NEW MEXICO DEPARTMENT OF TRANSPORTATION

REQUEST FOR PROPOSALS
ENGINEERING CONSULTANT SERVICES

NMDOT

RFP No. 20-40
CN # 2104330
STATE

NM 31/NM 128 Design Build Project Management Engineering Services

March 2020
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I. INTRODUCTION

A. PURPOSE OF THIS REQUEST FOR PROPOSALS

The New Mexico Department of Transportation (NMDOT or Department) is requesting proposals from qualified firms or Offerors to provide Phase 1-A/B, Phase I-C, Phase I-D and Design Build Project Management Engineering Services for the NM 31/ NM 128 corridor improvements.

B. SCOPE OF WORK

The selected Offeror shall perform the services as specified in “Appendix A, Project Introduction and Scope of Work.” Control numbers shown throughout this Request for Proposals are subject to change throughout the life of the project.

C. SCOPE OF PROCUREMENT

The Department intends on establishing a contract with a four (4) year term. In no case will the contract, including any and all renewals thereof, exceed a total of four (4) years in duration from the date of the initial Agreement.

D. PROCUREMENT MANAGER

The Agency has designated a Procurement Manager who is responsible for the conduct of this procurement whose name, address and telephone number is listed below. All deliveries via express carrier should be addressed as follows:

Margo Gomez
Procurement and Facilities Management Division
New Mexico Department of Transportation
1120 Cerrillos Rd., Rm #113
Santa Fe, NM 87504
Ph. (505) 470-2784
Email: Margo.Gomez@state.nm.us

Any inquiries or requests regarding this procurement should be submitted to the Procurement Manager in writing. Offerors may contact ONLY the Procurement Manager regarding the procurement. Other state employees or Evaluation Committee members do not have the authority to respond on behalf of the NMDOT.

E. DEFINITION OF TERMINOLOGY

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

“Agency”, “Department” or “NMDOT” means the New Mexico Department of Transportation.

“Authorized Purchaser” means an individual authorized by a Participating Entity to place orders against this contract.

“Award” means the final execution of the contract document.

“Business Hours” means 7:45 AM thru 4:30 PM Mountain Standard or Mountain Daylight Time, whichever is in effect on the date given.

“Close of Business” means 4:30 PM Mountain Standard or Mountain Daylight Time, whichever is in effect on the date given.

“Confidential” means confidential financial information concerning Offeror’s organization and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act NMSA 1978 57-3-A-1 to 57-3A-7. See NMAC 1.4.1.45. As one example, no information that could be obtained from a source outside this request for proposals can be considered confidential information.

“Contract” means any agreement for the procurement of items of tangible personal property, services or construction.

“Contractor” means any business having a contract with a state agency or local public body.

“Determination” means the written documentation of a decision of a procurement officer including findings of fact required to support a decision. A determination becomes part of the procurement file to which it pertains.

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

“Evaluation Committee” means a body appointed by the Agency to perform the evaluation of Offeror proposals.

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

“Hourly Rate” means the proposed fully loaded maximum hourly rates that include travel, per diem, fringe benefits and any overhead costs for contractor personnel, as well as subcontractor personnel if appropriate.

“IT” means Information Technology.

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

“Minor Technical Irregularities” means anything in the proposal that does not affect the price quality and quantity or any other mandatory requirement.

“Multiple Source Award” means an award of an indefinite quantity contract for one or more similar services, items of tangible personal property or construction to more than one Offeror.

“Offeror” is any person, corporation, or partnership who chooses to submit a proposal.

“Procurement Manager” means any person or designee authorized by the Agency to enter into or administer contracts and make written determinations with respect thereto.

“Procurement and Facilities Management Division or PFMD” means the Procurement and Facilities Management Division within the NMDOT Office of Business Support.

“Procuring Agency” means all State of New Mexico agencies, commissions, institutions, political subdivisions and local public bodies allowed by law to entertain procurements.

“Project” means a temporary process undertaken to solve a well-defined goal or objective with clearly defined start and end times, a set of clearly defined tasks, and a budget. The project terminates once the project scope is achieved and project acceptance is given by the project executive sponsor.

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

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

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

“Sealed” means, in terms of a non-electronic submission, that the proposal is enclosed in a package which is completely fastened in such a way that nothing can be added or removed. Open packages submitted will not be accepted except for packages that may have been damaged by the delivery service itself. The State reserves the right, however, to accept or reject packages where there may have been damage done by the delivery service itself. Whether a package has been damaged by the delivery service or left unfastened and should or should not be accepted is a determination to be made by the Procurement Manager. By submitting a proposal, the Offeror agrees to and concurs with this process and accepts the determination of the Procurement Manager in such cases.

“Staff” means any individual who is a full-time, part-time, or an independently contracted employee with the Offerors’ company.

“State (the State)” means the State of New Mexico.
“State Agency” means any department, commission, council, board, committee, institution, legislative body, agency, government corporation, educational institution or official of the executive, legislative or judicial branch of the government of this state. “State agency” includes the New Mexico Department of Transportation.

“Statement of Concurrence” means an affirmative statement from the Offeror to the required specification agreeing to comply and concur with the stated requirement(s). This statement shall be included in Offeror’s proposal. (E.g. “We concur”, “Understands and Complies”, “Comply”, “Will Comply if Applicable” etc.)

“Written” means typewritten on standard 8 ½ x 11 inch paper. Larger paper is permissible for charts, spreadsheets, etc.
II. CONDITIONS GOVERNING THE PROCUREMENT

This section of the RFP contains the schedule for the procurement, describes the major procurement events and the conditions governing the procurement.

A. SEQUENCE OF EVENTS

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

<table>
<thead>
<tr>
<th>Action</th>
<th>Responsibility</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Issue of RFP</td>
<td>NMDOT</td>
<td>2/28/2020</td>
</tr>
<tr>
<td>2. Pre-proposal Conference</td>
<td>NMDOT &amp; Offerors</td>
<td>3/13/2020</td>
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<td>(1:30 p.m. MST)</td>
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<tr>
<td>3. Acknowledgement of Receipt Form (“Appendix C”)</td>
<td>Offerors</td>
<td>3/16/2020</td>
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<tr>
<td>4. Deadline to Submit Additional Written Questions</td>
<td>Offerors</td>
<td>3/18/2020</td>
</tr>
<tr>
<td>5. Response to Written Questions/RFP Amendments</td>
<td>NMDOT</td>
<td>3/20/20</td>
</tr>
<tr>
<td>6. Submission of Proposal (Due 2:00 p.m. MST)</td>
<td>Offerors</td>
<td>3/31/2020</td>
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<tr>
<td>7. Proposal Evaluation</td>
<td>Evaluation Committee</td>
<td>April 2020</td>
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<tr>
<td>8. Selection of Finalists</td>
<td>Evaluation Committee</td>
<td>Apr/May 2020</td>
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<tr>
<td>9. Oral Presentation by Finalists (If applicable)</td>
<td>Offeror</td>
<td>May/June 2020</td>
</tr>
<tr>
<td>10. Best and Final Offers</td>
<td>Offeror</td>
<td>June 2020</td>
</tr>
<tr>
<td>11. Finalize Contract</td>
<td>Offeror/NMDOT</td>
<td>June/July 2020</td>
</tr>
<tr>
<td>12. Contract Award</td>
<td>NMDOT</td>
<td>July/August 2020</td>
</tr>
</tbody>
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B. EXPLANATION OF EVENTS

The following paragraphs describe the activities listed in the sequence of events shown in Section II, Paragraph A.

1. Issue of RFP

This RFP is being issued by the New Mexico Department of Transportation.

2. Pre-proposal Conference

A pre-proposal conference will be held on **Friday March 13, 2020** beginning at 1:30 p.m. Mountain Daylight Time at the NMDOT District 3 Auditorium, 7500 Pan American Boulevard, Albuquerque NM 87119. Potential Offerors are encouraged to submit written questions in advance of the conference to the Procurement Manager (see Section I, Paragraph D). The identity of the organization submitting the question(s) will not be revealed. All written questions will be addressed in an addendum. A public log will be kept of the names of potential Offerors that attended the pre-proposal conference. Attendance at the pre-proposal conference is recommended but not a prerequisite for submission of a proposal.

3. Acknowledgement of Receipt Form

Potential Offerors should email or send by registered or certified mail the "Acknowledgement of Receipt Form" that accompanies this document (See “Appendix C”) to have their organization placed on the procurement distribution list. The form should be signed by an authorized representative of the organization, dated and returned by the close of business on **March 16, 2020**.

The procurement distribution list will be used for the distribution of written responses to questions and any RFP amendments.

Failure to return this form shall constitute a presumption of receipt and rejection of the RFP, and the potential Offeror's organization name shall not appear on the distribution list.

4. Deadline to Submit Additional Written Questions

Potential Offerors may submit additional written questions as to the intent or clarity of this RFP until the close of business on **March 18, 2020**. All written questions must be addressed to the Procurement Manager (See Section I, Paragraph D).

5. Response to Written Questions/RFP Amendments

Written responses to written questions and any RFP amendments will be distributed on **March 20, 2020** to all potential Offerors whose organization name appears on the procurement distribution list.

Additional written requests for clarification of distributed answers and/or amendments must
be received by the Procurement Manager no later than one (1) day after the answers and/or amendments were issued.

6. Submission of Proposal

Proposals shall be submitted to the NMDOT electronically. Proposals submitted by hard copy or by facsimile will not be accepted.

Electronic proposals must be submitted through Bid Express, which may be accessed at the following website: www.bidexpress.com. Offerors must register prior to the submission deadline and create an account and a digital id with Bid Express in order to submit proposals electronically. Electronic proposals must be in a PDF format in order to submit through Bid Express.

**ALL OFFEROR MUST SUBMIT ELECTRONIC COPY THROUGH BID EXPRESS FOR REVIEW AND EVALUATION BY THE PROCUREMENT MANAGER OR DESIGNEE NO LATER THAN 2:00 P.M. MST ON MARCH 31, 2020.** Proposals received after this deadline will not be accepted. The date and time will be recorded on each proposal.

A public log will be kept of the names of all Offeror organizations that submitted proposals. Pursuant to NMSA 1978, § 13-1-116, the contents of proposals shall not be disclosed to competing potential Offerors during the negotiation process. The negotiation process is deemed to be in effect until the contract is awarded pursuant to this Request for Proposals. Awarded in this context means the final required state agency signature on the contract(s) resulting from the procurement has been obtained.

7. Proposal Evaluation

The evaluation of proposals will be performed by an evaluation committee appointed by the Agency. This process will take place during the month of **April 2020.** During this time, the Procurement Manager 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.

8. Selection of Finalists

The Evaluation Committee will select and Procurement Manager will notify the finalist Offerors in the months of **Apr/May 2020.** Only finalists will be invited to participate in the subsequent steps of the procurement. The schedule for the Oral Presentations will be determined at that time.

9. Oral Presentation by Finalists (if applicable)

Finalist Offerors may be required to present their proposals to the Evaluation Committee. The Procurement Manager will schedule the time and location for each Offeror presentation. Presentations, if required, will be held in **May/June 2020** and will be limited to one (1) hour in duration.
10. Best and Final Offers From Finalists (if applicable)

Finalist Offerors may be asked to submit revisions to their proposals for the purpose of obtaining best and final offers in **June 2020**. Best and final offers may be clarified and amended at the finalist Offeror’s oral presentation.

11. Finalize Contract

The contract will be finalized with the most advantageous Offeror in the months of **June/July 2020**. This date is subject to change at the discretion of the Agency. In the event mutually agreeable terms cannot be reached with the apparent most advantageous Offeror in the time specified, the NMDOT reserves the right to finalize a contractual agreement with the next most advantageous Offeror(s) without undertaking a new procurement process.

12. Contract Award

NMDOT anticipates awarding the contract in the months of **July/August 2020**. These dates are subject to change at the discretion of the Agency.

The contract shall be awarded to the Offeror or Offerors whose proposal is most advantageous, taking into consideration the evaluation factors set forth in the RFP. The most advantageous proposal may or may not have received the most points.

13. Right to Protest

Any protest by an Offeror must be timely and in conformance with NMSA 1978, § 13-1-172 and applicable procurement regulations. As a Protest Manager has been named in this Request for Proposals, pursuant to NMSA 1978, § 13-1-172, ONLY protests delivered directly to the Protest Manager in writing and in a timely fashion will be considered to have been submitted properly and in accordance with statute, rule and this Request for Proposals. The 15 calendar day protest period shall begin on the day following the award of contracts and will end at 4:30 pm Mountain Standard Time/Daylight Time on the 15th day. Protests must be written and must include the name and address of the protestor and the request for proposal number. It must also contain a statement of the grounds for protest including appropriate supporting exhibits and it must specify the ruling requested from the party listed below. Emailed protests will not be considered as properly submitted. The protest must be mailed or hand delivered to:

New Mexico Department of Transportation  
Procurement and Facilities Management Division  
Attn: Christina Baca, Director  
1120 Cerrillos Rd., Room #112  
Santa Fe, New Mexico 87504
C. GENERAL REQUIREMENTS

This procurement will be conducted in accordance with Chapter 13, NMSA 1978 and NMAC 1.4.1.

1. Acceptance of Conditions Governing the Procurement

Offerors must indicate their acceptance of the Conditions Governing the Procurement section in the letter of transmittal. Submission of a proposal constitutes acceptance of the Evaluation Factors contained in Section V of this RFP.

2. Overhead Rate Compliance and Contractual Eligibility for Engineering & Design Consultants

State Departments of Transportation are required to provide reasonable assurance that Architectural and Engineering Consulting Firms are in compliance with the Federal Cost Principles on Federal-Aid Highway Program (FAHP) funds. A procedure has been developed (see links below) by the NMDOT Office of the Inspector General, which will determine, with reasonable assurance, Engineering and Design Consultant compliance with applicable cost principles contained in the Federal Acquisition Regulations (48 CFR part 31), specified under the United States Code (23 USC § 112(b)(2) and defined in 23 CFR Section 172.3. The procedure explains what is to be submitted, how it will be submitted, when it’s required and additional resources for questions. Eligibility for NMDOT Engineering & Design contracts is dependent upon the Contractors’ compliance with this procedure. A list of eligible Contractors will be updated by the fifth day of each month and posted on the NMDOT public website (http://dot.state.nm.us/content/dam/nmdot/OIG/Engineering_Design_Eligible_Consultants.pdf).

Links to Engineering & Design Consultants Procedure for Determining Overhead Rate:

http://dot.state.nm.us/content/nmdot/en/Program_Management.html#d


In all cases, all Consultants must follow this procedure and receive eligibility acknowledgement from the NMDOT Office of the Inspector General (OIG) prior to the proposal deadline for this RFP. Eligibility shall be evidenced by the inclusion of the Consultant on the eligibility list posted on the NMDOT public website and/or an email acknowledgement of eligibility from the NMDOT OIG. Engineering and Design Consultant firms who do not adhere to the requirements of this section shall be determined non-responsive and your proposal will be rejected from consideration for award.

The Indirect cost rate approved by the OIG at the time of proposal deadline date will be
3. **Incurring Cost**

Any cost incurred by the potential Offeror in preparation, transmittal, and/or presentation of any proposal or material submitted in response to this RFP shall be borne solely by the Offeror. Any cost incurred by the Offeror for set up and demonstration of the proposed equipment and/or system shall be borne solely by the Offeror.

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 NMDOT. NMDOT will make contract payments only to the prime Contractor.

5. **Subcontractors/Consent**

The use of subcontractors is allowed. The prime contractor shall be wholly responsible for the entire performance of the contractual agreement whether or not subcontractors are used. Additionally, the prime contractor must receive approval, in writing, from the agency awarding any resultant contract, before any subcontractor is used during the term of this agreement.

6. **Certifications and Licenses**

Potential Offerors must have the proper certifications and licenses to do business in New Mexico as follows:

**Corporations:**
- File Articles of Incorporation with the Secretary of State’s Office and record with the County pursuant to NMSA 1978, Section 53-4-6.
- Name of registered agent pursuant to NMSA 1978, Section 53-5-2.
- Certificate of Authority from the Secretary of State’s Office indicating that the corporation is authorized to conduct business in New Mexico pursuant to NMSA 1978, Sections 53-17-6 and 53-17-8.
- Obtain a Federal employer identification number.
- Register with the New Mexico Taxation and Revenue Department and obtain a tax identification number to report gross receipts taxes.

**Limited Liability Companies:**
- Registered office and registered agent for service of process that is either a New Mexico resident or domestic corporation, limited liability company, or partnership that is located in New Mexico.
- File an Application for Registration with the Secretary of State’s Office to conduct business in New Mexico and must obtain a Certificate of Good Standing from the Secretary of State’s Office to conduct business in New Mexico.
- Obtain a Federal employer identification number.
- Register with the New Mexico Taxation and Revenue Department and obtain a tax identification number to report gross receipts taxes.

**Limited Partnerships:**
- Apply for Certificate of Registration with the New Mexico Secretary of State pursuant to NMSA 1978, Sections 54-2-1 through 54-2-48.
- File a Statement of Qualifications with the New Mexico Secretary of State pursuant to NMSA 1978, Sections 54-1A-101 through 54-1A-1206.
- Obtain a Federal employer identification number.
- Register with the New Mexico Taxation and Revenue Department and obtain a tax identification number to report gross receipts taxes.

**General Partnerships:**
- File a Statement of Partnership Authority with the Secretary of State pursuant to NMSA 1978, Sections 54-1A-101 through 54-1A-1206.
- Obtain a Federal employer identification number.
- Register with the New Mexico Taxation and Revenue Department and obtain a tax identification number to report gross receipts taxes.

**Sole Proprietorships and Joint Ventures:**
- Obtain a Federal employer identification number.
- Register with the New Mexico Taxation and Revenue Department and obtain a tax identification number to report gross receipts taxes.

7. **Amended Proposals**

An Offeror may submit an amended proposal before the deadline for receipt of proposals. Such amended proposals must be complete replacements for a previously submitted proposal and must be clearly identified as such in the transmittal letter. NMDOT personnel will not merge, collate, or assemble proposal materials.

8. **Offerors' Rights to Withdraw Proposal**

Offerors will be allowed to withdraw their proposals at any time prior to the deadline for receipt of proposals. The Offeror must submit a written withdrawal request signed by the Offeror's duly authorized representative addressed to the Procurement Manager. The approval or denial of withdrawal requests received after the deadline for receipt of the proposals is governed by the applicable procurement regulations.

9. **Proposal Offer Firm**

Responses to this RFP, including proposal prices for services, will be considered firm for one hundred twenty (120) days after the due date for receipt of proposals or ninety (90) days after the due date for the receipt of a best and final offer, if the Offeror is invited or required to submit one.
10. Disclosure of Proposal Contents

A. Proposals will be kept confidential until negotiations and the award are completed by the Agency. At that time, all proposals and documents pertaining to the proposals will be open to the public, except for material that is clearly marked proprietary or confidential. The Procurement Manager will not disclose or make public any pages of a proposal on which the potential Offeror has stamped or imprinted "proprietary" or "confidential" subject to the following requirements:

B. 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.

C. Confidential data is restricted to:
   1. Confidential financial information concerning the Offeror’s organization;
   2. and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, NMSA 1978 § 57-3A-1 to 57-3A-7.
   3. PLEASE NOTE: The price of products offered or the cost of services proposed shall not be designated as proprietary or confidential information.

If a request is received for disclosure of data for which an Offeror has made a written request for confidentiality, the Agency shall examine the Offeror’s request and make a written determination that specifies which portions of the proposal should be disclosed. Unless the Offeror 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 the Agency or any of its Programs to the use of any Offeror’s services until a valid written contract is awarded and approved by appropriate authorities.

12. Termination

This RFP may be canceled at any time and any and all proposals may be rejected in whole or in part when the Procurement Manager determines such action to be in the best interest of the Agency.

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. The Agency’s decision as to whether sufficient appropriations and authorizations are available will be accepted by the Contractor as final.

14. Legal Review

NMDOT requires that all Offerors agree to be bound by the General Requirements contained
in this RFP. Any Offeror concerns must be promptly brought to the attention of the Procurement Manager.

15. **Governing Law**

This RFP and any agreement with an Offeror which may result from this procurement shall be governed by the laws of the State of New Mexico.

16. **Prohibited Bidding**

Pursuant to Section 10-16-13 NMSA 1978 no state agency or political subdivision of the State shall accept a bid or proposal from a person who directly participated in the preparation of specifications, qualifications or evaluation criteria on which the specific competitive bid or proposal was based. A person accepting a bid or proposal on behalf of a state agency or political subdivision of this State shall exercise due diligence to ensure compliance with this section.

17. **Consent to Jurisdiction and Venue**

If a recipient of this RFP chooses to offer a proposal, the Offeror understands and agrees that by submitting such proposal to the Agency, they thereby consent to and agree to the exclusive jurisdiction of the Courts of the State of New Mexico for the resolution of any disputes arising under or resulting from the contract selection and/or approval process in response to this RFP, or any dispute arising under or resulting from the performance of any contract resulting from this RFP, which cannot be resolved informally. The Offeror, by submitting such proposal, waives any objection to the personal jurisdiction of the Courts of the State of New Mexico over the Offeror. By submitting such proposal, the Offeror agrees and consents that the Santa Fe County District Court shall have venue and jurisdiction over all matters arising or derived from this RFP.

18. **Basis for Proposal**

Only information supplied by NMDOT in writing through the Procurement Manager or in this RFP should be used as the basis for the preparation of Offeror proposals.

19. **Contract Terms and Conditions**

The Contract between NMDOT and the Contractor will follow the format specified by the Agency and contain the terms and conditions as set forth in “Appendix B”. NMDOT reserves the right to negotiate with a successful Offeror provisions in addition to those contained in this RFP.

The Agency discourages exceptions from the contract terms and conditions as set forth in the RFP Sample Contract. Such exceptions may cause a proposal to be rejected as nonresponsive when, in the sole judgment of the Agency (and its evaluation team), the proposal appears to be conditioned on the exception, or correction of what is deemed to be a deficiency, or an unacceptable exception is proposed which would require a substantial proposal rewrite to correct.
Should an Offeror object to any of the Agency's terms and conditions, as contained in this Section or in “Appendix B”, that Offeror must propose specific alternative language. The Agency may or may not accept the alternative language. General references to the Offeror's terms and conditions or attempts at complete substitutions are not acceptable to NMDOT and will result in disqualification of the Offeror's proposal.

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. In the event the Offeror’s proposal conflicts with the RFP, the RFP governs, and, in the event the Agreement conflicts with the proposal, the Agreement governs.

Offerors must provide a brief discussion of the purpose and impact, if any, of each proposed change followed by the specific proposed alternate wording.

If an Offeror fails to propose any alternate terms and conditions during the procurement process (the RFP process prior to selection as successful Offeror), no proposed alternate terms and conditions will be considered later during the negotiation process. Failure to propose alternate terms and conditions during the procurement process (the RFP process prior to selection as successful Offeror) is an explicit agreement by the Offeror that the contractual terms and conditions contained herein are accepted by the Offeror.

20. **Offeror's Terms and Conditions**

Offerors must submit with the proposal a complete set of any additional terms and conditions which they expect to have included in a contract negotiated with NMDOT.

21. **Contract Deviations**

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

22. **Contract Negotiations**

Contract negotiations may be held in accordance with applicable provisions of 1.4.1.39 NMAC Procurement Code Regulations.

23. **Offeror Qualifications**

The Evaluation Committee may make such investigations as necessary to determine the ability of the Offeror to adhere to the requirements specified within this RFP. The Evaluation Committee will reject the proposal of any Offeror who is not a responsible Offeror or fails to submit a responsive offer as defined in Sections 13-1-83 and 13-1-85 NMSA 1978.
24. **Right to Waive Minor Irregularities**

The Evaluation Committee reserves the right to waive minor irregularities. The Evaluation 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 Evaluation Committee.

25. **Change in Contractor Representatives**

The NMDOT reserves the right to require a change in contractor representatives if the assigned representative(s) is (are) not, in the opinion of the NMDOT, adequately meeting the needs of the Agency.

26. **Notice of Penalties**

The Procurement Code, NMSA 1978, § 13-1-28 through 13-1-199, imposes civil, misdemeanor and felony criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities and kickbacks.

27. **Agency Rights**

The Agency in agreement with the Evaluation Committee reserves the right to accept all or a portion of a potential Offeror's proposal.

28. **Right to Publish**

Throughout the duration of this procurement process and contract term, Offerors and contractors must secure from the Agency written approval prior to the release of any information that pertains to the potential work or activities covered by this procurement and/or Agency contracts deriving from this procurement. Failure to adhere to this requirement may result in disqualification of the Offeror’s proposal or removal from the contract.

29. **Ownership of Proposals**

All documents submitted in response to this Request for Proposals shall become the property of the NMDOT.

30. **Confidentiality**

Any confidential information provided to, or developed by, the Contractor in the performance of the contract resulting from this RFP shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the Agency.

The Contractor(s) agrees to protect the confidentiality of all confidential information and not to publish or disclose such information to any third party without the Agency's written
permission.

31. **Electronic Mail Address Required**

A large part of the communication regarding this procurement will be conducted by electronic mail (e-mail). Offeror must have a valid e-mail address to receive this correspondence.

32. **Use of Electronic Versions of this RFP**

This RFP is being made available by electronic means. If accepted by such means, the Offeror acknowledges and accepts full responsibility to insure that no changes are made to the RFP. In the event of conflict between a version of the RFP in the Offeror’s possession and the version maintained by the NMDOT, the version maintained by the NMDOT shall govern.

33. **New Mexico Employees Health Coverage (See “Appendix F”)**

A. If the Offeror has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Offeror must agree to have in place, and agree to maintain for the term of the contract, health insurance for those employees if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed $250,000 dollars.

B. Offeror must agree to maintain a record of the number of employees who have (a) accepted health insurance; (b) decline health insurance due to other health insurance coverage already in place; or (c) decline health insurance for other reasons. These records are subject to review and audit by a representative of the state.

C. Offeror must agree to advise all employees of the availability of State publicly financed health care coverage programs.

D. For Indefinite Quantity, Indefinite Delivery contracts (price agreements without specific limitations on quantity and providing for an indeterminate number of orders to be placed against it); these requirements shall apply the first day of the second month after the Offeror reports combined sales (from state and, if applicable, from local public bodies if from a state price agreement) of $250,000.

34. **Disclosure of Campaign Contributions (See “Appendix E”)**

Offeror must complete, sign, and return the Campaign Contribution Disclosure Form as a part of their proposal. This requirement applies regardless whether a covered contribution was made or not made for the positions of Governor and Lieutenant Governor. Failure to complete and return the signed unaltered form will result in disqualification.
Disclosure Regarding Responsibility

A. Any prospective Contractor and any of its Principals who enter into a contract greater than sixty thousand dollars ($60,000.00) with any state agency or local public body for professional services, tangible personal property, services or construction agrees to disclose whether the Contractor, or any principal of the Contractor’s company:

1. is presently debarred, suspended, proposed for debarment, or declared ineligible for award of contract by any federal entity, state agency or local public body;
2. has within a three-year period preceding this offer, been convicted in a criminal matter or had a civil judgment rendered against them for:
   a. the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) contract or subcontract;
   b. violation of Federal or state antitrust statutes related to the submission of offers; or
   c. the commission in any federal or state jurisdiction of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violation of Federal criminal tax law, or receiving stolen property;
3. is presently indicted for, or otherwise criminally or civilly charged by any (federal state or local) government entity with the commission of any of the offenses enumerated in paragraph A of this disclosure;
4. has, preceding this offer, been notified of any delinquent Federal or state taxes in an amount that exceeds $3,000.00 of which the liability remains unsatisfied. Taxes are considered delinquent if the following criteria apply.
   a. The tax liability is finally determined. The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge of the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.
   b. The taxpayer is delinquent in making payment. A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.
   c. Have within a three year period preceding this offer, had one or more contracts terminated for default by any federal or state agency or local public body.)

B. Principal, for the purpose of this disclosure, means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity or related entities.

C. The Contractor shall provide immediate written notice to the State Purchasing Agent or other party to this Agreement if, at any time during the term of this Agreement, the Contractor learns that the Contractor’s disclosure was at any time erroneous or became erroneous by reason of changed circumstances.
D. A disclosure that any of the items in this requirement exist will not necessarily result in termination of this Agreement. However, the disclosure will be considered in the determination of the Contractor’s responsibility and ability to perform under this Agreement. Failure of the Contractor to furnish a disclosure or provide additional information as requested will render the Offeror nonresponsive.

E. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the disclosure required by this document. The knowledge and information of a Contractor is not required to exceed that which is the normally possessed by a prudent person in the ordinary course of business dealings.

F. The disclosure requirement provided is a material representation of fact upon which reliance was placed when making an award and is a continuing material representation of the facts during the term of this Agreement. If during the performance of the contract, the Contractor is indicted for or otherwise criminally or civilly charged by any government entity (federal, state or local) with commission of any offenses named in this document the Contractor must provide immediate written notice to the State Purchasing Agent or other party to this Agreement. If it is later determined that the Contractor knowingly rendered an erroneous disclosure, in addition to other remedies available to the Government, the State Purchasing Agent or Central Purchasing Officer may terminate the involved contract for cause. Still further the State Purchasing Agent or Central Purchasing Officer may suspend or debar the Contractor from eligibility for future solicitations until such time as the matter is resolved to the satisfaction of the State Purchasing Agent or Central Purchasing Officer.

36. New Mexico Preferences

To ensure adequate consideration and application of NMSA 1978, § 13-1-21 (as amended), Offerors must include a copy of their preference certificate with their proposal. Certificates for preferences must be obtained through the New Mexico Department of Taxation & Revenue [http://www.tax.newmexico.gov/Businesses/in-state-veteran-preference-certification.aspx](http://www.tax.newmexico.gov/Businesses/in-state-veteran-preference-certification.aspx).

A. New Mexico Business Preference

B. New Mexico Resident Veterans Business Preference

An agency shall not award a business both a resident business preference and a resident veteran business preference.

*The New Mexico Preferences shall not apply when the expenditures for this RFP includes federal funds.*

37. Conflict of Interest; Governmental Conduct Act

The Offeror warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or
services required under the Agreement.

The Offeror certifies that the requirements of the Governmental Conduct Act, Sections 10-16-1 through 10-16-18, NMSA 1978, regarding contracting with a public officer or state employee or former state employee have been followed.

38. **Equal Employment Opportunity**

A. **The following requirements shall apply to state-funded contracts:** In connection with this RFP and the Contract, Offerors and the Offeror shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age, marital status, being physically challenged, or on the basis of sexual preference.

Offerors and the Offeror shall take affirmative action to insure that all applicants are treated fairly during employment, without regard to their race, color, religion, sex, national origin, age, marital status, being physically challenged, or on the basis of sexual preference.

Such action shall include but not be limited to the following: layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

B. **The following requirements shall apply to federal-funded contracts:** In accordance with Title 49 Code of Federal Regulations Part 23, as amended, (49 CFR Part 26), the Offeror shall agree to abide by and take all necessary and reasonable steps to comply with the following statements on its scope of work:

**DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM AND POLICY**

In accordance with Title 49 Code of Federal Regulations Part 26 (49 CFR 26) or as may be amended, the Contractor shall agree to abide by and take all necessary and reasonable steps to comply with the following:

1. **DBE Policy:** It is the policy of the Department to implement the provisions of 49 CFR Part 26 (49 CFR 26), other pertinent regulations, and source legislation. The objectives are:

   a. To ensure nondiscrimination in the award and administration of DOT-assisted contracts in the USDOT’s highway, transit, and airport financial assistance programs;
   b. To create a level playing field on which DBEs can fairly compete for DOT-assisted contracts;
   c. To ensure that USDOT’s DBE Program is narrowly tailored in accordance with applicable law;
   d. To ensure that only firms that fully meet the eligibility standards specified in 49 CFR 26 are permitted to participate as DBEs;
   e. To help remove barriers to the participation of DBEs in USDOT-assisted contracts; and
f. To assist the development of firms that can compete successfully in the marketplace outside the DBE Program.

2. DBE Obligations: The Department will establish the DBE goal on a triannual basis. The approved FFY 2018-2020 DBE goal is established at 15.51% for federal-aid highway construction and design of which 15.51% will be attained through race neutral measures, and race conscious portion is 0.00%.

Record Keeping Responsibilities: The Contractor is responsible to assure that its DBE liaison officer completes and submits the appropriate forms required by the DBE Program to the Department’s project manager or to the NMDOT CONSTRUCTION AND CIVIL RIGHTS BUREAU/ DBE PROGRAM at the following address:

<table>
<thead>
<tr>
<th>NMDOT Construction and Civil Rights Bureau</th>
</tr>
</thead>
<tbody>
<tr>
<td>1570 Pacheco Street, Suite A10</td>
</tr>
<tr>
<td>Santa Fe, NM 87505</td>
</tr>
</tbody>
</table>

3. Department’s DBE Program: The Department’s DBE Program as required by 49 CFR Part 26 and as approved by DOT, is incorporated herein by reference and made part of this agreement. If any provision of the DBE Program conflicts with 49 CFR Part 26, the provisions of 49 CFR Part 26 shall prevail. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Contractor of its failure to carry out the terms and conditions of the DBE Program, the Department may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

From time to time NMDOT shall receive interpretations from USDOT, which shall be binding on NMDOT, sub-recipients, and contractors.

DBE Obligations – The NMDOT and the Offeror agree to ensure that DBEs as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of services and work financed in whole or in part with federal funds under the Agreement.
In this regard, The Offeror shall not discriminate on the basis of race, color, national origin or sex in the performance of DOT-assisted contracts. The Offeror shall carry out applicable requirements of 49 CFR 26 in the award and administration of DOT-assisted contracts. Failure by the Offeror to carry out these requirements is a material breach of contract, which may result in the termination of the contract or such other remedy as NMDOT deems appropriate, which may include, but is not limited to: (1) Withholding monthly progress payments; (2) Assessing sanctions; (3) Liquidated damages; and/or (4) Disqualifying the Offeror from future bidding as non-responsive.

4. Certification for Federal-Aid Contracts: The selected Offeror who becomes the
Offeror shall certify, by signing the Contract, that to the best of its knowledge and belief:

- No federal appropriated funds have been paid or will be paid, by or on behalf of the Offeror, to any person for influencing or attempting to influence an officer or employee of any federal 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 and federal grant, the making of any federal loan, extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

- 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 federal 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 Offeror shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

- This certification is a material representation of fact upon which reliance will be placed when the Contract is executed. Submission of this certification is a prerequisite for making or entering into the Contract imposed by 31 U.S.C. Section 1352. 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 Offeror shall also agrees by signing the Contract that the Offeror shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such sub recipients shall certify and disclose accordingly.

- The Offeror shall furnish all necessary information and reports and shall permit access to its books, records, and accounts by the NMDOT for purposes of investigation to ascertain compliance with the non-discrimination provisions of the Contract.

- A copy of the NMDOT DESIGN CONSULTANT OFFEROR’S LIST (Form No. A-1013) is attached and must be completed at time of proposal submittal.

- For projects with federally participating funds, failure to complete the forms listed above will render the Offeror’s proposal non-responsive.

- The Disadvantaged Business Enterprise (DBE) Program rules and regulations, and the listing of Certified DBE Firms can be located on the NMDOT Website at http://dot.state.nm.us by going to “Doing Business with Us”, Quick link “Civil Rights.” You may also contact The Construction and Civil Rights Bureau (CCRB) at (505) 629-9938 for more information. The complete rule for Title 18, Chapter 28, Part 2, and all revisions, is available at the
Construction and Civil Rights Bureau, 1570 Pacheco Street, Suite A-10, Santa Fe, New Mexico 87505.
III. RESPONSE FORMAT AND ORGANIZATION

A. NUMBER OF RESPONSES

Offerors shall submit only one proposal in response to this RFP.

B. NUMBER OF COPIES

One copy will be required through the Bid Express website in PDF format.

C. PROPOSAL FORMAT (Electronic)

Offerors must utilize page indicators within their PDF document that clearly identifies the different sections of your proposal by creating a bookmark on the PDF document. Offerors are strongly encouraged to limit their proposals to a maximum of thirty (30) pages. Exclusions to this limitation will be the letter of introduction, table of contents, covers, proposal summary, dividers, other information, i.e., letters of appreciation, etc., and acknowledgement of amendments (if applicable). Offerors are strongly encouraged to create the document with a minimum of 12 point font size.

1. Proposal Organization

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

a) Letter of Transmittal
b) Table of Contents
c) Proposal Summary
d) Response to Contract Terms and Conditions
e) Response to Mandatory Specifications and Forms
f) Offeror's Additional Terms and Conditions
g) Other Supporting Material

Within each section of their proposal, Offerors should address the items in the order in which they appear in this RFP. All forms provided in the RFP must be thoroughly completed and included in the appropriate section of the proposal. Offerors 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.

Any proposal that does not adhere to these requirements may be deemed non-responsive and rejected on that basis.
2. **Letter of Transmittal**

   Each proposal must be accompanied by a letter of transmittal. The letter of transmittal MUST:

   a) identify the submitting organization;

   b) identify the name and title of the person authorized by the organization to contractually obligate the organization;

   c) identify the name, title, email address and telephone number of the person authorized to negotiate the contract on behalf of the organization;

   d) identify the names, titles and telephone numbers of persons to be contacted for clarification;

   e) explicitly indicate acceptance of the Conditions Governing the Procurement stated in Section II, Paragraph C.1;

   f) be signed by the person authorized to contractually obligate the organization;

   g) acknowledge receipt of any and all amendments to this RFP.
IV. SPECIFICATIONS

A. Information

The contract is scheduled to begin in or around July/August 2020. NMDOT intends on awarding a contract with a four (4) year term.

B. Mandatory Specifications and Forms

Offerors shall respond in the form of a thorough narrative to each mandatory specification requiring such. The narratives along with required supporting materials will be evaluated and awarded points accordingly. Failure to address mandatory specifications/requirements, or provide the mandatory forms, will deem your proposal non-responsive.

1. General Information

Offerors must identify the Principal member or officer of the firm who will be responsible for the administration of the contract; provide the name(s) and registration number(s) of the New Mexico Registered Professional Engineer who will be in direct responsible charge of the work; and identify the name, address, and phone number of the office(s) where the work will be performed for the prime Offeror and all sub-consultants.

2. Specialized Design and Technical Competence

Offerors must describe or provide a work plan to perform the services required by the project scope. Describe your firm’s specialized problem solving techniques or approaches, innovative practices/ideas, and advantages your team brings or offers to the project. Provide a bar chart schedule and describe all work proposed to fulfill the project scope.

3. Capacity and Capability of the Offeror to Perform the Work

Offeror’s must provide information about the business that demonstrates the ability to provide sufficient professional competence, meet time schedules, accommodate cost considerations and project administration requirements. Provide information that demonstrates your firm’s ability to perform the services required for this project. Include an organizational chart indicating key project team members, including any sub-consultants, and their specific roles on the project and/or area(s) of expertise. Clearly identify the lead engineer who will be directly responsible for the project. Include in the organizational chart the percentage of time each team member will spend or commit to providing services toward the project. Provide brief resumes for the lead engineer and key project team members, describing why each team member was selected for this project, highlighting relevant project experience and knowledge of NMDOT procedures. Indicate if a subcontractor is affiliated with the prime contractor as an affiliated company, firm, or business. Also identify the firms or teams list of current projects.
4. **Past Record of Performance**

Offeror’s must demonstrate through historical documentation that the firm has the ability to meet schedules and budgets, as well as user program goals, and final construction project costs. Project schedules should provide information about the progress of work as related to owner schedules and goals as well as the overall success of projects and client satisfaction. Describe 3-5 past projects, specifying relevance to the current project. Include client references (names, addresses, email address and telephone numbers) for each project.

5. **Proximity to or Familiarity with Site Location**

Offerors must identify your familiarity with the project area and your understanding of the project scope. Offeror’s must demonstrate through narrative, graphics or maps the firm’s ability to respond quickly to on and off-site requirements for engineering services and administration of the project. Indicate previous knowledge or experience regarding the project location, and any current work or associated consultants who could enhance the firm’s ability to provide timely responses or special expertise to project needs.

6. **New Mexico Produced Work (Does not apply to federally funded projects)**

It is in the Agency’s best interest to support in-state businesses. Indicate the volume of work to be produced in New Mexico by a New Mexico firm or firms. Identify any out-of-state consultant(s) or business relationships that will be involved on the project and the extent of services to be provided by that firm or firms.

7. **Volume of Work Currently Being Performed**

Firms shall be scored on any project that has been previously awarded and is, on the date of the submittal, less than 75% complete. Information on the status of past project awards shall be included in the "Project Listing Form" ("Appendix D") as a requirement of this RFP. The following formula on fees for projects awarded that are less than 75% complete shall be utilized in assessing scores:

*Contract Balance Amount

<table>
<thead>
<tr>
<th>Contract Balance Amount</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>$ Less than - $800,000</td>
<td>minus 0 point</td>
</tr>
<tr>
<td>$800,001 - $1,334,000</td>
<td>minus 1 point</td>
</tr>
<tr>
<td>$1,334,001 - $2,668,000</td>
<td>minus 2 points</td>
</tr>
<tr>
<td>$2,668,001 - $4,000,000</td>
<td>minus 3 points</td>
</tr>
<tr>
<td>$4,000,001 - over</td>
<td>minus 4 points Maximum**</td>
</tr>
</tbody>
</table>

*Contract Balance Amount is defined as:

a. **Single Phase Contracts** – Amount of contract including supplemental agreements that have been negotiated and that are covered under a signed contract, minus all paid invoices, if any (per project).
b. Multi-Phase Contracts – Amount of contract including all subsequent phases and Supplemental Agreements that have been negotiated and that are covered under a signed contract, minus all paid invoices, if any (per project). On multi-phase contracts over $1,334,000.00, a minimum 1 point deduction will be carried on initial and subsequent phases (except final phase) regardless of percent complete.

** The maximum total point deduction by Phase (sum of all ongoing contracts) will be 4 points. Deduction points will be calculated on the date the proposals are due. The Offeror must invoice against ongoing contracts not less than five (5) business days prior to proposal due date to allow sufficient time for posting to Deduction Point listing.

_The Procurement and Facilities Management Division will calculate deduction points._

8. **Completed Campaign Contribution Disclosure Form (“Appendix ED”)**

Offereors shall submit with their proposals a completed Campaign Contribution Disclosure Form with their proposal.

9. **New Mexico Employees Health Coverage Form (“Appendix F”)**

Offereors must agree with the terms and submit a signed New Mexico Employees Health Coverage Form with the submittal of their proposal.

10. **Resident Business and Resident Veteran’s Preference (Does not apply to federally funded projects)**

Pursuant to NMSA 1978, 13-1-21, when a public body makes a purchase using a formal request for proposals process, and the contract is awarded based on a point-based system, the public body shall award additional points equivalent to:

(1) five percent of the total possible points to a resident business; or

(2) ten percent of the total possible points to a resident veteran business that has annual gross revenues of up to three million dollars ($3,000,000) in the preceding tax year.

To be awarded points for _Resident Business Preference_, or _Resident Veterans Preference_. Offereors must include a copy of their preference certificate in this section of your proposal.

_A resident veteran business shall not benefit from the preference for more than ten consecutive years. A person that is an owner of a business that is a resident veteran business shall not benefit from the preference for more than ten consecutive years. A person shall not benefit from the provisions as specified in NMSA 1978, 13-1-21, on more than one business concurrently._

_Pursuant to NMSA 1978, 13-1-21, Paragraph H, a State Agency shall not award an Offeror points for both a Resident Business Preference and a Resident Veteran’s_
Preference. If the Offeror qualifies for both he/she will only be awarded points for the Resident Veteran’s Preference. Veteran Businesses will receive the Resident Business Preference once the cap for Resident Veteran Preference has been exceeded.

Applications for Resident Business Preference and Resident Veteran’s Preference are now being processed through the New Mexico Department of Taxation & Revenue. If you have a preference certification number that was issued by the New Mexico State Purchasing Division please follow the link below to apply for a new Resident Business or Veteran Business Preference number.


IF YOU DO NOT QUALIFY FOR A RESIDENT BUSINESS OR RESIDENT VETERAN PREFERENCE PLEASE PROVIDE A STATEMENT STATING YOU DO NOT QUALIFY IN THIS SECTION OF YOUR PROPOSAL. IF YOU DO NOT QUALIFY FOR EITHER PREFERENCE YOUR PROPOSAL WILL BE ACCEPTED, HOWEVER YOU WILL NOT RECEIVE POINTS FOR PREFERENCE.

11. Form - Proposed Work Participation Chart (“Appendix G”)  

NOTE: A firm will not offer services as “the prime” on any NMDOT Quality Based Selection (QBS) RFP where the prime Offeror performs less than 35% of all contractual services. The percentage 35 means in price and in actual contract work.

12. Form A-1013, Design or Other Consultant Offeror’s List (“Appendix H”)

13. Form A-1036, Confidentiality and Non-Disclosure Agreement (“Appendix I”)

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V. EVALUATION

A. Evaluation Factors/Points

The NMDOT will evaluate responsive proposals and assign a score in each category, not to exceed the maximum allowed score for that category, as determined through the Offeror’s attention to the criteria detailed in the following sections. The amount of discussion to be applied to each listed topic is an individual choice of the Offeror, however, discussion should be detailed enough to inform and educate evaluators.

Proposals will be scored based upon a comparison of the information submitted by each Offeror against the evaluation criteria outlined below.

<table>
<thead>
<tr>
<th>EVALUATION FACTORS</th>
<th>POINTS AVAILABLE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. General Information</td>
<td>5</td>
</tr>
<tr>
<td>2. Specialized Design and Technical Competence</td>
<td>25</td>
</tr>
<tr>
<td>3. Capacity and Capability of the Offeror to Perform the Work</td>
<td>30</td>
</tr>
<tr>
<td>4. Past Record of Performance</td>
<td>25</td>
</tr>
<tr>
<td>5. Proximity to or Familiarity with Site Location</td>
<td>15</td>
</tr>
<tr>
<td>6. New Mexico Produced Work (state funded projects)</td>
<td></td>
</tr>
<tr>
<td>7. Volume of Work Currently Being Performed</td>
<td>(Up to 4 pt Deduction)</td>
</tr>
<tr>
<td>8. New Mexico Preference Advantage (state funded proj.) (5-10 Points Preference)</td>
<td></td>
</tr>
<tr>
<td><strong>Total Maximum Allowable Points</strong></td>
<td><strong>100-110 Points</strong></td>
</tr>
</tbody>
</table>

B. Evaluation Process

The evaluation process will follow the steps listed below:

1. All Offeror proposals will be reviewed for compliance with the mandatory specifications stated within the RFP. Proposals deemed non-responsive will be eliminated from further consideration.
2. The Procurement Manager may contact the Offeror for clarification of the response as specified in Section II, Paragraph B.7.
3. The Evaluation Committee may use other sources of information to perform the evaluation as specified in Section II, Paragraph C.22.
4. Responsive proposals will be evaluated on the factors in Section V that have been assigned a point value. The responsible Offeror(s) whose proposal is most advantageous to the NMDOT, taking into consideration the evaluation factors in Section V and successful negotiations, will be recommended for contract award as specified in Section II, Paragraph B.12. Please note, however, that a serious deficiency in the response to any one factor may be grounds for rejection regardless of overall score. In the event of oral presentations responsible Offerors with the highest scores resulting from the written evaluations will be selected as finalist Offerors. Points awarded from the oral presentations will be added to the previously assigned points from the written evaluations to attain final scores.
APPENDIX A – PROJECT INTRODUCTION AND SCOPE OF WORK

Scope of Work- CN 2104330, District 2, Eddy and Lea County
NM 31-NM 128 Design Build Project Management Engineering Services
RFP 20-40

General Information:

Control Number 2104330

Type of Work: Phase I Services:
   Phase 1 A/B (Identification of Existing Conditions and Detailed Evaluation of Alternatives), Phase 1-C (Environmental Documentation) and Phase 1-D (Preliminary Design Services), and Design Build Project Management Engineering Services for the NM 31/ NM 128 Corridor Improvements.

Posted Routes: NM 31 and NM 128

Limits: NM 31 from MP 0.00 to MP 22.67
   NM 128 from MP 0.00 to MP 59.9

Total Study Length:  NM 31 for 22.67 miles
   NM 128 for 59.9 miles

NMDOT District: Two (2)
Counties: Eddy & Lea
Functional Classification: Major Collector/ Major Collector
Terrain Type: Level
Preliminary Engineering Funding Programed in: FY 2020/21
Anticipated Letting: 2022
Project Development Engineer: Michael Smelker- South Region Design
Urban or Rural: NN 128 Urban (MP 51.5 to MP 53.2) and Rural (remainder of both corridors)

Project Background:
The New Mexico Department of Transportation (NMDOT) programmed project CN 2104330 to include Location Study (Phase A/B), Phase I. The Engineer shall determine the existing conditions and potential impacts based on the proposed improvements to the NM 31 and NM 128 corridors, and conduct risk assessment for a Design Build Project Delivery Method and Project Management Engineering Services for Design Build.
NM 31 (Potash Mines Rd.) is a two-lane, north/south corridor connecting US 285 (Pecos Hwy) near Loving, NM to US 62 (Hobbs Hwy) just east of Carlsbad, NM. NM 128 (Jal Hwy) is a two-lane east/west corridor connecting NM 31 at MP 8.1 to NM 18 at MP 52.5 within the City of Jal, NM that lies near the New Mexico/Texas border. NM 128 continues east into Texas and connects to TX 115. NM 31 and NM 128 are part of a major supply route network for local oil production/exploration operations within the southeast section of New Mexico within NMDOT District Two.

The NMDOT plans to reconstruct NM 31 from the Intersection of US 285 / NM 31 to the intersection of US 62 / NM 31 and NM 128 from Intersection of NM31 / NM 128 to Texas State line. The NM 31 / NM 128, NM 31/US 285. NM 128/ NM 18, and NM 31 / US 62 intersections must be investigated to determine the optimum configurations to support proposed improvements. The configuration will be determined based on requirements to enhance the capacity and safety requirements along these corridors.

This RFP must identify the existing conditions along NM 31 and NM 128, including all major structures, rail crossings and intersections alternatives to be developed and constructed to ensure full capacity and safety of the identified roadway network.

The Phase 1-A/B Alignment Study (Study) must identify right-of-way, environmental and utility impacts due to proposed roadway and bridge geometry, intersection configurations, corridor capacity, access control, and drainage improvements to determine improvement projects for both corridors.

Phase 1-C Environmental Documentation must be conducted to ensure federal rules and requirements are met for funding eligibility.

Phase 1-D Preliminary Design Services includes providing conceptual design plans. The level of complexity will vary, based on the complexity of the individual corridor segment. NMDOT’s goal is to determine the overall corridor footprint, areas of concern related to right-of-way, anticipated efforts to resolve utility and environmental impacts as well as coordination efforts with Burlington.
Northern and Santa Fe Railway (BNSF) and the Texas & New Mexico (TXN) Railway.

Phase 1D plans that include railway crossings will be required to meet 90% design criteria for plan review submittals to railways. The preparation of phased project plan and/or construction cost estimate packages will be required, to allow NMDOT to reduce the risk in the development of the project management of the Design-Build team.

Phase 1 Services must determine potential benefits and impacts a Design-Build project will have to the traveling public and industry due to the proposed improvements.

Design-Build is the project delivery method. The Phase 1 Services contract will include a risk assessment for Design-Build and Project Management Engineering Services for Design Build. The Engineer awarded this contract will not be eligible to enter into a Design–Build contract with NMDOT. Under NMSA 1978, Section 10-16-13, NMDOT is prohibited from accepting a bid or a proposal from a person who directly participated in the preparation of specifications, qualifications or evaluation criteria on which the competitive bidding was based. Thus, for example, an Engineer who prepares the procurement documents and specifications cannot either directly or indirectly participate with the organization hired for the design and construction of the project.

Existing Conditions:
The NM 31 project study area is located in Eddy County, near the community of Loving, NM in the south portion and terminates at the intersection with US 62 east of Carlsbad, NM. The Study area limits are from MP 0.0 at the intersection of NM 31/US 285 to MP 22.67 where NM 31 intersects with US 62. The study area also includes the intersection of NM 31 with NM 128 at MP 8.1.

NM 31 is a rural, two-lane roadway with two 12-ft. lanes and two 8-ft. shoulders with a posted speed limit of 55 mph. The speed limit is reduced to 50 mph at the NM 31/US 285 intersection. The northbound shoulder transitions into a 12-ft. deceleration right-turn lane at the T-intersection with NM 128. In addition, there are right and left turning lanes at the intersection with US 62. There are five at-grade railroad crossings along the NM 31 Study corridor and multiple private and/or side streets uncontrolled access points that allow traffic to enter the roadway.
The west leg of the NM 31/US 285 intersection is County Road 711 (Carrasco Road), a 20-ft. wide two-lane roadway with no shoulders. The intersection currently operates at a level of service (LOS) F, and based on a 2017 NMDOT traffic study warrants a signal. A 2019 traffic operation analysis performed by Stantec indicates a signal would improve the intersection LOS to B.

According to available traffic data, about 14,125 vehicles travel on US 285 through this area daily, including approximately 60% heavy commercial traffic. About 33 crashes have occurred at the NM 31/US 285 intersection between January 2012 and December 2017. Two fatal accidents were reported in addition to 10 injury crashes and 21 property damage only crashes. These accidents occurred due to drivers failing to yield right of way, following too closely, making improper turns or driver inattention. In addition, BNSF reported four “close calls” at the adjacent railroad crossing on NM 31 during the first four months of 2019.

Based on the results of the NMDOT Signal Warrants Study, the installation of a traffic signal as well as the potential reconfiguration of the NM 31/US 285 intersection is proposed to address travelers concerns related to safety and capacity needs. Further information related to the US 285 corridor adjacent to the project termini (MP 0 to MP 22) and NMDOT Signal Warrants Study can be reviewed in the Phase I-A/B report prepared by Molzen Corbin in January of 2018 and the Appendix of the Eddy County Grant application. Both documents are accessible via the following link:

https://grader.dot.state.nm.us/public/folder/YAUP7 avi3kmJR5tpk1oC8A/RFP%2020-18

The NM 128 project study area is located in Eddy and Lea Counties, and includes the City of Jal, NM. The Study area limits are from MP 0.0 at the T-intersection with NM 31 and MP 59.9 where NM 128 intersects with TX 115. The study area includes the NM 128/NM 18 intersection at MP 52.5, which is located within the City of Jal, NM. The majority of the NM 128 corridor is a rural, 2-lane roadway with two 12-ft. lanes and two 7-8 ft. wide shoulders with a posted speed limit of 65 mh. The speed limit is reduced to 35 mph within the City limits.

The roadway transitions into a 3-lane roadway with two 12-ft. lanes and one 12-ft. two-way-left-turn-lane (TWTL) and two 2-ft. wide shoulders within the City of Jal, NM. There are two at-grade railroad crossings along NM 128 and multiple private and/or side streets uncontrolled access points that allow traffic to enter the roadway.

The NM 128/NM 18 intersection is controlled by a Four-Way Stop condition. A NMDOT traffic study performed in 2018 warrants a signal at this intersection which is in close proximity to the
TXN Railway. This location currently does not have the capability to add preemption or interconnects with traffic signals as they are on an old relay based circuitry. To improve capacity, this rail crossing will need to be upgraded with a new controller and circuitry with the capability of preemption, gates and prediction. The current train speed is set at 10 mph and should remain at that speed for the near future. Currently two trains operate during the evening and overnight time frames Monday through Friday. Occasionally a shuttle train between Jal, NM and Eunice, NM operates with no certain regularity.

According to available traffic data from 2017 for the urban section, about 2,000 vehicles travel on NM 128 through this area daily, including approximately 13% heavy commercial traffic. About 22 crashes have occurred at the NM 128/NM 18 intersection between January 2012 and November 2014. Five injury crashes and 17 property damage only crashes were recorded. Ten of the 22 crashes occurred within the NM 128/NM 18 Intersection.

The NMDOT Signal Warrants Study of the NM 128/NM 18 Intersection as well as a preliminary property ownership map can be downloaded via the following link:

Fees:
It is the intent of the NMDOT to negotiate a fixed price for each of the following services:

- Phase 1-A/B (combined): Identification of Existing Conditions and Detailed Evaluation of Alternatives for NM 31 between MP 0.0 and MP 22.67 and NM 128 between MP 0.0 and MP 59.9 and NM 18 MP 8.4 to 9.4.
- Phase I-C: Environmental Documentation
- Phase 1-D:
  - Design based on the complexity will vary, based on the risk assessment evaluated in Phase 1-A/B for the NM 31 and NM 128 Corridor Improvement Projects.
- Project Management Engineering Services for Design Build

Scope of Work:

1. In accordance with information provided in this RFP, the following primary tasks are to be completed by the Engineer:
   - Conduct Preliminary Field Review (PFR). The PFR will be held to establish the scoping for the project and includes railroad coordination
• Provide the Phase 1-A/B Report following the NMDOT Location Study Procedures.
  o Inventory of Existing Conditions including Environmental Conditions.
  o Transportation Needs Analysis.
  o Safety Analysis.
  o Determination of Purpose and Need
  o Identification of all New Alternative(s).
  o Preliminary Evaluation of Project Delivery Method Alternative(s).
  o Detailed Evaluation of Recommended Project Delivery Method Alternative(s).
  o Conceptual Design and Cost Estimates.
  o Public Involvement Plan and Program Implementation.
  o Draft and Final Identification and Evaluation of Alternatives Report.
  o Identification of Right-of-Way Impacts of Alternatives.
  o Pavement borings, soils field exploration and lab testing.
  o Geotechnical Scoping Report
• Provide the Phase 1-C Environmental Documentation
• Provide Phase 1-D design plans and estimate of construction costs. (varying from conceptual, 30%, 60% or 90% completion based on risk assessment). All plans and documents must be prepared using NMDOT design manual for general content and format.
• Design-Build Project Management Engineering Services

2. Phase 1-A/B: Identification of Existing Conditions and Detailed Evaluation of Project Delivery Method Alternatives for the NM 31 and NM 128 Corridor Improvement Projects.
   a. Description
      This work involves the development and preparation of a Combined Phase 1-A/B Alignment Study Report. The project study must be conducted in accordance with the latest edition of the NMDOT Location Study Procedures: A Guidebook for Planning and Environmental Linkages, Alignment Studies, and Corridor Studies.
The primary purpose of this study is to provide recommendations for new corridor roadway configuration alternatives for the nm 31 and NM 128 corridor, project cost estimates of alternatives (including right of way impacts), and coordination with the public and local agencies.

b. Deliverables
The Engineer will submit five (5) bound and one (1) CD (or DVD or USB) containing the electronic file (.pdf format) of the Phase 1-A/B Report. The report will provide a priority list of construction phases based on the recommendations for improvements.
3. Phase I-C: Environmental Documentation
   
a. Description

   Based on the scope of work outlined above, the level of effort for the Environmental Clearance will be determined based on each independent alternative. The Engineer will complete the work necessary to obtain federal approval based on the determined level of effort for the Design Build Project delivery method to allow for the use of federal funds for construction of this project, in adherence to federal and state law including, but not limited to the National Environmental Policy Act (NEPA) which requires the identification and assessment of impacts associated with a proposed action, and mitigation of impacts if necessary.

b. Deliverables

   The Engineer will prepare Environmental documentation including:
   - Cultural resource inventory and survey;
   - Biological Technical Memorandum;
   - Categorical Exclusion (CE) and all supporting documentation, or Environmental Assessment (EA) if required;
   - Input Synopsis;
   - Finding of No Significant Impact (FONSI) request and FONSI (if required);
   - Quality Control Plan;
   - Public Information and Stakeholder Meetings.

   The Engineer shall provide one (1) electronic copy and one (1) hard copy of all environmental documentation both in draft and final forms.
4. Phase 1-D: Preliminary Design for Design Build for the NM 31 and NM 128 Corridor Improvement Projects.
   a. Description:
      This work includes the preparation of all Engineering Reports and documentation to create design plans, cost estimates and associated documents required based on the established risk assessment as per NMDOT design manual, and all design review and coordination meetings.
   
   b. Deliverables
      The Engineer shall submit and distribute ten (10) bound sets of plans (11” x 17”) and five (5) estimates and one (1) digital file (Estimator Software: AASHTO); one (1) CD containing all electronic files (.dwg .pdf and .xml format) of the plans and estimate of construction costs.

5. Design-Build Project Management Engineering Services

Under the Design-Build Project Method the work will include, but not be limited to, the follow:

a. Request for Proposal Development

1. Prepare for and facilitate a risk analysis workshop for the project which will produce a Risk Matrix, Risk Allocation strategies and Risk reduction options. Facilitate additional risk assessment and mitigation meetings as needed.

2. Prepare the RFQ package to facilitate short listing Design-Build teams and support NMDOT with the evaluation of the SOQ’s submitted in response to the RFQ.

3. Prepare the RFP package for a Design-Build Contract ready to advertise and support NMDOT with the evaluation of the RFP’s submitted in response to the RFQ.

4. Develop and maintain a project delivery schedule, to be updated regularly.

5. Coordinate with department to gather information necessary for the RFQ and RFP documents, i.e. Pavement Design, Materials, Structures, Innovating Contracting, Traffic and Safety, Roadway Design, Hydraulics, Utilities, Public Information, Construction, etc.

6. Provide and prepare SUE documents and plans for inclusion in the RFP.
7. Coordinate with railroad and utility companies which may include in preparation of Master Utility Agreements. Negotiate third party agreements and coordinate utility relocation designs efforts for the project.

8. Provide supplemental survey data as needed.

9. Obtain any preliminary geotechnical data and design and incorporate it into the RFP.

10. Assist the Department in identifying and acquiring ROW and easements needed for the baseline design. Develop all ROW documents needed for the project.

11. Prepare all reference documents the Design-Builder will need to formulate an estimate.

12. Provide a qualified scheduler who has experience on similar sized projects, performing the duties of planning, developing, evaluating, analyzing, maintaining and reporting Critical Path Method (CPM) schedules, and possesses demonstrated proficiency in CPM schedule methodology and utilization of Primavera P6 software, or current version.

13. Provide expert Cost Estimator who will coordinate closely with the project scheduler.

14. Provide information and supporting documents to the PI consultant for South Region Design, District Two and Senior Leadership, updates as needed.

15. Establish project controls requirements and procedures to be included in the RFP for monitoring the Design-Builder’s operations.

16. Provide VISSIM Modeling to assist the department in determining what changes will occur at major intersections.

17. Provide all required tasks to advertise and advance projects that may be separated from the main Design-Build effort.

b. Design-Build Project Management Support

At the discretion of the Department, the tasks identified below (DB Project Management Support) may be added to the contract at later date.

1. Provide a Design Oversight Team that includes discipline specific reviewers to supplement NMDOT staff in Design Reviews (i.e. structures, roadway, drainage, environmental, mot, etc.) including but not limited to 60%, 100%, Release for Construction, and As Built Plan reviews.

   a. The Design Oversight Team may be responsible for:
      i. Distribution of plans, collecting and compiling comments, tracking due dates, etc.
      ii. Plan audit reviews
iii. Conformance of design concepts to the contract documents.
iv. Verification final plans are prepared in conformance with the contract documents.
v. Ensuring that the plans produced by the Design Builder are complete and correct.

2. Review monthly estimate for payment throughout the project.
3. Assist the Department in reviewing and managing changes to the Design-Builder’s Quality Management Plan.
4. Provide a Construction Quality Oversight Team. The Construction Quality Oversight Team may:
   a. Perform statistical analysis of materials testing and acceptance program.
   b. Perform audits of the Design Builders records to confirm that the Design Builder is performing in accordance with contract documents.
   c. Provide field personnel to verify compliance with the contract documents and to verify the finished product meets expectations.
   d. Perform reviews and approve the Design Builders resource loaded construction schedules in accordance with contract documents.
5. Provide appropriate staff/experts to implement the Department’s Independent Assurance (IA) activities.
6. Provide appropriate staff/experts to implement project controls requirements and procedures for monitoring the Design-Builders operations for document archiving.
7. Assist the PI team in coordinating project activities with the District Two Public Information Manager and adjacent project’s Public Information Teams as appropriate.
8. Consultant will assist NMDOT staff in documenting the completion of the project, including all necessary documentation of ROW, Utility, third-party, and railroad activities. All project records will be prepared for submission to NMDOT, including As-built drawings and documentation required for long term maintenance of the constructed facilities.

6. **Supplemental Design Data Requirements**

The following are descriptions of the engineering services likely required for the Design Build Project. These services are listed by discipline.

*Survey and Mapping*
A. Location & Topographic Survey (included in Phase 1 Services)

The Engineer/Surveyor shall provide required location and topographic survey for the entire project limits suitable for planning and design. Existing right-of-way must be surveyed and made known with the location survey and mapping deliverables, along with but not limited to, all fences, structures, utilities, signs, break-lines, and encroachments. Encroachments must include owners name and address with perpendicular distance(s) from right of way. The Engineer/Surveyor is responsible for establishing primary project control if not provided by the NMDOT Geodetic Unit, and shall prepare a Project Control Map per the NMDOT’s requirements. The engineer is responsible for coordinating all surveying and mapping efforts required for design and determination of right-of-way impacts due to design. The Engineer shall submit the man hour and fee proposal for the location survey and mapping efforts to the Project Development Engineer for review by the Survey and Lands Engineering staff.

B. Final Property Ownership Maps (included in Phase 1 Services)

Final Property Ownership Layout Maps must be prepared and developed through research/investigation of county records, County Assessor map/info and GIS shapefiles. This information will be collected by the selected Engineer and shared with the NMDOT as a .kmz file. Preliminary property ownership maps provided by the NMDOT are for informational purposes only, to support the Engineer’s effort to identify assessor information on a clearly illustrated map. The selected Engineer shall prepare Final Property Ownership Maps (including exiting NMDOT ROW boundaries).

C. Right-of-Way & Monumentation Mapping (included in Phase 1 Services)

Right of Way (ROW) mapping must be performed in accordance with the NMDOT Right of Way Mapping Development Procedures Handbook. The Engineer/Surveyor will prepare ROW maps for presentation and review at the pre-final design inspection review. NMDOT will not provide an extensive detail check of any of the final maps and plans. Temporary construction permit (TCP) locations must also be shown on the map if they are located in areas for which mapping has been developed. TCP exhibit maps may be prepared only if there is need for ROW takes or CME’s requiring the development of ROW maps. All TCP’s must be listed on the parcel block sheet of the final ROW Maps as well as shown on the plan and profile sheets. All encroachments must be identified on the ROW maps within the ROW boundaries shown on the maps prepared for Final Right-of-Way. The Engineer/Surveyor is fully liable for, any errors and/or omissions in the final
ROW Maps, legal descriptions, and subsequent monumentation mapping and staking. Acceptance of the final ROW Map or other work products developed by the Engineer/Surveyor under the contract and termination of the contract when work is completed will not remove any liability from the Engineer/Surveyor as outlined above.

Monumentation Mapping must be performed in accordance with the Right of Way & Monumentation Mapping Unit’s guidelines/policies and pertinent provisions of the current Minimum Standards for Surveying in New Mexico. Upon assignment of a Final ROW map date by the Lands Engineering Section Manager and confirmation on final acquisition of ROW, the Engineer/Surveyor shall prepare the monumentation maps. Field staking of right-of-way limits as defined by the final ROW Maps and ROW Certification and recordation of the final ROW Monumentation Map(s) will be required. Field staking in accordance with approved final Monumentation Maps can not occur prior to the issuance of the Right of Way Certification letter by the Right of Way Bureau and completion of construction. The final monumentation maps must meet NMDOT’s Monumentation Mapping Unit guidelines/policies and pertinent provisions of the current Minimum Standards for Surveying in New Mexico. The Engineer/Surveyor shall submit the man hour and fee proposal for ROW & Monumentation Mapping efforts to the Project Development Engineer for review by the Survey and Lands Engineering staff.

Provide final right-of-way mapping and title reports such that NMDOT may acquire the required right-of-way, if applicable. Submit one (1) unbound (full size) original set of the final accepted right-of-way maps to the NMDOT in addition to electronic submission as described in the in the Electronic Submittal of Design Data by Engineer/Surveyor. NMDOT standards and procedures are available upon request from the Lands Engineering Section. See Right of Way Mapping Development Procedures Handbook for complete details on right-of-way mapping deliverable requirements.

Deliverables:
A. Electronic Submittal of Design Data by Engineer

All survey, mapping (existing, right-of-way, encroachments and monumentation), and preliminary/final design data must be created and submitted to NMDOT in AutoCAD/Civil 3D 2018 format adhering to the standards set by NMDOT for the use of that software. All design related data files must be produced using AutoCAD/Civil 3D software products. Electronic files submitted must include, but are not limited to, geometry, points, surfaces, alignments, coordinate
system details, calibration reports, survey notes, survey field books (electronic and scanned field books with structure details), photographs of structures and encroachments, and survey data collection files. Standards and resource files are available upon request from the Engineering Automation Section. NMDOT will only accept projects delivered on CD-ROM, flash drive or external hard drive. Data is not to be compressed by any software.

All surveying and mapping activities must be performed by a qualified Professional Surveyor licensed in New Mexico and meet the Minimum Standards for Surveying in New Mexico (12.8.2 NMAC).

B. Property Ownership Maps

Property Ownership Maps do identify current property owners must be provided to the NMDOT as a kmz file. Final maps must be prepared as part of Phase 2 Services at a horizontal scale of 1” = 100’ and a vertical scale of 1” = 10’ with the 60% design plans. Provide one (1) hard copy of the Final Property Ownership Layout Maps to the NMDOT Lands Engineering Section. The Engineer/Surveyor shall submit the man hour and fee proposal for final property ownership mapping efforts to the Project Development Engineer for review by the Survey and Lands Engineering staff.

C. Right-of-Way Maps, Title Reports, Encroachment Exhibits and Monumentation Maps

As part of Phase 2 Services, provide final right-of-way mapping, title reports and all encroachment exhibits such that NMDOT may acquire the required right-of-way, if applicable. Submit one (1) unbound (full size) original set of the final accepted right-of-way maps to the NMDOT in addition to electronic submission as described in the in the Electronic Submittal of Design Data by Engineer/Surveyor. NMDOT standards and procedures are available upon request from the Lands Engineering Section.

Sub-Surface Utility Exploration (SUE)

SUE Quality Level D & C information must be shown on 11” x 17” plan layout sheets and included in appendix of the Phase I-A/B report.

Quality Level B must be provided by the Engineer with the preliminary design submittal. QL-B involves the application of appropriate surface geophysical methods to determine the existence and horizontal position of virtually all utilities within the project limits. This activity is called "designating". The information obtained in this manner is surveyed to project control.
For areas of critical concern, Quality Level A designation may be required. This activity is called “Locating”. Effort for Level A Services must be established per location/pothole (EA).

All SUE information must be provided to the NMDOT in AutoCAD format and relate to the horizontal and vertical control of the design survey file. A stamped and in color hard copy must include pothole information and cross sections of each utility and be added as the 11-Series in the design plan sets.

All surveying and mapping activities, including surveys for Subsurface Utility Engineering (SUE) services, must be performed by a qualified Professional Surveyor licensed in New Mexico and meet the Minimum Standards for Surveying in New Mexico (12.8.2 NMAC). Pre-design Utility Coordination Services (30% completion) must be provided as per direction by the NMDOT Utility Bureau.

Deliverables:
The Engineer shall provide existing utility layout plans in Autodesk® (.dwg) file format at the current NMDOT standard version. The NMDOT is currently utilizing Autodesk® AutoCAD 2018 and Autodesk® AutoCAD Civil 3D 2018 as its standard version. All permits and backup information must be submitted on one (1) CD (or DVD or USB) containing electronic files (.pdf format).

All surveying and mapping activities related to Subsurface Utility Engineering (SUE) services, must be performed by a qualified Professional Surveyor licensed in New Mexico and meet the Minimum Standards for Surveying in New Mexico (12.8.2 NMAC).
**Drainage Improvements**

The Engineer shall use the latest edition of the NMDOT “Drainage Design Manual - July 2018” and the NMDOT Design Manual. This project will require preliminary and final drainage design plans, and specifications to ensure proper runoff management within the roadway prism and structures. Services must be delivered as outlined in the above referenced documents and in accordance with the negotiated project schedule. The Engineer will provide all or a portion of the services required to fully execute drainage requirements needed to facilitate the project, including NPDES coordination and compliance documentation.

Services needed to evaluate the proposed project termini require limited research and field exploration, due to available documentation such as the Phase I-A/B report (includes drainage reports, detailed investigation of existing field conditions, soil reports), original as-built plans and specifications. NMDOT’s field survey will be used if computer generated hydrologic and hydraulic models are required. Analysis reports should consider the impacts of the roadway improvements on drainage, impacts on water quality, current system deficiencies, appropriate design storms, structure section improvement details, and roadway drainage details.

More specifically, based on existing information of the on-site and off-site watersheds, the hydrologic analysis must determine design flow volumes based on the anticipated flow volume, peak, and concentration points. If required, the Engineer will develop and propose alternatives to address slope erosion and storm water runoff conveyance needs. All conveyance alternatives will be hydraulically analyzed to ensure proper structure sizing during preliminary design. Alternatives may require coordination with other design sections including but not limited to the NMDOT Bridge and Geotechnical Bureau as well as coordination with outside agencies (i.e. Lea County, Eddy County, City of Jal, Bureau of Land Management (BLM), Burlington Northern & Santa Fe (BNSF) and Texas & New Mexico (TXN) Railway).

The Engineer will conduct a hydraulic analysis of the existing drainage system to ensure the project meets the current NMDOT performance requirements. The Engineer will assess options for changing surface conditions of the inlets to address maintenance concerns and provide the NMDOT with final recommendations. The Engineer will provide any other recommendations as identified as a need during the PFR. Hydraulic recommendations will be developed and shown within the Preliminary Drainage Report.
Based on risk analysis, the Engineer may be required to provide Pre-final design plans, including surface flowlines/grades and drainage structures locations to ensure positive stormwater runoff, all proposed bid items and final quantities reflecting the hydraulic recommendations identified in the drainage study. The design must include all quantities (Including earthwork and cross sections), standards, special details, special provisions, notices to contractors and costs to support the proposed construction concept.

Deliverables: (Phase 1-D)

The Engineer shall provide one (1) CD (or DVD or USB) containing an electronic file (.pdf format) of the Preliminary Drainage Analysis Report with the preliminary design plans (30% completion) to NMDOT as well as all electronic data and modeling files utilized in the development of the drainage analysis.

The Engineer shall provide one (1) CD (or DVD or USB) containing an electronic file (.pdf format) of the Pre-Final Drainage Analysis Report with the Pre-final design plans (% completion based on risk analysis) to NMDOT as well as all electronic data and modeling files utilized in the development of the drainage analysis.

Bridge Type Study and Bridge Design (if needed)

A Bridge Type Study and existing Bridge Evaluation Study (BTS) must be conducted for bridges if included in any or all intersection configuration alternatives. The BTS will be coordinated with NMDOT and include a weighted decision matrix. The matrix must include criteria for load rating, clearance, anticipated bridge life, impacts to traffic during construction and cost. Other criteria may be added. The BTS report must receive concurrence from the NMDOT Bridge Engineer.

NMDOT will review the preliminary bridge layouts in Phase 1-D. The preliminary bridge layouts are required to insure that serviceability requirements are met and that the proposed bridge is cost effective. The preliminary bridge layout for the bridge must be approved for serviceability and cost effectiveness by the NMDOT State Bridge Engineer or his representative before final bridge design begins.

A preliminary cost estimate for the bridges must be submitted with the preliminary bridge layout in Phase 1-D. Costs will include user delay costs, traffic control costs and any other costs deemed necessary.

The preliminary layouts must show the bridges in plan and elevation. The layouts must include a typical section indicating the type and depth of the superstructure for the bridges. Expansion joint
locations need to be indicated. Also, types and locations of major construction joints need to be identified, if applicable. The anticipated substructure types must be shown. The overall bridge layout concept must be indicated on the preliminary plans in Phase 1-D. Both vertical and lateral clearances must be indicated on the preliminary layouts.

Vertical clearance calculations must be included with the bridge submittal.

Proposed bridge layouts must be reviewed to determine and minimize future maintenance needs. The bridges must be designed for permit loads as stated in NMDOT’s Bridge Procedures and Design Guide. An AASHTOWare Bridge Ration (BrR) model is required for the bridges after the bridge design alternative is accepted.

NMDOT’s State Bridge Engineer must approve any change from the preliminary bridge layouts used in final design.

**Pavement Subgrade Soils Field Exploration and Laboratory Testing**

The Engineer will be required to identify the need and provide supplemental field exploration to support the pavement design consisting of the following:

- Test locations must consist of the following:
  - ¼ Mile Intervals in one Direction
  - 1 Mile Intervals in Opposing Direction
  - 1 Mile Intervals On Shoulders (both directions where existing)
  - Provide Boring Location Plan prior to field exploration

- Subgrade testing to depths of 5 feet below existing surfacing. SPT N-blow counts will be required. Dynamic cone penetrometer (DCP) testing must be conducted at each location to a depth of 3 feet.

- Thickness of existing Pavement structure, base and other pavement strata where encountered.

- NMDOT shall have access to the cores to view and inspect.

- Coordinate contract laboratory testing with NMDOT personnel (Jeff Mann, NMDOT Pavement Mgmt. and Design Bureau, 505.795.4927).
For purpose of proposal, estimate 2 soil samples per interval for entire length of project, in one direction. Perform the following geotechnical laboratory tests on each sample according to applicable AASHTO standards including, but not limited to, the following:

- Sieve Analysis (including Minus No. 200 Wash);
- Atterberg Limits;
- Moisture Content;
- R-Value.
- Resilient Modulus (AASHTO T307-Current) – Estimate 5 Tests, Samples to be Chosen by NMDOT.

At completion of subgrade laboratory testing, the Engineer will provide results to Pavement Mgmt and Design Bureau to review. At that time, an assessment will be made to require lime stabilization testing. Samples will be held by the Engineer until lime stabilization determination has been made.

For purpose of this proposal, the Engineer shall provide a cost estimate for stabilization testing services. Perform the following geotechnical laboratory tests on each sample to be tested for lime stabilization according to applicable AASHTO standards including, but not limited to, the following:

- Lime stabilization testing
  - Eades and Grimes (ASTM D 6276)
    - Lime content of 3, 5, 7%
  - Sulfate content (AASHTO T290) – estimate 10 samples
  - R-value on stabilized sample – estimate 3 tests
  - Compressive Strength on stabilized sample – estimate 3 tests

Deliverables:
The Engineer shall submit one (1) hardcopy and one (1) electronic copy (pdf) of the draft preliminary subgrade and pavement sampling reports (to be included in the Phase 1-A/B Report). After the NMDOT has reviewed and approved the document, the Engineer shall submit two (2) bound hardcopies and one (1) electronic copy (pdf) of the final report with the submittal of Phase 1-D design plans to the NMDOT Pavement Mgmt. and Design Bureau for review.
**Geotechnical Engineering**

Geotechnical Scoping Report (Phase 1-A/B)

The Geotechnical Scoping report must be prepared in accordance with the New Mexico Department of Transportation’s Design Manual, dated October 2016. The Engineer shall provide one (1) hardcopy and one (1) electronic copy (.pdf format) of the draft and final Geotechnical Scoping Reports to the NMDOT Geotechnical Engineering/Exploration Section for review.

Geotechnical and Foundation Reports (Phase 1-D & Phase 2)

The preliminary Geotechnical and Foundation report must be prepared in accordance with the New Mexico Department of Transportation’s Design Manual, dated October 2016. The Engineer shall submit one (1) hardcopy and one (1) electronic copy (.pdf format) of the draft Geotechnical and Foundation reports with the submittal of Phase 1-D design plans to the NMDOT Geotechnical Engineering/Exploration Section for review.

The preliminary Geotechnical and Foundation report must be prepared in accordance with the New Mexico Department of Transportation’s Design Manual, dated October 2016. The Engineer shall submit one (1) hardcopy and one (1) electronic copy (.pdf format) of the draft Geotechnical and Foundation reports with the submittal of pre-final design plans (60% completion) to the NMDOT Geotechnical Engineering/Exploration Section for review. Geotechnical Exploration

Preliminary geotechnical field investigations and laboratory testing must be performed by the Engineer in accordance with the latest editions of the AASHTO LRFD Bridge Design Specifications, FHWA Geotechnical Engineering Circulars, the NMDOT Materials Geotechnical Manual and the NMDOT Design Manual. The investigation plan must be developed by the Engineer and submitted to the NMDOT Geotechnical Engineering/Exploration Section for review and approval at least three weeks prior to mobilization. The investigation plan must include geophysical locations, boring locations, frequency of sampling, proposed depths of soil borings and rock cores, projected type and frequency of field and laboratory tests, and other proposed field exploration methods.

**Environmental Documentation**

Based on engineering, cost, environmental and right-of-way impacts, the Engineer shall determine, recommend, and obtain NMDOT concurrence on the preferred alternative to be used for location approval in the environmental document and adequate for final design. The Engineer, in
consultation with the NMDOT Environmental Bureau, shall determine the NEPA level of effort and proper documentation based on the proposed scope of work and impacts to the cultural, natural, and human environments. The Engineer shall ensure that the environmental investigations and documentation process, subsequent circulation, and public meetings and hearing (Two meetings are anticipated), be completed in accordance with the NMDOT Location Study Procedures (Update 2015), FHWA Technical Advisory T 6640.8A, 23 CFR Part 771 and other applicable guidelines and regulations. The use of federal funds on the project requires adherence to federal and state law including, but not limited to, NEPA which requires the identification and assessment of impacts associated with a proposed action and mitigation of impacts if necessary.

The following are the minimum services to be provided by the Engineer:

- Identification of existing condition and alternatives (first public information meeting, comments to be included in the Phase 1-A/B Report)
- Identification of impacts due to the preliminary design (second public information meeting)
- Biological and cultural resource investigation/survey
- Agency coordination and public involvement including public meetings and a public hearing
- Summary of all public involvement activities, including public meeting summaries, public and agency comments, and responses to comments
- Preparation and distribution of a CE, (or an EA if required – to be amended)
- Property owner interviews with all impacted businesses and properties

The Engineer shall be responsible for the implementation and cost of all public meeting coordination including advertisement of the meeting; preparation and mailing of newsletters; arrangement and cost for recording equipment if necessary; news media coordination; providing and arranging for meeting facilities; compiling and responding to agency and public comments; preparation of handouts, exhibits, and displays; coordination of the meeting; preparation of the public meeting summary; and coordination with the general public, property owners, and/or agency involvement that may be required before or after the public meeting.

The environmental investigations must be conducted by an interdisciplinary team including qualified natural resource and cultural resource specialists. This project will most likely require a Categorical Exclusion (CE) in accordance with NEPA. The environmental document summarizes the environmental and cultural resources investigations, agency coordination, and public involvement. The effort must be commensurate with the potential for environmental impacts. The environmental document must be developed using the format outlined in NMDOT Categorical Exclusion checklist instructions, NMDOT Location Study Procedures, FHWA Technical Advisory T6640.8A, 23 CFR Part 771, and other applicable guidelines and regulations. The environmental investigations will include, if appropriate, surveys and analyses in the following areas:

- Biological surveys conducted by qualified biologists including a biological survey report and biological evaluation for threatened and endangered species, location of Ordinary High Water Mark(s), existing vegetation and wildlife, and, if necessary, an official Biological Assessment and Evaluation for Endangered Species Act compliance regulatory agency review and approval;
- A cultural resource survey conducted by permitted archaeologists and historians including a report and all appropriate forms and attachments, following the guidelines set forth in 4.10.15 NMAC;
- Section 4(f) determination and evaluation including, if necessary, an official 4(f) Determination Report for land management agency and FHWA review and approval including avoidance options, alternative evaluations and measures to minimize harm;
- A noise analysis following IDD-2011-02 including if necessary a separate Noise Analysis Report for NMDOT review and approval;
- An air quality analysis including if necessary a separate demonstration of conformity and a Carbon Monoxide Hotspot Air Quality Analysis Report for NMDOT review and approval;
- Other surveys, investigations, and analyses may be required as appropriate.
Environmental investigations must include analyses of all issues mandated by NEPA as well as other state and federal environmental legislation, including but not limited to the Clean Water Act, the Endangered Species Act, the National Historic Preservation Act, and Executive Orders on Wetlands, Floodplains, and Environmental Justice. The environmental investigations must include evaluations of all appropriate alignment and typical section alternatives, including the no-build option and avoidance options. The environmental investigations must also include evaluations of proposed detour routes and any proposed improvements to these routes. Environmental investigations will also include, as appropriate, measures to minimize harm, enhancement measures and measures to mitigate impacts.

The cultural resources survey and preparation of a final Cultural Resources Survey Report must meet all federal and state requirements. A permitted archaeologist and historian must conduct the cultural resources survey. Cultural Resource investigations must include Historic Building inventories and all attachments, following state guidelines delineated in 4.10.15 NMAC and federal guidelines as per the National Historic Preservation Act, Section 106.

All environmental reports submitted to the NMDOT Environmental Section are subject to NMDOT review and approval before investigations are accepted as complete. Submittal of an environmental document to the NMDOT, which is incomplete as determined by Environmental staff or the PDE, will not be reviewed. Submittal of an environmental document that is considered to be complete will be reviewed once and comments made to the Engineer. Errors or omissions not adequately corrected from the first review may be subject to liquidated damages that will be withheld from final payment of the Contract.

A Public Involvement Plan (PIP) consistent with Context-Sensitive Solution methods and practices must be submitted to the NMDOT Environmental Program Manager at least two weeks prior to the first public information meeting. The PIP is expected to be an evolving document and process, specific to the project (Phases). The PIP should contain goals of working with the community, analyses of the background context, modal considerations, opportunities to express local values and discussion of the design approach with specific consideration of the potential
project issues, initial identification of the various stakeholders and their issues of concern, techniques for communicating with them, and possible methods for addressing concerns. The plan should follow the outline of the NMDOT Context Sensitive Public Involvement Plan for Location Study Projects.

Deliverables:
The Engineer shall provide one electronic copy and one (1) hard copies of all environmental documentation both in draft and final forms. A complete environmental document must have a comprehensive discussion of purpose and need, alternatives (as appropriate), environmental investigations, assessment of impacts, and appropriate mitigation as necessary.

**Roadway and Traffic Engineering**

Phase 1-D Design - The Engineer shall provide all documentation, plans, and estimates as per NMDOT Design Manual. The plans must reflect, corridor alignment, intersection configuration, roadway geometry and associated bicycle and pedestrian elements, signing and striping layout, details, schedule of quantities, and suggested sequence of construction to support the construction concept and design intent. The temporary traffic control plan must reflect the suggested sequence of construction and quantify equipment needed to manage and/or detour vehicular, bicycle and pedestrian traffic.

The Engineer shall provide all services required to complete Pre-final (30%, 60%, 90% completion based on risk assessment), plans, and estimates, to fully execute the construction plans and contract documents. Services must reflect, corridor alignment, intersection configurations, roadway geometry and pedestrian & bicycle facilities (if applicable), temporary traffic control design and suggested sequence of construction, traffic control plans and signing and striping layouts, signal and lighting plans, drainage structures analysis and design, utility plans and cross sections.

The NMDOT South Region Design Division will coordinate support and communication between the Engineer and NMDOT Technical Support groups.

The Engineer will be responsible for providing all or a portion of all design services identified in
the RFP. Plans, estimates and reports must be delivered in accordance with NMDOT Design Manual and design directives, and in accordance with the negotiated project schedule. Reports, design plans and analyses must be delivered with sufficient data for approvals by the NMDOT and other governing agencies, and be prepared as per NMDOT Design Manual, and other current standards and policies as mentioned in this RFP.

**Computer Aided Drafting**
All design data and computer-aided-drafting (CAD) drawing files supplied under contract must be produced and submitted to the NMDOT in a native Autodesk® (.dwg) file format at the current NMDOT standard version. The NMDOT is currently utilizing Autodesk® AutoCAD 2018 and Autodesk® AutoCAD Civil 3D 2018 as its standard version.

Deliverables:
This work includes the preparation of plans and associated documents required to clearly understand anticipated impacts, layout, functionality and cost of the proposed design, as well as coordination of all design review meetings.
As per NMDOT Design Manual, the design plans must be prepared following the directions identified in the Standard Minimum Plan Information and Comprehensive Checklist and include the following:

- **1-Series**
  - Cover Sheet
  - Vicinity Map Sheet
  - Survey Control Sheet
  - Index of Sheets and Standards Drawings
  - Summary of Quantities
  - General Notes
  - Environmental Commitments

- **2-Series**
  - Typical Sections
  - Surfacing Schedule
  - Estimated Structure Quantities
  - Miscellaneous Quantities
  - Miscellaneous Details
Temporary Erosion and Sediment Control Plans
- Erosion Control
- 3-Series
  - Plan and Profiles Sheets
  - Intersection Layout Sheets
- 4-Series
  - Turnout Profiles
- 5-Series
  - Bridge/Structural Sheets (not anticipated)
- 6-Series
  - Construction Signing Plans
- 7-Series
  - Permanent Signing Plans
- 8-Series
  - Lighting Plans
- 9-Series
  - Signalization and/or ITS Plans
- 10-Series
  - Structure Placement Sections
- 11-Series
  - Utility Sheets
- 12-Series
  - NMDOT Standard Drawings (not anticipated)
- 13-Series
  - Cross-Sections

For each submittal, the Engineer shall submit and distribute ten (10) bound sets of plans (11” x 17”) and five (5) estimates; one (1) CD containing all electronic files (.dwg .pdf .f and .xml format) of the plans and estimate of construction costs.

**Agency Coordination**
Agency coordination will include any agency with management responsibilities, all agencies with sensitive resource responsibilities and any agency that may have permit authority for project
activities. The appropriate local, county, and state agencies, the public and other interested agencies will be contacted to insure that the community and governmental concerns are identified and considered for inclusion in the design development of the project. It is anticipated that coordination with the agencies listed below will be required during the design and construction of this project:

- Federal Highway Administration (FHWA)
- New Mexico Department of Transportation (NMDOT)
- Texas Department of Transportation (TxDOT)
- Lea County
- Eddy County
- City of Jal, NM
- Burlington Northern & Santa Fe (BNSF) Railway
- Texas-NM (TXN) Railway
- Bureau of Land Management
- NM State Land Office

This list is for information only and not intended to be the final list of agencies to be contacted. The Engineer should dedicate a project manager to work closely with the NMDOT team to effectively coordinate all design elements and plan production sheets in accordance with the project schedule.

**Quality Control**

A Project Specific Quality Control Plan is required for each phase or separate work item of this project. The specific requirements are outlined in the Consultant Services Procedures Manual & Handbook. The Engineer shall deliver one copy of the quality control plan to the NMDOT to commence the project and no later than 15 days after the NTP. The plan should include, at a minimum, the following information:

- Overview
  - Use of the corporate QA/QC Plan (tailored to the individual project).
  - Demonstrate training of team members in QA/QC process.
  - Show clear understanding of Client’s standards and objectives for the project.
- Distribute a copy of this QA/QC Plan to all team members.

- Responsibility for Plan Implementation
  - Identify the primary person responsible for implementing the QA/QC Plan.
  - Identify the primary person responsible for coordinating interdisciplinary technical reviews and quality/constructability reviews.
  - Identify the primary person responsible for auditing plan implementation.

- Procedures to be used
  - Method by which designers and technicians check each other’s work.
  - Provisions for independent design checks.
  - Establish design computation procedures to check all design work.
  - Requirements for performing QA/QC process on all project documents.
  - Use of appropriate, industry accepted or verifiable computer hardware and software.
  - Project Specific Items (In this section the Project Manager should tailor the elements of the QA/QC Plan specifically to the project by addressing special design features, coordination issues, documents or computer programs expected to be used, etc.)
  - As part of the project specific quality control plan, the consultant will develop procedures to effectively “sell the project.” This item is evaluated under the communication and responsiveness items under the Project Administration element of the Consultant Evaluation Form for Design. Selling the project will continue to remain part of the Public Information aspect related to Preliminary Design.

**NMDOT Will Provide**
To facilitate the Scope of Work, the NMDOT will furnish the following to the Engineer. However, the NMDOT may choose to have the Engineer perform all or part of these services. If any of the services listed below are required from the Engineer, each service will be initiated through contract negotiations or by amendment to the Contract.
• A Project Development Engineer from the NMDOT staff to serve as an engineering liaison for the project.
• NM 128/NM 18 signal Warrant Study prepared by NMDOT in 2018.
• Available traffic counts and ESALs and 20 year projected ESALs.
• Available crash data
• As-Built Plans
• Pavement Recommendations
• Hazardous Materials Investigation and ISA with associated documents.
• Review of all reports and plans.
APPENDIX B - CONTRACT FOR FEDERAL FUNDING

This Agreement is between the New Mexico Department of Transportation (Department) and <<Insert Company Name >> (Contractor). The Start Date of this Agreement is the date of the Notice to Proceed to the Contractor for the project described in Section 1, below.

Now Therefore, the parties agree follows:

1. Scope of Work.
The Contractor shall perform the services described in Appendix A, Scope of Work.

This is <<Choose one: a project specific / an on-call >> Engineering Services Agreement for <<Insert name of project or type of on-call service>> : CN <<Insert>>. <<Add following sentence if federally funded: This Agreement is funded in whole or in part by the Federal Highway Administration (FHWA). >>

2. Payment for Services.
   a. Compensation.
The Department will pay for engineering services based on compensation, unit rate schedule, applicable New Mexico gross receipt taxes (GRT), liquidated damages and retainage, all of which are identified in Appendix B, Compensation/Rates. Payment will not be made for services provided prior to the Contractor’s receipt of a Notice to Proceed and after the expiration of this Agreement. Contractor must use the Department’s form for the submission of an invoice.

   b. Acceptance/Rejection.
Contractor must submit a detailed statement with supporting documentation accounting for all services performed and expenses incurred. The Department will determine if the invoice is appropriately documented and the services provided meets federal and state specifications and complies with the requirements of this Agreement.

Within thirty (30) business days after the Department receives an invoice, the Department will issue a written notice of complete or partial acceptance or rejection of services. If the Department finds that the invoice and/or the services are not acceptable, it will, provide to the Contractor a writing explaining the defect, indicating issues, unacceptable items and/or requested revisions. The Contractor has ten (10) business days from the date of the writing to resubmit the invoice and services with all appropriate corrections or modifications made and/or addressed. If the work is once again determine to be unacceptable, the Contractor will
be required to provide a remediation plan that must include a timeline for corrective action acceptable to the Department. The Contractor shall be subject to all damages and remedies attributable to the late delivery of the services and available at law or equity. In the event that services must be resubmitted more than twice for Acceptance, the Contractor will be deemed in breach. The Department may terminate this Agreement without further consideration by issuing a written Notice of Termination for Default effective immediately.

Upon acceptance of the services, payment will be made to the Contractor within thirty (30) days. If payment is made by mail, the payment will be deemed tendered on the date it is postmarked. However, the agency will not incur late charges, interest, or penalties for failure to make payment within the time specified in this Section 2b.

c. Taxes.
Unless exempt, the Contractor is responsible for making payment of gross receipts taxes to the New Mexico Department of Taxation and Revenue.

3. Start Date and Term.
The Start Date of this Agreement is the date of the Notice to Proceed to the Contractor, which is after the Agreement has been fully executed and funding has been obligated for the project described in Section 1, above. This Agreement will terminate four (4) years from the date of the Notice to Proceed unless terminated pursuant to Section 4, Termination, Suspension and Delays, or Section 5, Appropriations. A professional services contract, including extensions and renewals, is limited to four (4) years, except as set forth in NMSA 1978, Section 13-1-150.

4. Termination, Suspension and Delays.
a. Termination for Convenience.
The Department may terminate this Agreement for convenience, in whole or in part, if the Department determines that termination is in its best interest. Such a notice will be in writing, and effective thirty (30) days from the date on the writing.

b. Termination for Cause.
The Department may terminate this Agreement for default for the Contractor’s failure to:
1. Perform services as detailed in Appendix A and in any amendments
2. Complete this Agreement within the timeframe specified and in any amendments
3. Comply with any material term of this Agreement

If the Department contemplates termination under the provisions of this Section 4b, the Department will issue a written notice of default, indicating issues, unacceptable items and/or requested revisions. Upon receipt of the letter, the Contractor has ten (10) business days to correct the deficiency. If the work is once again determine to be unacceptable, the Contractor will be required to provide a remediation plan that must include a timeline for corrective action acceptable to the Department. The Contractor will be subject to all damages and remedies attributable to the late delivery of the services and available at law or equity. In the event that services must be resubmitted more than twice for Acceptance, the Contractor will be deemed in breach. The Department may terminate this Agreement without further consideration by issuing a written Notice of Termination for Default effective
c. Suspension.
Work under this Agreement may be suspended by written order at the Department’s sole discretion. The Contractor is not entitled to any compensation when work is suspended. A suspension will be treated as a delay caused by the Department under Section 4d1, below, and may receive a reasonable time extension.

d. Delays.
The parties agree to perform their obligations with due diligence and to cooperate so that the project will be completed within the time frame(s) provided by Appendix A and the Notice to Proceed.

1. In the event of delays caused by the Department, the Contractor may receive a reasonable extension of time, but in no event will the Contractor terminate work for delays caused by the Department.

2. If a delay is attributable to the Contractor’s fault or to matters within its control, extensions will not be granted. The Contractor will be subject to assessment of liquidated damages.

e. Termination and Suspension Management

1. Within five (5) business days of the effective date of termination for convenience, termination for cause or suspension, the Contractor shall deliver to the Department:
   a. All design plans, construction estimates, drawings, documents, survey books and any or all other materials developed under this Agreement.
   b. Submit an engineering progress report.

2. The Contractor will be compensated only for work that was accepted prior to the termination or suspension of this Agreement.

3. The Department may withhold reasonable amounts of payments for the purpose of setoff until such a time as the exact amount of damages due from the Contractor are determined.

4. In the event of termination for convenience, there will be no payment for anticipated profit, unperformed services or unabsorbed overhead.

5. In the event of Termination for Default, the Department is entitled to recover all direct, indirect, and consequential costs for completion of the Scope of Work, Appendix A, whether performed by Department employees or by another Contractor.

5. Appropriations.
The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the Legislature of New Mexico or the Congress of the United States. If sufficient appropriations and authorizations are not made by the Legislature or the Congress, this Agreement will terminate upon written notice being given by the Department to the Contractor. The Department is not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered, and approved for expenditure by the Department. The Department’s decision as to whether its funds are available is final. If the Department proposes an amendment to unilaterally reduce funding, the Contractor has the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed
6. Confidentiality.
Any confidential information provided to or developed by the Contractor in the performance of this Agreement must be kept confidential and not made available to any individual or organization by the Contractor without prior written approval by the Department.

7. The Product of Service, Patents and Copyrights.
All documents and materials developed or acquired by the Contractor in the performance of this contract – which includes but is not limited to computer program elements, reports, tracings, drawings, estimates, field notes, investigations, design analysis, structural calculations and studies – are the property of the Department. These products of service must not be used, released, patented or copyrighted by the Contractor or by any other person except with the prior written approval of the Department. All the products of services are to be delivered to the Department no later than the termination date of this Agreement and before final payment. The Contractor is required to include this clause in all subcontracts.

8. Approval of Contractor Personnel.
Once work has started, changes of personnel may be made by the Contractor with the prior written consent of the Department. Replacement of any Contractor personnel, if approved, will be with personnel of equal ability, experience and qualifications. The Contractor will be responsible for any expenses incurred in familiarizing the replacement personnel to insure their being productive to the project immediately upon receiving assignments. Approval of replacement personnel will not be unreasonably withheld. The Department retains the right to request the removal of any of the Contractor’s personnel at any time.

9. Employment of Department Employees.
Unless approved by the Department in writing, the Contractor shall not:
   a. Employ any professional or technical employee(s) who are part time, full time, or who have been in the employment of the Department during the life of this project, or
   b. Directly or indirectly solicit, offer, promise, coerce, promote or give anything of value to any such professional or technical employee as inducement to leave the employment of the Department for any reason whatsoever.

10. Status of Contractor.
The Contractor, its employees, agents and subcontractors are intended to be independent contractors performing professional services for the Department and are not employees of the Department. The parties agree that no persons supplied by the Contractor are Department employees, and that no rights of a State of New Mexico employee, retirement or personnel rules, or use of Department vehicles or property, accrue to such persons.

The Contractor shall not in any way exercise any portion of the authority or sovereign powers of the State of New Mexico or the Department and shall not make any agreements, commitments or represent itself as an agent of the State of New Mexico or the Department.

11. Permits and Licenses.
The Contractor represents that it is properly organized under the laws of the State of New Mexico, as applicable, and is in good standing to do business in the State of New Mexico. The Contractor shall procure all permits and licenses as required by law and pay all charges, fees, royalties, and give all notices necessary and incidental to the due and lawful prosecution of the work.

12. Assignment.
The Contractor shall not assign or transfer any interest, right or obligation or assign any claims for money due or to become due without prior written approval of the Department.

The Contractor may subcontract for part of the services with prior written approval by the Department. A subcontract of $10,000 or more must contain all the provisions of this Contract.

The Contractor shall require the subcontractor to have insurance as required under Section 16 below and to name the Department as an additional insured on the Contractor’s policy. A certificate of insurance must be provided to the Department and it must state that the coverage provided under the policy is primary over any other valid insurance.

To the fullest extent permitted by law, the Contractor shall require the subcontractor to defend, indemnify and hold harmless the Department and the State of New Mexico from all actions, proceeding, claims, demands, costs, damages, attorneys’ fees and all other liabilities and expenses of any kind from any source which may arise out of the breach of this Agreement — including but not limited to breach of contract, unfair business practices, antitrust, RICO, fraud — or performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor has or is performing services pursuant to this Agreement.

14. Liability.
The Contractor shall defend, indemnify and hold harmless the Department and the State of New Mexico from all actions, proceeding, claims, demands, costs, damages, attorneys’ fees and all other liabilities and expenses of any kind from any source which may arise out of the breach of this agreement — including but not limited to breach of contract, unfair business practices, antitrust, RICO, fraud — or performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor has or is performing services pursuant to this Agreement.

In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice, notify the legal counsel of the Department and the Risk Management Division of the New Mexico General Services Department by certified mail.
The indemnification obligation is not limited by the existence of any insurance policy or by limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any subcontractor, and survives the termination of this Agreement. Money due or to become due to the Contractor may be retained, as necessary, to satisfy any outstanding claim that the Department may have against the Contractor.

The Contractor has total responsibility for the accuracy, completeness and correctness of plans and related data. Department review of the plans will be for conformity with Department procedures and state and federal standards and specifications. Review by the Department does not include a detailed review or checking of design components and related details or the accuracy with which such designs are depicted on the Contractor’s plans and reports.

All documents and materials developed or acquired by the Contractor in the performance of this contract is the property of the Department. The Contractor is liable for replacement, if these materials are destroyed or lost prior to transferring possession.

The Department does not waive its immunity and limitations of liability under the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, et Seq.

15. Insurance.
The Contractor shall procure insurance, as detailed on Appendix C, Insurance Requirements, with an insurance company authorized to do business in New Mexico. Insurance must cover all operations under this Agreement, whether performed by the Contractor, the Contractor’s agents or employees, or subcontractors. The insurance must be maintained until all obligations, including any warranty period, has been discharged. The Contractor shall provide a Certificate of Insurance, to be attached to Appendix C.

16. Records and Audit.
If this Agreement is solely state funded, the Contractor shall maintain all books, documents, papers, accounting records, and other evidence pertaining to costs incurred and to make such materials available at their respective offices at all reasonable times during the Agreement period and for five (6) years from the date of final payment.

If this Agreement is federal funded in part or in whole, the Department, the Federal Highway Administration, and the United States Comptroller General must be provided access to any books, documents, papers, and records of the Contractor which are directly pertinent to the Agreement, for the purpose of making an audit, examination, excerpts, and transcriptions. The Contractor shall make such materials available at their respective offices at all reasonable times during the Agreement period and for three (3) years from the date of final payment.

17. Release.
The Contractor, upon final payment, releases the Department, its officers, and employees, and the State of New Mexico from all liabilities, claims and obligations whatsoever arising from or under this Agreement.
18. **Equal Opportunity Compliance.**
The Contractor agrees to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. The Contractor agrees to assure that no person will be excluded, on the grounds of race, religion, color, national origin, ancestry, sex, sexual preference, age or handicap, from employment with or participation in, be denied the benefits, or be otherwise subjected to discrimination under, any program or activity performed under this Agreement. If the Contractor is found to not be in compliance with these requirements, the Contractor agrees to take appropriate steps to correct these deficiencies.

19. **Civil Rights Laws and Regulations Compliance.**
The Contractor shall comply with all federal, state and local laws and ordinances applicable to the work called for under this Agreement. The Contractor further agrees to comply with Title VI and Title VII of the Civil Rights Act of 1964, 49 CFR Part 21, the Age Discrimination Employment Act, the Americans with Disabilities Act of 1990, the ADA Amendments Act of 2008, Executive Order 12898, the Civil Rights Restoration Act of 1987, the New Mexico Human Rights Act, and Executive Order No. 11246 entitled “Equal Employment Opportunity;“ as amended by Executive Order 11375 and as supplemented by the Department of Labor regulations (41 CFR Part 60). In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements USDOT may issue.

20. **New Mexico Employees Health Coverage.**
   a. If Contractor has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Contractor certifies, by signing this agreement, to have in place, and agrees to maintain for the term of the contract, health insurance for those employees, and to offer that health insurance to those employees if the expected annual value in the aggregate of any and all contracts between Contractor and the state exceeds $250,000.
   b. Contractor agrees to maintain a record of the number of employees who have (a) accepted health insurance, (b) declined health insurance due to other health insurance coverage already in place, or (c) declined health insurance for other reasons. These records are subject to review and audit by a representative of the state.
   c. Contractor agrees to advise all employees of the availability of state publicly financed health care coverage programs

21. **Conflict of Interest.**
The Contractor warrants that it has no interest and will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services. If the Contractor serves as a representative for other entities or agencies, public or private, within the project area during the term of this Agreement, Contractor shall immediately notify the Department for evaluation of potential conflict(s). The Contractor shall comply with the New Mexico Governmental Conduct Act, the New Mexico Financial Disclosures Act and the campaign disclosure provisions of the New Mexico Procurement Code. The Contractor has completed the **Campaign Contributions Disclosure Form, Appendix DE**.

22. **Certifications.** *(Applicable to federally funded agreements)*
Attached to this Agreement as **Appendix D, Certifications** are: the No Solicitation of Contract Certification of Contractor; the No Solicitation of Contract Certification of the Department and, if applicable, the Standard Form LLL – Disclosure of Lobbying Activities.

The Contractor certifies by signing this Agreement that to the best of its knowledge and belief:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any Federal 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, extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. In addition to the Certification in paragraph a above, 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 Federal 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 of Lobbying Activities.”

c. 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 Title 31 U.S.C. Section 1352. Any person who fails to file the required certification will be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

d. The Contractor also agrees by signing this Agreement/Amended Agreement that it shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such subcontractors shall complete and submit certify Standard Form-LLL, “Disclosure of Lobbying Activities,” in accordance with its instructions.

23. **Disadvantaged Business Enterprise (DBE).** *(Applicable to federal-funded agreements)*

In accordance with 49 CFR 26 or as may be amended, the Contractor shall agree to abide by and take all necessary and reasonable steps to comply with the following:

a. DBE Policy: It is the policy of the Department to implement the provisions of 49 CFR 26, other pertinent regulations, and source legislation. The objectives are to:
   1. Ensure nondiscrimination in the award and administration of United States Department of Transportation (USDOT)-assisted contracts in the USDOT’s highway, transit, and airport financial assistance programs;
   2. Create a level playing field on which DBE’s can fairly compete for USDOT-assisted contracts;
   3. Ensure that the Department’s DBE Program is narrowly tailored in accordance with
applicable law;
4. Ensure that only firms that fully meet the eligibility standards specified in 49 CFR 26 are permitted to participate as DBE’s;
5. Help remove barriers to the participation of DBE’s in USDOT-assisted contracts; and
6. Assist the development of firms that can compete successfully in the marketplace outside the DBE Program.

b. DBE Goal: The Department will establish the state DBE goal on a tri-annual basis. The Federal Fiscal Year <<Insert>> DBE goal is <<Insert>>% for federal aid highway construction and design of which <<Insert>>% will be attained through race neutral measures and <<Insert>>% through race-conscious measures.

c. Record Keeping Responsibilities: The Contractor is responsible to assure that its DBE liaison officer completes and submits the appropriate forms required by the DBE Program to the Department’s project manager or to the Department’s Construction and Civil Rights Bureau/DBE Program at the following address:

New Mexico Department of Transportation
Construction and Civil Rights Bureau
1570 Pacheco Street, Suite A10
Santa Fe, New Mexico 87505

d. Department’s DBE Program: The Department’s DBE Program as required by 49 CFR 26 and as approved by USDOT, is incorporated by reference and made part of this Agreement. If any provision of the DBE Program conflicts with 49 CFR 26, the provision of 49 CFR 26 will prevail. Implementation of this program is a legal obligation and failure to carry out its terms will be treated as a violation of this Agreement. Upon notification to the Contractor of its failure to carry out the terms and conditions of the DBE Program, the Department may impose sanctions as provided for under 49 CFR 26 and may, in appropriate cases, refer the matter for enforcement under 18 USC 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 USC 3801 et seq.). From time to time, the Department might receive interpretations from USDOT, which will be binding on the Department and Contractors.

e. DBE Obligations: The Department and the Contractor agree to ensure that DBEs, as defined in 49 CFR 26, will have the maximum opportunity to participate in the performance of services and work financed in whole and in part with federal funds under the Agreement.

In this regard, the Contractor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contracts. The Contractor shall carry out applicable requirements of 49 CFR 26 in the award and administration of USDOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of contract, which may result in the termination of the contract or such other remedy as the Department deems appropriate may include, but is not limited to (i) withholding monthly progress payments; (ii) assessing sanctions; (iii)
liquidated damages; and/or (iv) disqualifying the Contractor from future bidding and non-responsive.

This Agreement is governed by the laws of the State of New Mexico and, if federally funded, the laws of the United States of America, including but not limited to the regulations, policies, procedures and directives of the United States Department of Transportation.

The New Mexico Procurement Code, NMSA 1978 Sections 13-1-28, et seq., the state’s criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks. Violation of federal laws and regulations could result with the loss of federal funds as well as penalties under 18 U.S.C. Section 1001.

The Contractor acknowledges the jurisdiction of the courts of the State of New Mexico over any adversarial proceedings arising out of this Agreement and that venue for any such proceeding will be in the First Judicial District Court for the County of Santa Fe, New Mexico.

25. Merger.
This Agreement constitutes the entire understanding between the parties with respect to the subject matter, and supersedes all other agreements, whether written or oral, between the parties.

This Agreement does not confer any rights or remedies on anyone other than the Department and the Contractor.

27. Severability.
If any term or condition of this Agreement is held invalid or unenforceable, the remainder of this Agreement will not be affected and will be valid and enforceable.

28. Enforcement of Agreement.
A party's failure to require strict performance of any provision of this Agreement will not waive that party's right thereafter to demand strict compliance with that or any other provision. No waiver will be effective unless in writing, and no effective waiver by a party of any of its rights will be effective to waive any other rights.

29. Appendices.
The following are a part of this Agreement:
   Appendix A, Scope of Work
   Appendix B, Compensation/Rates
   Appendix C, Insurance Requirements
   Appendix D, Certifications (Applicable to federally funded agreements)
   Appendix E, Campaign Contributions Disclosure Form

30. Amendment.
This Agreement may be amended by an instrument in writing executed by the parties. An amendment may include modifications to the Scope of Work, Appendix A, when unanticipated
changes in the character of the work require a change in the nature of the design. The Scope of Work for project-specific agreements may involve up to three phases and take a phase-by-phase approach, requiring amendments to add new phases.

<<Add below sentence if page is quarter or more blank:
The remainder of this page in intentionally left blank. >>
In Witness Whereof, each party is signing this Agreement on the date stated opposite that party’s signature. Signatures are dated for reference purposes only.

New Mexico Department of Transportation

By: ________________________________ Date: __________________
   Cabinet Secretary or Designee

<<Insert Company Name >>

By: ________________________________ Date: __________________
Print Name: __________________________
Title: ________________________________

Approved as to form and legal sufficiency by the Department’s Office of General Counsel.

By: ________________________________ Date: __________________
   Assistant General Counsel

I hereby certify that, <<Insert Company Name >> tax identification number, <<Insert>> is registered with the New Mexico Taxation and Revenue Department for payment of gross receipt taxes.

Taxation and Revenue Department

By: ________________________________ Date: __________________
Appendix A
Scope of Work
Project Specific

1. Services to be Performed:
Provide Project Specific services as identified in this Scope of Work. Contractor shall not proceed until it has received a Notice to Proceed.

2. The Contractor shall:
   a. Meet the standards, effective at the Start Date of this Agreement and as amended, in the:
      1. The New Mexico Department of Transportation Standard Specifications for Highway and Bridge Construction.
      4. Standards established by the American Association of State Highway and Transportation Officials, the American Society for Testing and Materials.
      5. Department Infrastructure Design Directives, Design Manual and any other applicable policies and procedures.
   b. Comply with deadlines and/or completion dates identified below.
   c. Fully perform the work detailed in the Scope of Work.
   d. Provide accurate, complete, and correct plans and related data.
   e. Attend field inspections, conferences, or public meetings as required by the project and the Department.
   e. Maintain a New Mexico Office and a New Mexico Professional Contractor registration, as applicable.

3. Department Review.
Department review of the plans will be for conformity with Department procedures and state and federal standards and specifications. Review by the Department does not include a detailed review or checking of design components and related details or the accuracy with which such designs are depicted on the Contractor’s plans and reports.

4. Completion dates:

5. Scope of Work:
The following describes the required tasks and subtasks to be performed by the Contractor.

<<Attach Scope of Work >>
Appendix B

Compensation/Rates

Project Specific

**Total Compensation:** Up to $---------------- **<<Choose all that apply:** for this single phase project / Phase I A/B, C, D; Phase II; Phase III. **>>** This amount does not include GRT.

**New Mexico GRT:** The Department will pay GRT at the rate applicable at the time of service. Contractor shall include GRT in each invoice.

**Rates:** The Contractor’s Unit Rate Schedule and Certification of Final Indirect Costs, if applicable, is attached to this Appendix B.

**Multi-Phase Project:** The Contractor shall be paid based on the compensation, unit rate schedule, applicable GRT, and if any completion dates, liquidated damages and retainage will apply. The Contractor shall commence work upon receiving a **Notice to Proceed,** which will include any completion dates.

**Method of Payment:** **<<Choose one:** Lump Sum Upon Completion / Monthly Invoice / Quarterly Invoice. **>>**

**Liquidated Damages:** **<<Choose one:** Yes / No **>>**
If the Contractor fails to meet completion dates in **Appendix A** on which liquidated damages apply, the Department will assess Two Hundred Fifty Dollars ($250) for each day of delay or one-quarter of one percent per day of the Contractor’s sum fee, which ever is less. Liquidated damages will be withheld from final payment. If the liquidated damages exceed the retainage due, the Contractor shall be liable to pay the Department the amount of such excess.

The terms “satisfactory completion” or “satisfactorily completed” for the purpose of assessing liquidated damages mean:

a. Return in satisfactory condition all of the Department’s loaned documents and materials, including survey books and field notes; and

b. Delivery of Contractor’s work product including, the design information, standard drawings, field notes and other pertinent documents. Such delivery means actual transfer of possession in the form approved by the Department incorporating all required plan corrections and clarifications.

c. Acceptance, in writing, by the Department of the Contractor’s work.

If the Contractor is unable to meet completion dates for reasons beyond its control, the Contractor may request an extension. Such a request must be made in writing no later than thirty (30) days before the completion date. The Department may extend the completion dates, which will be done in writing.
Retainage:  <<Choose one: Yes / No >>
If indicated above, the Department will hold as retainage 5%. The Department will pay for work performed until payments made equal 95% of the total amount for the applicable Phase. The remaining 5% Retainage will be paid upon satisfactory completion of Services, respectively. All amounts retained will be released to the Contractor upon project completion and acceptance.
Appendix C

Insurance Requirements

The Contractor shall procure insurance, as detailed below, and provide a Certificate of Insurance, which is attached to this Appendix C. The limits cited below are minimum limits. The Department does not intend that these limits define what constitutes adequate insurance coverage. The insurance coverage required in no way limits the Contractor’s liability under this Agreement.

The Contractor may purchase an umbrella or excess policy to secure these limits. Any umbrella or excess insurance must follow form equal to or broader in coverage than the underlying insurance requirements, including but not limited to additional insurance endorsement.

1. Minimum Scope and Limits

   a. General Liability – Occurrence Form
      The Policy must include the following:
      1. Personal and Bodily Injury: $1,000,000 each person; $2,000,000 each occurrence (annual aggregate)
      2. Property Damage: $2,000,000 each occurrence (annual aggregate)
      3. Products – Completed Operations Aggregate: $1,000,000. Products and completed operations coverage must be maintained for three (3) years after completion of design
      4. Personal and Advertising Injury: $1,000,000
      5. Blanket Contractual Liability – Written and Oral: $1,000,000
      6. Damage to Rented Premises: $50,000
      7. Each Occurrence: $1,000,000

   b. Business Automobile Liability:
      The Policy must cover all vehicles, owned, hired and/or non-owned used in the performance of this Agreement.
      1. Personal and Bodily Injury: $1,000,000 each person; $2,000,000 each occurrence (annual aggregate)
      2. Property Damage: $2,000,000 each occurrence (annual aggregate)

   c. Professional Liability (Errors and Omissions)
      1. Each Claim, $1,000,000
      2. Annual Aggregate, $2,000,000

In the event that the Professional liability insurance is written on a claims-made basis, the Contractor warrants that any retroactive date under the policy must precede the effective date of this Agreement; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of three (3) years beginning at the time work under this Agreement is completed.
d. Workers Compensation and Employers Liability
   1. Workers Compensation: Comply with statutory requirements, as amended, under
      the New Mexico Worker’s Compensation Act (NMSA 1978, Sections 52-1-1 et seq.) and the New Mexico Occupational Disease Disablement Law (NMSA 1978, Sections 52-3-1 et seq.).
   2. Employers’ Liability
      i. Each Accident: $1,000,000
      ii. Disease – Each Employee: $1,000,000
      iii. Disease – Policy Limit: $1,000,000

e. Aircraft Liability – Per Occurrence Form (if applicable)
   If the Contractor or its subcontractor will be using aircraft to perform any portion of
   this Agreement, then aircraft liability must be provided. The policy must include
   bodily injury, property damage, personal injury and broad form contractual liability.
   1. Products – Completed Operations Aggregate: $1,000,000
   2. Personal and Advertising Injury: $1,000,000
   3. Hangarkeepers Liability: $1,000,000
   4. Per Seat Limit: $1,000,000
   5. Blanket Contractual Liability – written and oral: $1,000,000
   6. Fire Legal Liability: $50,000
   7. Each Occurrence: $5,000,000

f. Valuable Papers Coverage
   Valuable papers insurance must be included in the policy for a minimum of $25,000 or in
   a higher amount sufficient assure the restoration of any document, memoranda, plans,
   specifications, drawings, media, computer files, data or other information related to the
   work of the Contractor in the completion of this Agreement.

2. Additional Insured
   The General, Automobile and Aircraft Liability policies must name the Department as an
   additional insured. The form must conform to the most current version of the Insurance
   Services Office’s CG 2010, Additional Insured Endorsement Form. The Certificate of
   Insurance must state that the coverage provided under each policy is primary over any other
   valid and collectible insurance. Such additional insured must be covered to the full limits of
   liability purchased by the Contractor, even if those limits are in excess of those required by
   this Agreement.

3. Certificate of Insurance
   The Contractor shall provide a Certificate of Insurance evidencing the above insurance
   before the Department issues a Notice to Proceed. The Certificate of Insurance must be
   made part of this Agreement. The Contractor shall provide a Certificate of Insurance to the
   Department on renewal of a policy or policies as necessary during the term of the Agreement.
Appendix D

Contract No.
Vendor No.
Project No.
Control No.

NO SOLICITATION OF CONTRACT

CERTIFICATION OF ENGINEER

I certify that I am the (title) ______________________ and authorized representative of ________________________________, whose address is ____________________________ and that neither I nor the above firm I represent has:

a. Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit or secure this Contract.

b. Agreed, as an express or implied condition for obtaining the contract, to employ or retain the services of any firm or person in connection with carrying out the Contract, or

c. Paid, or agree to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above consultant) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the Contract.

d. As Per OMB Circular A-133 Compliance Supplement, 2015, or as amended, ____________________________ certifies that the organization and its principals are (FIRM) not suspended or debarred.

Except as here expressly stated (if any):

I acknowledge that this certification is to be furnished to the New Mexico Department of Transportation and the Federal Highway Administration, U.S. Department of Transportation (if applicable), in connection with this Contract involving participation of Federal Aid highway funds (if applicable), and is subject to applicable State and Federal laws, both criminal and civil.

By: ___________________________ Date: __________
Engineering Firm: ____________________________

NO SOLITITATION OF CONTRACT

CERTIFICATION OF NEW MEXICO DEPARTMENT OF TRANSPORTATION

I, ____________________________, as Deputy Secretary or Designee of the Department of Transportation of the State of New Mexico certify, that the above Engineering firm or its representative has not been required directly or indirectly as an express or implied condition in connection with obtaining or carrying out this Contract to:

a. Employ or retain, or agree to employ or retain, any firm or person or,

b. Pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind.

Except as here expressly stated (if any):

I acknowledge that this certificate is to be furnished to the Federal Highway Administration, U.S. Department of Transportation (if applicable), in connection with this Contract involving participation of Federal Aid highway funds (if applicable), and is subject to applicable State and Federal laws, both criminal and civil.

By: ____________________________ Date: _________
**Appendix E**

**DISCLOSURE OF LOBBYING ACTIVITIES**

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

(See reverse for public burden disclosure.)

1. **Type of Federal Action:**
   - [ ] contract
   - [ ] grant
   - [ ] cooperative agreement
   - [ ] loan
   - [ ] loan guarantee
   - [ ] loan insurance

2. **Status of Federal Action:**
   - [ ] bid/offer/application
   - [ ] initial award
   - [ ] post-award

3. **Report Type:**
   - [ ] initial filing
   - [ ] material change

   **For Material Change Only:**
   - year ______ quarter _______
   - date of last report _______

4. **Name and Address of Reporting Entity:**
   - [ ] Prime
   - [ ] Subawardee

   **Tier ______, if known:**

5. **Congressional District, if known:**

6. **Federal Department/Agency:**

7. **Federal Program Name/Description:**

8. **Federal Action Number, if known:**

9. **Award Amount, if known:**

10. **a. Name and Address of Lobbying Entity**
    (if individual, last name, first name, MI): 

    **(attach Continuation Sheet(s) SF-LLL.A, if necessary)**

11. **Amount of Payment (check all that apply):**

    $ ____________

    [ ] actual

    [ ] planned

12. **Form of Payment (check all that apply):**

    [ ] a. cash

    [ ] b. in-kind; specify: nature _________

    value _________

13. **Type of Payment (check all that apply):**

    [ ] a. retainer

    [ ] b. one-time fee

    [ ] c. commission

    [ ] d. contingent fee

    [ ] e. deferred

    [ ] f. other; specify: ___________________

14. **Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:**

    **(attach Continuation Sheet(s) SF-LLL.A, if necessary)**

15. **Continuation Sheet(s) SF-LLL.A attached:**

    [ ] Yes

    [ ] No

16. **Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of facts upon which reliance was placed by the entity above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.**

    **Signature:** ____________________________

    **Print Name:** __________________________

    **Title:** ________________________________

    **Telephone No.:** ________________________

    **Date:** ____________________________

**Authorized for Local Reproduction**

**Standard Form LLL (Rev. 7-97)**
INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity 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 a covered Federal action. Use the SF-LLL Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subawardee recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (Item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/ proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

   (b) Enter the full names of the individuals performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.

12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.

13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.

14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.

15. Check whether or not a SF-LLL Continuation Sheet(s) is attached.

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.
APPENDIX C: ACKNOWLEDGEMENT OF RECEIPT FORM

Request for Proposals No. 20-40
CN: 2104330
NM 31/NM 128 Design Build Project Management Engineering Services

In acknowledgement of receipt of this Request for Proposal the undersigned agrees that he/she has received a complete copy, beginning with the title page and ending with “Appendix I”.

The acknowledgement of receipt should be signed and returned to the Procurement and Facilities Management Division, NMDOT, by the close of business on March 16, 2020. Only potential Offerors who elect to return this completed form will receive copies of RFP amendments, if any are issued. The following information will be used for all correspondence related to this Request for Proposals.

FIRM: _________________________________________________________________

REPRESENTED BY: _____________________________________________________

TITLE: ________________________________ PHONE NO.: ________________

E-MAIL: ___________________________ FAX NO.: ________________________

ADDRESS: _____________________________________________________________

CITY: __________________________ STATE: ________ ZIP CODE: ___________

SIGNATURE: ___________________________________ DATE: _________________

Please return completed form to the name and address listed below.

Margo Gomez
New Mexico Department of Transportation
Procurement and Facilities Management Division
PO Box 1149, Room #113
Santa Fe, New Mexico 87504-1149
Ph. (505) 470-2784
E-Mail: Margo.Gomez@state.nm.us
Offerors shall list all current contracts with the NMDOT, containing similar work(s) to the scope of work as contained in the RFP. This form shall only include the contract(s) that the proposing Offeror has with the NMDOT; subcontractor information is not required.

FIRM: __________________________ DATE: __________

Table A – Project Specific Contracts

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<tr>
<th>PROJECT DIRECTLY AWARDED TO FIRM</th>
<th>CONTRACT DATE</th>
<th>CONTRACT AMOUNT (in dollars $)</th>
<th>% COMPLETE TO DATE</th>
<th>CONTRACT AMOUNT EXPENDED TO DATE (in dollars $)</th>
<th>CONTRACT REMAINING BALANCE (in dollars $)</th>
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## Table B – On-call Contracts

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<th>PROJECT DIRECTLY AWARDED TO FIRM</th>
<th>CONTRACT DATE</th>
<th>CONTRACT AMOUNT</th>
<th>TOTAL AMOUNT TASKED OUT TO DATE (in dollars $)</th>
<th>% OF TASKED OUT WORK COMPLETE TO DATE</th>
<th>TOTAL TASKED OUT WORK EXPENDED TO DATE (in dollars $)</th>
<th>TOTAL REMAINING BALANCE OF TASKED OUT WORK (in dollars $)</th>
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**Notes:**
1. If any award is not proceeding in contract negotiations, please indicate the status in the "Remarks" below.
2. Fees do not include reimbursable expenses, which include: travel, per diem, printing, telephone or reproduction cost.
3. Federal funds shall be included in project calculations pursuant to 13-1-120B (6).
4. Any Award of Contract that has not resulted in a written contract offer to the Offeror, within 6 months of written notice, shall not be considered an award for the purposes of the Project Listing Form.
5. Contact the person designated in Section I, Paragraph D if there are ANY questions regarding the correct completion of this form. (Use additional sheets if necessary).

**REMARKS:**
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)
—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)
APPENDIX F: NEW MEXICO EMPLOYEES HEALTH COVERAGE FORM

1. For all contracts solicited and awarded on or after January 1, 2008: If the Offeror has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Offeror must agree to:

(a) have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2008 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed one million dollars or;

(b) have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2009 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed $500,000 dollars or

(c) have in place, and agree to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2010 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed $250,000 dollars.

2. Offeror must agree to maintain a record of the number of employees who have (a) accepted health insurance; (b) decline health insurance due to other health insurance coverage already in place; or (c) decline health insurance for other reasons. These records are subject to review and audit by a representative of the state.

3. Offeror must agree to advise all employees of the availability of State publicly financed health care coverage programs.

4. For Indefinite Quantity, Indefinite Delivery contracts (price agreements without specific limitations on quantity and providing for an indeterminate number of orders to be placed against it); these requirements shall apply the first day of the second month after the offeror reports combined sales (from state and, if applicable, from local public bodies if from a state price agreement) of $250,000, $500,000 or $1,000,000.

Signature of Offeror: ___________________________ Date __________
## APPENDIX G

Proposed Work Participation Chart

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<thead>
<tr>
<th>Role</th>
<th>Firm Name</th>
<th>% of Project</th>
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APPENDIX H

New Mexico Department of Transportation
DESIGN OR OTHER CONSULTANT
OFFEROR’S LIST

Consulting Firm: ___________________________ Control No. ___________________________

Contact Name: ____________________________ RFP Number __________________________

Consulting Firm Address: ________________________________
Telephone: _______________ Fax: _____________ E-Mail: __________________

The Offeror’s List will include all sub-consultants contacted by the prime design consultants for consideration for the design team. Failure to submit this form at the time of submittal of the consultant proposal will render the proposal non-responsive.

ALL SUB-CONSULTANTS:

<table>
<thead>
<tr>
<th>NAME</th>
<th>ADDRESS</th>
<th>TELEPHONE</th>
<th>STATUS: DBE / NON-DBE</th>
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I, ______________________________ (NAME), __________________________ (TITLE) for the firm of ________________________________, an Offeror for the New Mexico Department of Transportation (Department) on the above-mentioned project, agree that ____________________________________ (FIRM NAME) will maintain the confidentiality of all information designated by the Department as “draft” or “confidential” that is gained as a result of our involvement in the above-mentioned project. This includes proprietary information and information designated confidential in accordance with 1.4.1.45 NMAC, and NMSA 1978, Section 13-1-39 (1984).

_________________________________________ (FIRM NAME) will maintain security and control over all documents containing such confidential information in our custody.  
_________________________________________ (FIRM NAME) will not make copies of any documents, nor remove documents from the assigned locations, and will return documents to the Department when work with the documents is complete.

_________________________________________ (FIRM NAME) will not divulge any confidential information to the media, any member of the public, or any employee of the consultant not involved in this project without the consent of the Department.

Furthermore, ________________________________ (FIRM NAME) agrees not to accept gratuities or favors in exchange for such confidential information. The New Mexico State Procurement Code, NMSA 1978 13-1-28 through 13-1-199, imposes civil and criminal penalties for its violation.

This agreement is subject to the laws of the State of New Mexico, and all applicable rules and regulations.

Signed: ________________________________ Date: __________________________