarded the contract acknowledges that the reports, plans, specifications, field data, field notes, laboratory test data, calculations, estimates and other similar documents of the successful Offeror are instruments of service, not products. Although ownership of such documents is normally retained by the Offeror, they nonetheless shall on this project become the property of the County. Plans, drawings, and other similar documents shall not be reproduced, copied or duplicated without the express written authorization of the County.

The County agrees that no such documents will be subject to unauthorized re-use without written authorization of the successful Offeror to do so. Such authorization is essential because it requires the successful Offeror to evaluate the documents' applicability to new circumstances, not the least of which is the passage of time. In return for the successful Offeror's relinquishment of ownership, the County agrees to defend, indemnify and hold the successful Offeror harmless from any claim or liability for injury or loss allegedly arising from unauthorized re-use of the successful Offeror's instruments of service. The Owner further agrees to compensate the successful Offeror in defense of any such claim, in accordance with the successful Offeror's prevailing fee schedule and expense reimbursement policy.

- 27. PERFORMANCE BOND.** The County reserves the right to require a performance bond from the Offeror awarded a contract if deemed to be in the best interest of the County. The bond shall be acquired and paid for by the Offeror and shall be in form satisfactory to the County.
- 28. CODES LAWS / REGULATIONS.** The successful Offeror shall be properly licensed and shall meet and comply with all applicable Federal, State, and local government codes, laws, regulations, and requirements in the performance of the work described herein.
- 29. INSURANCE.** The successful Offeror is required to carry and maintain during the period of the contract General Liability, Auto and Workman's Compensation insurance from an insurance company or companies with a Best Rating of A, or better, licensed to do business in the State of New Mexico and admitted by the Department of the State of New Mexico. At a minimum, each Offeror must carry comprehensive General Liability Insurance and Automobile Insurance with combined single limits of not less than \$1,000,000.00 and Workman's Compensation in amounts as required by the New Mexico Workers Compensation Act. The successful Offeror must also carry and maintain during the period of the contract Errors and Omissions Insurance coverage (Professional Liability Insurance) with limits of not less than \$1,000,000.00, from an insurance company or companies with a Best Rating of A, or better.

Each Offeror is asked to submit a Certificate of Insurance, commensurate with the above requirements, along with their proposal Offer. The Offeror selected for an award under this solicitation shall provide the appropriate certificates of insurance to the County prior to award of a contract. The County shall be named as an Additional Insured on the General Liability policy required by this section.

CONTENTS OF PROPOSAL OFFER

The proposal Offer submitted by the Offeror shall, at a minimum, contain the following:

To be considered for award of a contract pursuant to this Request for Proposal, each proposal Offer shall contain the materials required herein and shall comply with the format described. The Offer shall contain a response to the specifications and requirements, and a response to other items identified in the Evaluation/Award section. Failure to provide required documentation and information as requested may result in rejection of the Offeror's Proposal.

PROPOSAL FORMAT/CONTENTS.

The proposal must be organized and indexed in the following format and must contain, **at a minimum**, all listed items in the sequence indicated:

SECTION 1. TRANSMITTAL / COVER LETTER.

A. IDENTIFY THE OFFEROR AND CONTACT PERSON. Each Offeror shall identify the organization submitting the proposal. Provide the name, address and telephone/facsimile number of the Offeror. Each Proposal shall further identify its organizational structure (e.g. sole proprietorship, corporation, etc.), whether the organization is authorized to do business in the State of New Mexico, where the organization is based, where its principal place of business is located and, if a corporation, where it is incorporated.

Each Offeror shall name a primary contact and contact information of the person whom the County may contact for clarification or for further information.

B. BIND THE OFFEROR. Each Offeror shall identify, by title and/or position, the person authorized by the organization to enter into a Contract with the County. That person shall sign the proposal. If written authority exists (such as corporate minutes), a copy of that document shall be attached. The Proposal shall bind the organization to complete the work described in the Proposal.

C. ACCEPTANCE OF TERMS. Each Proposal shall explicitly indicate the organization's acceptance of the terms and conditions set forth in this Request for Proposal, if awarded a contract. If the organization proposes alternative terms and conditions, it shall set each out with specificity in its Proposal. The County will not be obligated to accept any such terms and conditions and may consider submission of it to be an exception. Each Proposal shall also acknowledge receipt and acceptance of any and all amendments to this Request for Proposal.

SECTION 2. REQUIRED FORMS.

The following forms are required and must be signed by an authorized representative, when applicable.

- A. Proposal of Offeror Form. Offeror shall acknowledge receipt and acceptance of any and all addendums.
- B. Current Certificate of Insurance.
- C. Campaign Contributions Disclosure Form.
- D. New Mexico Resident Business/Veterans Certificate. Pursuant to section 13-1-21 NMSA 1978, to be considered for the 5% resident preference, the Offeror shall include its in-state resident preference number and a copy of the Certificate provided to it by the New Mexico Taxation and Revenue Department.

Pursuant to Sections 13-1-21 and 13-1-22 NMSA 1978, effective July 1, 2012, to be eligible for the 10% resident veterans preference, the Offeror shall include a copy of the resident veterans preference certificate provided to the Offeror by the New Mexico Taxation and Revenue Department. This preference is separate from the in-state preference and is not cumulative with that preference.

All Offerors/Contractors may apply for a resident veterans preference number with the State of New Mexico Taxation and Revenue Department. For questions, please call the New Mexico Taxation and Revenue Department at 505-827-0951.

CRITERIA.

New Mexico Business/Veterans Preference

POINTS.

+10% of Total Points

Points will be awarded based on Offerors ability to provide a copy of a current Resident Business Certificate or Resident Veterans Certificate.

In addition, the attached Resident Veterans Preference Certification form must be completed, signed and be included in the proposal submission.

SECTION 3. RESPONSE TO SCOPE OF SERVICES.

Each Proposal shall contain a written response to the specifications and requirements as identified throughout this Request for Proposal. If an Offeror is unable to provide an item or service, which is required by the specifications, it shall take written exception to the specification. The Offeror's Proposal must be as specific as possible.

- 1) **SPECIALIZED DESIGN AND TECHNICAL COMPETENCE.** Introduction and Background. Each Offeror shall provide an Overview of current and prior experience in work comparable to the scope of services required in this Request for Proposals. Qualifications of the Offeror and any Proposed Subconsultants. Since this is a qualifications-based solicitation, each Offeror must supply resumes and other necessary information on each person who will be assigned to perform work on the project. The information must be sufficiently detailed so that the County's Evaluation Committee may evaluate the qualifications of the Offeror and their staff.

Each Offeror shall describe its ability, as well as the ability of any joint venture or association, to develop and manage the project based on similar and related projects. The Offeror shall include the resumes of personnel including sub-consultant personnel that will be assigned to work and who will in fact be working on the project during its duration, as well as defining their area of responsibility and identify their area of responsibility assigned to prior projects of a similar nature.

Each Offeror shall describe its history with the proposed team working together on past projects, including projects with the New Mexico Department of Transportation and shall describe its approach to project cost estimating as well as demonstrate its past performance in providing well-organized, accurate and fully coordinated construction documents, and the projects delivered on time and within budget.

- 2) **CAPACITY AND CAPABILITY.** Each Offeror shall provide information on the firm and the project team's work load, as well as all Sub-consultants current work load. The Offeror shall provide a brief description of the scope, effort and approach the Offeror will utilize for this project. The Offer shall describe its knowledge, understanding, and insight of the project scope and the Offeror's pending contracts and potential time frames for completion. Each Offeror shall provide information relative to their ability to provide customer service and account representation, as well as an overview of any additional services such as cost containment practices, and organizational tools, etc.
- 3) **PAST RECORD OF PERFORMANCE.** Each Offeror shall describe its past record of performance on contracts with government agencies or private industry with respect to such factors as control of costs, quality of work, its ability to meet schedules, Owner's project budget, final construction cost estimate, bid price including accepted alternates, listing of change order costs, and final construction cost and shall describe any project difficulties on previous projects.

Offeror shall provide a list of at least five (5) completed construction projects, and a listing of three (3) clients (i.e., clients to whom the same type of services have been provided to in a similar environment and/or facilities, along with each client's contact person(s) and telephone numbers). The County reserves the right to contact references/clients for verification and pertinent information.

- 4) **PROXIMITY TO OR FAMILIARITY WITH SAN JUAN COUNTY.** Each Offeror shall provide a description of its proximity to and familiarity with the area in which the project is located. Describe how the project's team will respond to any issues at the site. Identify the locations of the Offeror and Subconsultant's closest offices.
- 5) **WORK TO BE DONE IN NEW MEXICO.** A discussion of the amount of design work that will be produced by a New Mexico business within this state. Offeror shall indicate the number of New Mexico based employees that will be part of the Project Team.
- 6) **CURRENT VOLUME OF WORK WITH SAN JUAN COUNTY NOT 75% COMPLETE.** Each Offeror shall submit along with their Offer, a completed Project Listing Form (enclosed) listing all work in progress with the County, which is not seventy-five (75%) complete with respect to basic design services. Seventy-five percent (75%) complete is defined when construction documents have been approved for bidding.
- 7) **QUALITY, ACCURACY, AND COMPLETENESS OF THE PROPOSAL.**
- 8) **UP TO ADDITIONAL 100 POINTS TO BE ADDED FOR IN-STATE OR VETERANS PREFERENCE.**

SPECIFICATIONS AND REQUIREMENTS.

INTRODUCTION/PROJECT HISTORY.

Bridge 3121 spans the Jones Arroyo on San Juan County Road 3000 in Aztec, NM. The bridge is a 39'-long, single span, steel beam structure originally constructed in 1970. The downstream bank protection is timber retaining wall stabilized by helical anchor with questionable stabilization. The bridge was identified for future replacement in 2015 as part of a County wide bridge prioritization study.

Bridge 8111 spans the Flora Vista Arroyo on San Juan County Road 3500 in Flora Vista, NM. The bridge is a 31'-long, three span, steel beam structure originally constructed in 1967. The bridge was identified for future replacement in 2015 as part of a County wide bridge prioritization study.

QUALIFICATIONS.

- The Offeror must be currently registered in the State of New Mexico and have a minimum of five (5) years' experience in the related field.
- The Offeror shall submit a list of their key personnel who will be assigned to the PROJECT and their qualifications.
- The Offeror shall identify similar projects within the last five (5) years as well as any current projects of a similar nature.
- The Offeror shall clearly demonstrate the ability of the firm to provide the required services in a professional and timely manner.
- The Offeror shall be able to demonstrate the ability to provide the majority of the engineering services anticipated in this contract and identified in this RFP with in-house staff to implement this project. The use of sub consultants is acceptable in order to provide certain specialty services that the Offeror's firm does not typically provide.
- The Offeror shall assign an officer, partner or principal engineer of the firm as project manager to be responsible for project oversight and attend meetings over the course of the project, as deemed appropriate by the County.

SCOPE OF SERVICES.

San Juan County is seeking survey and engineering design services for replacement bridge designs. The preferred alternative for both structures is multi-plate structural arch culverts. Design services will include:

- Topographic and Right-of-Way Survey
 - Topographic Survey as needed for design
 - Identification of necessary ROW acquisition and associated plats
 - Utility locations
- Geotechnical Investigation
- Drainage Evaluation
- Structure, Headway and Foundation Design
- Roadway/approach Design
- Identification of Utility Conflicts (relocations responsibility of utility owner)
- Permanent Traffic Control Structures (signage, striping, guardrail)
- Temporary Traffic Control Plans (assume full road closure during construction)
- Project Specifications and Contract Book
- Construction Cost Estimates

Biological & Cultural Investigations/Reporting and Clean Water Act permitting are excluded from the initial scope of work.

Plans and specifications shall be prepared as not to exclude State or Federal funding sources.

It is anticipated design services for both bridges will be awarded as a single engineering services contract.

EVALUATION / AWARD

Responsive proposals will be evaluated in the following manner. Any proposal that is incomplete or deficient may be rejected before evaluation. Failure of an Offeror to respond to criteria set forth in this RFP document may result in a score of Zero (0).

A. EVALUATION COMMITTEE. Each responsive proposal shall be evaluated by an Evaluation Committee comprised of San Juan County personnel or representatives appointed by the Central Purchasing Office.

B. EVALUATION CRITERIA. The Evaluation Committee shall evaluate each responsive proposal according to the following criteria/factors:

CRITERIA / FACTORS

POINT VALUES

1. SPECIALIZED DESIGN AND TECHNICAL COMPETENCE

250

Specialized design and technical competence of the Offeror, including a joint venture or association, regarding the type of services required, in the design development, construction documents, and administration of similar and related projects.

(100 Pts.) **Qualifications of Key personnel and Subconsultants based on resumes.**

(50 Pts.) **History of the proposed team working together on past projects, particularly as related to prior work of this nature.**

(100 Pts.) **The Offeror's approach to project cost estimating. Demonstrated performance in providing well-organized, accurate and fully coordinated construction documents, and projects delivered on time and within budget.**

2. CAPACITY AND CAPABILITY

250

Capacity and capability of the business, including any consultants, their representatives, qualifications and locations, to perform the work, including any specialized services, within the time limitations.

(100 Pts.) **Provide information on the firm and the project team's current work load as well as all Subconsultants' current work load in comparison to the projected work load of this project and personnel in the New Mexico Office. Offeror's pending contracts and potential time frames for completion.**

(50 Pts.) **Provide a brief description of the scope, effort and approach the Offeror will utilize for the project.**

(100 Pts.) **Knowledge, understanding, and insight of the project scope. Demonstrated successful projects with minimal contract change orders. Offeror's objectivity and soundness of the work to be performed.**

3. PAST RECORD OF PERFORMANCE

250

Past record of performance on contracts with government agencies or private industry with respect to such factors as control of costs, quality of work, and ability to meet schedules.

(100 Pts.) **Demonstrated ability to control cost, stay within the Owner's budget and minimize change orders.**

(75 Pts.) **Describe the Offeror's ability to meet schedules.**

(75 Pts.) **Describe any project difficulties and how the Offeror handled these issues.**

4. PROXIMITY TO OR FAMILIARITY WITH SAN JUAN COUNTY

100

The Offeror's proximity to or familiarity with the area in which the project is located.

(50 Pts.) The Offeror's proximity to the project. The Offeror's familiarity with the project location. Accessibility of the Offeror and the Subconsultants to San Juan County. Identify the locations of the Offeror and Subconsultant's closest offices.

(50 Pts.) Describe how the project's team will respond to issues at the site.

5. WORK TO BE DONE IN NEW MEXICO 50

The amount of design work that will be produced by a New Mexico business within this State.

6. CURRENT VOLUME OF WORK WITH SAN JUAN COUNTY NOT 75% COMPLETE 50

The volume of work previously done for San Juan County which is not seventy-five percent (75%) complete, with respect to basic professional design services as of the date of the proposal. Seventy-five percent (75%) complete is defined as when construction documents have been approved for bidding. The objective is effecting an equitable distribution of contracts among qualified business and of assuring that the interest of the public in having available a substantial number of qualified businesses is protected; however, that the principle of selection of the most qualified businesses is not violated.

The enclosed Project Listing Form shall be completed and returned to indicate the status of past San Juan County projects awarded to the Offeror through this RFP process. Points will be determined as follows:

<u>Value of work not yet completed on projects that are not 75% Complete</u>	<u>Points to be allowed for this item</u>
None	50
\$ 1 to \$ 25,000	40
25,001 to 50,000	35
50,001 to 75,000	25
75,001 to 100,000	20
100,001 or more	0

7. QUALITY, ACCURACY, AND COMPLETENESS OF THE PROPOSAL 50

The quality, accuracy and completeness of the Offeror's proposal in response to the RFP specifications and requirements.

8. UP TO ADDITIONAL 100 POINTS TO BE ADDED FOR IN-STATE RESIDENT OR RESIDENT VETERANS PREFERENCE 100

For In-State Resident Preference: 5%.
-or-
For Resident Veterans Preference: 10%.

Must have a valid resident business certificate or a valid resident veteran business certificate issued by the State of New Mexico Taxation and Revenue Department.

TOTAL POINTS: 1100

C. **COMMITTEE'S RECOMENDATION.** The Evaluation Committee shall rank each responsive proposal according to the numerical score achieved by the Offeror after evaluation according to the criteria. A responsive Offeror with the most highly ranked proposal will be recommended to the Board of County Commissioners or its delegate for further consideration.

D. **NEGOTIATION.** Award of a contract by the Board of County Commissioners or its delegate is subject to successful negotiation of the cost of services with the most highly ranked Offeror. No contract will be awarded if fair and reasonable compensation cannot be agreed to. If an agreement cannot be reached with the most highly ranked

Offeror, negotiations will be terminated with that Offeror, and negotiations undertaken with the second most highly ranked Offeror. If an agreement cannot be reached with the second most highly ranked Offeror, negotiations will be terminated with that Offeror and negotiations undertaken with the third most highly ranked Offeror, and so on pursuant to N.M.S.A. 1978 § 13-1-122. If negotiations are successful with any Offeror, the County shall publicly announce the name of the Offeror selected for award.

E. INVESTIGATIONS. The County may, at its option, contact a given Offeror for clarification of its proposal or for additional information. The Offeror(s) SHALL NOT initiate discussions with the County. The County may make such investigations as necessary to determine the ability of the Offeror to meet the specifications and adhere to the terms and conditions set forth within this Request for Proposals and in the accompanying documents. The County will reject the proposal of any Offeror who is not a "responsible Offeror" as that term is defined in N.M.S.A. 1978. §§ 13-1-83.

F. RIGHT TO DISCONTINUE PROCUREMENT. The County reserves the right to waive minor irregularities in an Offeror's proposal. The County also reserves the right to waive mandatory requirement(s) so long as all responding vendors fail to meet the mandatory requirement(s) and the failure to do so does not otherwise materially affect the procurement. The County reserves the right to cancel this Request for Proposals at any time, and to reject any or all proposals, or otherwise to proceed in the best interests of the County. This Request for Proposals in no manner obligates the County or any of its agencies to the eventual purchase of any product or service, whether explicitly described or implied herein, until confirmed by a written contract and/or Purchase Order.

QUESTIONS/SUGGESTIONS

Questions and/or suggestions concerning this Request for Proposal shall be submitted in writing no later than the date indicated in the Sequence of Events and shall be directed to:

Jaime Jones, Contract Analyst

Phone: 505-334-4548

E-mail: jjones@sjcounty.net

Offerors are specifically notified that any attempt to contact any person other than the party listed above concerning this procurement, shall be cause to reject said respondent(s) from further consideration.

Note: Information provided in this Request for Proposal shall only be used for the purpose of submitting a Proposal Offer to the County and shall not be used, released, or disclosed for any other purpose or use.

PROPOSAL OF OFFEROR

THIS FORM MUST BE COMPLETED AND RETURNED BY ALL OFFERORS

*** Do not reference another section within your Proposal Offer as a response.**

The following proposal is made for furnishing the following service for San Juan County, New Mexico.

RFP #21-22-23 ENGINEERING / CONSULTING SERVICES FOR BRIDGE 3121 AND 8111 REPLACEMENT PROJECTS

The undersigned declares that the amount and nature of the service to be furnished is understood and that the nature of this proposal is in strict accordance with the conditions set forth and is a part of this Proposal, and that the undersigned Offeror has read and understands the specifications and conditions of the Proposal.

The undersigned, in submitting this proposal, represents that the Offeror is an equal opportunity employer, and will not discriminate with regard to race, age, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, spousal affiliation, physical or mental handicap or serious medical condition as specified in N.M.S.A. 1978, §§ 28-1-7 (as amended) in the performance of this contract.

The undersigned hereby proposes to perform necessary professional services upon the conditions stated in this proposal after notice of award and execution of a contract.

- If applicable, acknowledges receipt of the following Addendum(s):

Addendum No: _____ Date: _____ Addendum No: _____ Date: _____

Addendum No: _____ Date: _____ Addendum No: _____ Date: _____

Respectfully submitted,

By (Individual authorized to contractually bind the Offeror):

_____	_____
(Printed Name)	(Signature)
_____	_____
(Title)	(Date)
_____	_____
(Offeror/Contractor Name)	(Street Address)
_____	_____
(City, State & Zip Code)	(E-Mail Address)

(Phone No.)	

PROJECT LISTING FORM

PROPOSAL NUMBER: 21-22-23

ENGINEERING / CONSULTING SERVICES FOR BRIDGE 3121 AND 8111 REPLACEMENT PROJECTS

NOTE: Project Listing Form must be completed and returned with Proposal of Offer Form.

FIRM: _____

DATE: _____

	County projects directly awarded to firm	Award Date	Contract Date	Fee Amount	Design % Complete
1					
2					
3					
4					
5					
6					
TOTAL FEES					

Notes:

1. Fees do not include reimbursable expenses, which include travel, per diem, printing, telephone or reproduction costs.
2. Any award of a San Juan County contract that has not resulted in a written contract to the Offeror within six (6) months written notice shall not be considered an award for the purposes of the Project Listing Form.
3. If any County award is not proceeding in contract negotiations, please indicate the status in the "Remarks" section below:

"Remarks"



Terri Fortner, Chairman
Steve Lanier, Commission Pro-Tem
John Beckstead, Commissioner
Glojean Todacheene, Commissioner
Michael. Sullivan, Commissioner

Shane Ferrari, Sheriff
Tanya Shelby, Clerk
Carol Taulbee, Treasurer
Jimmy Voita, Assessor

SAN JUAN COUNTY
100 South Oliver Drive
Aztec, NM 87410-2432

January, 2022

ATTN: SAN JUAN COUNTY VENDORS

Subject: Campaign Contribution Disclosure Law

To whom it may concern:

Effective May 17, 2006, state legislation requires that any prospective contractor seeking to enter in to a contract with San Juan County, must file a Campaign Contribution Disclosure Form (copy enclosed) with the County. Campaign Contribution Disclosure Forms will be required for **each** Request for Proposal submitted, sole source award, or small purchase professional service contract with San Juan County.

The Campaign Contribution Disclosure Form must be filed by any prospective contractor whether or not they, their family member, or their representative has made any contributions exceeding two hundred and fifty dollars (\$250), to an applicable state or local public official **prior** to execution of a contract. Campaign contributions made during the two (2) years prior to the date on which the contractor submits a proposal, or in the case of a sole source or small purchase contract, the two years prior to the date the contractor signs the contract, requires the filing of a Campaign Contributions Disclosure Form if the campaign contribution amount exceeded \$250.

A prospective contractor, family member, or representative of the prospective contractor shall not give a campaign contribution or other thing of value to an applicable public official or the applicable public official's employees during the pendency of the procurement process or during the pendency of negotiations for a sole source or small purchase contract. Applicable local public officials for San Juan County are listed above.

Failure to timely complete and return the Campaign Contribution Disclosure Form may delay or prevent business transactions with San Juan County. Should you or a family member, as defined in the Campaign Contribution Disclosure Form, make a future campaign contribution exceeding the \$250 threshold, a Campaign Contribution Disclosure Form must be completed and returned to San Juan County's Central Purchasing Office located at 213 South Oliver Drive, Aztec, New Mexico 87410.

Please contact the Office of Central Purchasing at (505) 334-4551, Monday-Thursday, 7:00 a.m. to 5:30 p.m., should you have any questions or concerns.

Sincerely,

Diana Chapman
Chief Procurement Officer

Enclosure

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Pursuant to NMSA 1978, § 13-1-191.1 (2006), any person seeking to enter into a contract with any state agency or local public body **for professional services, a design and build project delivery system, or the design and installation of measures the primary purpose of which is to conserve natural resources** must file this form with that state agency or local public body. This form must be filed even if the contract qualifies as a small purchase or a sole source contract. The prospective contractor must disclose whether they, a family member or a representative of the prospective contractor has made a campaign contribution to an applicable public official of the state or a local public body during the two years prior to the date on which the contractor submits a proposal or, in the case of a sole source or small purchase contract, the two years prior to the date the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor, a family member or a representative of the prospective contractor to the public official exceeds two hundred and fifty dollars (\$250) over the two year period.

Furthermore, the state agency or local public body shall void an executed contract or cancel a solicitation or proposed award for a proposed contract if: 1) a prospective contractor, a family member of the prospective contractor, or a representative of the prospective contractor gives a campaign contribution or other thing of value to an applicable public official or the applicable public official's employees during the pendency of the procurement process or 2) a prospective contractor fails to submit a fully completed disclosure statement pursuant to the law.

THIS FORM MUST BE FILED BY ANY PROSPECTIVE CONTRACTOR WHETHER OR NOT THEY, THEIR FAMILY MEMBER, OR THEIR REPRESENTATIVE HAS MADE ANY CONTRIBUTIONS SUBJECT TO DISCLOSURE.

The following definitions apply:

"Applicable public official" means a person elected to an office or a person appointed to complete a term of an elected office, who has the authority to award or influence the award of the contract for which the prospective contractor is submitting a competitive sealed proposal or who has the authority to negotiate a sole source or small purchase contract that may be awarded without submission of a sealed competitive proposal.

"Campaign Contribution" means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made to or received by an applicable public official or any person authorized to raise, collect or expend contributions on that official's behalf for the purpose of electing the official to either statewide or local office. "Campaign Contribution" includes the payment of a debt incurred in an election campaign, but does not include the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate or political committee, nor does it include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee.

"Family member" means spouse, father, mother, child, father-in-law, mother-in-law, daughter-in-law or son-in-law.

"Pendency of the procurement process" means the time period commencing with the public notice of the request for proposals and ending with the award of the contract or the cancellation of the request for proposals.

"Person" means any corporation, partnership, individual, joint venture, association or any other private legal entity.

"Prospective contractor" means a person who is subject to the competitive sealed proposal process set forth in the Procurement Code or is not required to submit a competitive sealed proposal because that person qualifies for a sole source or a small purchase contract.

"Representative of a prospective contractor" means an officer or director of a corporation, a member or manager of a limited liability corporation, a partner of a partnership or a trustee of a trust of the prospective contractor.

DISCLOSURE OF CONTRIBUTIONS:

Contribution Made By: _____

Relation to Prospective Contractor: _____

Name of Applicable Public Official: _____

Date Contribution(s) Made: _____

Amount(s) of Contribution(s) _____

Nature of Contribution(s) _____

Purpose of Contribution(s) _____

(Attach extra pages if necessary)

Signature

Date

Title (position)

Business Name

--OR--

NO CONTRIBUTIONS IN THE AGGREGATE TOTAL OVER TWO HUNDRED FIFTY DOLLARS (\$250) WERE MADE TO AN APPLICABLE PUBLIC OFFICIAL BY ME, A FAMILY MEMBER OR REPRESENTATIVE.

Signature

Date

Title (Position)

Business Name

SAMPLE CONTRACT

CONTRACT

THIS CONTRACT is made and entered into this ____ day of _____, 2022 by and between San Juan County, New Mexico, 100 S. Oliver Drive, Aztec, New Mexico, 87410 (hereinafter referred to as “the County”), and _____ (hereinafter referred to as “the Contractor”).

WHEREAS, the County has solicited competitive sealed proposals No. 21-22-23 for Engineering / Consulting Services for Bridge 3121 and 8111 Replacement Projects;

WHEREAS, the Contractor has submitted a proposal for the work which has been determined after evaluation to be the proposal that best meets the needs of the County;

WHEREAS, the parties desire to enter into a contract for the work and to set forth herein their agreements concerning the work.

IT IS THEREFORE UNDERSTOOD AND AGREED, AS FOLLOWS:

SECTION 1. WORK TO BE PERFORMED.

The Contractor agrees to perform the work of the Project Consultant, as set forth in the County’s Request for Proposals No. 21-22-23, which is specifically adopted and incorporated into this agreement by reference. The Contractor shall receive authorization from the County’s representative, prior to performing any work.

SECTION 2. COMPENSATION.

The County agrees to pay the Contractor for its services as per the attached fixed fee schedule/scope of work and upon acceptance of the work by the County.

SECTION 3. INVOICING.

The Contractor may elect to receive its compensation hereunder in monthly progress payments or in a lump sum upon completion of the work. To receive compensation, the Contractor shall submit an invoice to the County for services rendered and expenses incurred to the date of the invoice, and shall provide along with each billing a detailed summary of work performed and expenses incurred, with such further documentary support as the County may require. The Contractor may not invoice the County more frequently than monthly.

SECTION 4. TAXES, ASSESSMENTS, FEES.

The Contractor shall be solely responsible for payment of all social taxes, federal and state income taxes, and all other assessments, taxes and fees attributable to the work of this Contract. The County shall reimburse the Contractor for New Mexico gross receipts taxes attributable to the contractor’s services under the Contract.

SECTION 5. INDEPENDENT CONTRACTOR.

The Contractor is an independent contractor and shall perform its obligations under this

Agreement as the Contractor deems necessary and appropriate. The County will not supervise or regulate the Contractor in the day-to-day performance of this Contract so long as the Contractor's contractual goals are met. As an independent contractor, the Contractor shall not act, or represent to be acting, as an employee, agent or servant of the County, and the Contractor further agrees to hold the County harmless from and against all claims, suits, actions, costs, counsel fees, expenses, damages, judgments or decrees sustained by any person or persons and resulting from the Contractor's actions, omissions, or the actions or omissions of its employees, agents or servants under this Agreement.

SECTION 6. CONTRACT DOCUMENTS.

The Contract Documents consist of the following documents: this Contract; the Proposal Documents for San Juan County Proposal No. 21-22-23; the Contractor's Proposal; and the County's Purchase Order. In the event conflict between these documents exists, they shall be interpreted in the order listed.

SECTION 7. INDEMNITY.

The Contractor agrees, as material consideration for this Agreement, to defend, indemnify and hold harmless the County, its Elected Officials, agents and employees from liability, claims, damages, losses or expenses, including attorney fees, to the extent that the liability, damages, losses, costs or fees are caused by, or arise out of, the acts or omissions of the Contractor, its officers, employees or agents.

SECTION 8. INSURANCE.

The Contractor is required to carry adequate insurance from a reputable insurance company or companies authorized to do business in the State of New Mexico. At a minimum, the Contractor must carry commercial general liability and automobile insurance with combined single limits of not less than \$1,000,000.00, workman's compensation in amounts as required by the New Mexico Workers Compensation Act, and professional liability insurance with coverage limits commensurate with the work being performed. The Contractor shall supply a copy of the appropriate certificates of insurance to the County along with its proposal. The successful Contractor shall be required to name the County as an additional insured on the commercial general liability insurance policy required by this section.

SECTION 9. DISPUTES.

9.1 The County and Contractor agree that they shall first submit any and all unsettled claims, counterclaims, disputes and other matters in question between them arising out of or relating to the contract or these general conditions or the breach thereof ("disputes") to mediation by a mutually agreed upon expert prior to either of them initiating against the other a demand for arbitration pursuant to the following paragraphs, 9.2 and 9.3. The mediator of any dispute submitted to mediation under this agreement shall not serve as arbitrator of such dispute unless otherwise agreed. Mediation expenses shall be equally borne by the County and Contractor.

9.2 All claims, counterclaims, disputes and other matters in question between the parties hereto arising out of or relating to the contract or these general conditions or the breach thereof that are not resolved under paragraph 9.1 shall be decided by arbitration in accordance with the New Mexico Uniform Arbitration Act, NMSA 1978, Sections 44-7-1, et seq. (1971). A single arbitrator shall be appointed to hear the arbitration and shall be selected by agreement of the parties. If the parties cannot agree, the arbitrator shall be selected by the Chief Judge of the Eleventh Judicial District Court, State of New Mexico.

This agreement to arbitrate and any other agreement or consent to arbitrate entered into in accordance herewith shall be specifically enforceable in accordance with the New Mexico Uniform Arbitration Act or other applicable laws of the State of New Mexico. The parties specifically agree that the laws of the State of New Mexico apply.

9.3 Any award by the arbitrator shall be final and judgment thereon may be entered upon in any court having jurisdiction thereof, and shall not be subject to modification or appeal except as provided by laws of the State of New Mexico.

9.4 The parties agree that, in the event of arbitration under this agreement, the costs of arbitration, including attorney's and arbitrator's fees, shall be awarded to the prevailing party.

SECTION 10. TERMINATION.

This Agreement may be terminated upon thirty days written notice to the other party of a party's desire to terminate. In the event of termination, the Contractor shall furnish to the County such reports as may be requested regarding work which was completed under the provisions of this Agreement. Section (7) shall survive termination of this Agreement.

SECTION 11. PROFESSIONAL RESPONSIBILITY.

The Contractor is obligated to comply with applicable standards of professional care in the performance of the Services. The County recognizes that opinions relating to environmental, geologic, and geotechnical conditions are based on limited data and that actual conditions may vary from those encountered at the times and locations where the data are obtained, despite the use of due professional care. The Contractor is not responsible for designing or advising on or otherwise taking measures to prevent or mitigate the effect of any act or terrorism or any action that may be taken in controlling, preventing, suppressing or in any way relating to an act or terrorism.

SECTION 12. CONSEQUENTIAL DAMAGES.

Neither party shall be liable to the other for consequential damages, including without limitation, loss of use or loss of profits, incurred by one another or their subsidiaries or successors, regardless of whether such damages are caused by breach of contract, willful misconduct, negligent act or omission, or other wrongful act of either of them.

SECTION 13. DOCUMENTS.

Provided that the Contractor has been paid for the Services, the County shall have the right to use the documents, maps, photographs, drawings and specifications resulting from the Contractor's efforts on the project. Reuse of any such materials by the County on any extension of this project or any other project without written authorization of the Contractor shall be at the County's sole risk. The Contractor shall have the right to retain copies of all such materials. The Contractor retains the right of ownership with respect to any patentable concepts or copyrightable materials arising from its services.

SECTION 14. NO THIRD PARTY RIGHTS.

This Agreement shall not create any rights or benefits to parties other than the County and the Contractor. No third party shall have the right to rely on the Contractor's opinions rendered in connection with the Services without the written consent of the Contractor and the third party's agreement to be bound to the same conditions and limitations as the County.

IN WITNESS WHEREOF, the parties hereto have set their hands at Aztec, New Mexico on the day and year first above written.

THE CONTRACTOR:

THE COUNTY:

CONTRACTOR

SAN JUAN COUNTY, NEW MEXICO

By: _____

Name
Title

By: _____

Mike Stark
County Manager