



**INVITATION TO BID (ITB)**

ITB Name: **SEPTIC SERVICES AND PORTA POTTY RENTAL AND RELATED SERVICES**

ITB Number: **2024-008B** NIGP Commodity Code: **98808, 15570**

**Bids Due No Later Than:**

Date: **January 24, 2024** Time: **1:00 pm local time**

**Return Bid To:**  
**Village of Ruidoso**  
**Purchasing Department**  
**313 Cree Meadows Drive**  
**Ruidoso, NM 88345**

**Formal Sealed Bid Opening:**

Place: **Village of Ruidoso, 313 Cree Meadows, Ruidoso, NM**  
**To occur immediately following due date/time**

If you have questions regarding this ITB please contact:

Procurement Manager

Telephone No.: 575-258-4343 x1081

Email: [purchasing@ruidoso-nm.gov](mailto:purchasing@ruidoso-nm.gov)

**Bidder MUST complete as applicable and sign the following for Bid to be valid (type or print clearly):**

Company Name: \_\_\_\_\_ Address: \_\_\_\_\_

DBA (if applicable): \_\_\_\_\_

Co. Email: \_\_\_\_\_ Co. Phone No. \_\_\_\_\_

NM Gross Receipts Tax # (CRS): \_\_\_\_\_ Federal Tax ID #: \_\_\_\_\_

Payment terms: \_\_\_\_\_ (Discount will not be considered in computing the low bid, see "Terms and Conditions")

F.O.B. Point must be Destination, unless otherwise indicated by the Village of Ruidoso Purchasing Agent

Authorized Signature: \_\_\_\_\_ Print or Type Name: \_\_\_\_\_

Signatory Email: \_\_\_\_\_ Phone No.: \_\_\_\_\_

**IMPORTANT – All bids must be submitted in a sealed envelope or package and must be clearly labeled with the bidder’s name and address, the bid number, title, and opening date and time on the front of the envelope, bottom left-hand side.** Sealed bids will be received at the above address until specified due date and time. Late submission of bids will not be accepted. Sealed bids will be publicly opened in the Village of Ruidoso Council Chambers. Bids are subject to the specifications set forth in this document, and any additional bidding instructions or requirements issued by the Village of Ruidoso.

**NOTE: If you decide not to bid, do not return this document.**

It is your responsibility as a Bidder to ensure your bid is correct and accurate.

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Village of Ruidoso  
Purchasing Department

## **A. INSTRUCTION TO BIDDERS**

### **1. Viewing ITB:**

Bidders can access active procurements at the following site:

<https://www.ruidoso-nm.gov/purchasing>

Complete bid documents as required by the ITB specifications and submit any required documentation, supporting materials, certificates, etc. in addition to bid documents.

### **2. Submitting Bids:**

Hard copy submission delivered by US mail, courier, or in person to:

Village of Ruidoso, Purchasing Department  
313 Cree Meadows Drive  
Ruidoso, NM 88345

**All bids must be submitted in a sealed envelope or package and must be clearly labeled with the bid number and opening date and time on the front of the envelope on the bottom left-hand side.** Sealed bids will be received, and time stamped at the above address until specified due date and time.

**It is the responsibility of the bidder to see that the bid arrives on time.**

The Village of Ruidoso is a rural community. Be aware that some delivery services do not guarantee overnight priority delivery to the Village of Ruidoso. Overnight deliveries may not arrive by the submission deadline. Please plan accordingly.

**Late submission of Bids WILL NOT BE ACCEPTED.**

### **3. Bid Opening:**

Sealed bids will be publicly opened in the Village of Ruidoso Council Chambers. Bids are subject to “Terms and Conditions” as shown on the attached pages of this document and any additional bidding instructions or requirements. If you decide not to bid, do not return this ITB document.

### **4. Additional Bidder Information:**

All resident businesses/contractors and resident veteran business/contractors must have qualified and obtained preference certification from the NM Department of Taxation & Revenue prior to the deadline for receipt of bids. For the appropriate preference to be applied to any bid, there must be no federal funds involved in the procurement, and bidder must submit a copy of their preference certificate with their bid.

**Business Preference Certification applications are available for download at:**

[Business Preference Certification : Businesses \(newmexico.gov\)](#)

### **5. Technical Questions:**

Contact the Village of Ruidoso Procurement Manager listed on the front page of this ITB.

# **I. SPECIFICATIONS, TERMS AND CONDITIONS**

## **A. PURPOSE OF THIS INVITATION TO BID**

The purpose of the Invitation to Bid (ITB) is to solicit competitive sealed bids for the procurement of **Septic Services and Porta Potty Rentals and Related Service** for the Village of Ruidoso (Village).

The Village is looking for a cost-effective solution to properly equip the Village with septic services and porta potty rentals and cleaning.

## **B. BACKGROUND INFORMATION**

The Village of Ruidoso currently utilizes septic services and porta potty rentals to include vault pumping of restrooms (up to 5 restrooms), pumping of portable trailer toilets, pumping of septic tanks and grease traps at Eagle Creek Sports Complex, rental of long term porta potties with cleanings, rental of short term porta potties with cleanings including handicap units, and rental of hand washing stations.

The Village currently utilizes porta potty rental services for Grindstone and Alto Lakes, as well as various special events throughout the year. Vault restrooms are located at Grindstone Lake (2), Alto Lake (1), Moon Mountain Disc Golf Course (1), and a soon to be vault restroom at Oso Disc Gold Course on the Ski Area Road (1).

This section is for informational purposes and is not a guarantee that the same services will be utilized each year or given to each contractor.

## **C. SCOPE OF PROCUREMENT**

The Village is seeking bids for a multi award of Septic Services and Porta Potty Rentals and Related Services as outlined in Appendix K, attached and/or incorporated herein.

It is anticipated that the awards under this ITB will result in multiple contracts that will be for an initial term of one (1) year with an option to renew for up to three (3) additional one-year terms. The awards shall be made to the responsible offeror(s) whose bid is the most advantageous to the Village. Prices will remain in effect for one full year. After the first year, the bidder may negotiate prices based on the submitted percentage increase in the Cost Response (Appendix C). The Village reserves the right to accept the percentage increase as proposed by the bidder or to negotiate for a better price at contract renewal time.

## **D. PROCUREMENT MANAGER**

1. The Village of Ruidoso has assigned a Procurement Manager who is responsible for the conduct of this procurement whose name, address, telephone number and e-mail address are listed below:

Name: Procurement Manager  
Address: 313 Cree Meadows Drive, Ruidoso, NM 88345  
Telephone: (575) 258-4343, Ext. 1081  
Email: purchasing@ruidoso-nm.gov

2. All deliveries of responses via express carrier or other method must be addressed as follows:

Name: Procurement Manager  
ITB Name: ITB #2024-008B Septic Services and Porta Potty Rental & Services  
Address: Village of Ruidoso, Purchasing Department,  
313 Cree Meadows Dr, Ruidoso, NM 88345

3. **Any inquiries or requests** regarding this procurement should be submitted, in writing, to the Procurement Manager. Bidders may contact **ONLY** the Procurement Manager regarding this procurement. Other village employees do not have the authority to respond on behalf of the Village. **Protests of the solicitation or award must be delivered by mail to the Procurement Manager.** The Procurement Manager shall act as a Protest Manager as pursuant to NMSA 1978, § 13-1-172. **ONLY** protests delivered directly to the Procurement Manager in writing by the protest deadline indicated in Section II., A. Sequence of Events. Protest Deadline will be considered to have been submitted properly and in accordance with statute, rule, and this Invitation to Bid. Emailed protests will not be considered as properly submitted.

## **E. DEFINITION OF TERMINOLOGY**

This section contains definitions of terms used throughout this procurement document, including appropriate abbreviations:

“**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 8:00 AM thru 5:00 PM Mountain Standard or Mountain Daylight Time, whichever is in effect on the date given.

“**Close of Business**” means 5:00 PM Mountain Standard or Daylight Time, whichever is in use at that time.

“**Confidential**” means confidential financial information concerning Bidder’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 Invitation to Bid 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 the Village of Ruidoso.

**“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.

**“Electronic Version/Copy”** means a digital form consisting of text, images, or both readable on computers or other electronic devices that includes all content that the Original and Hard Copy Bids contain. The digital form may be submitted using a USB flash drive. The electronic version/copy can NOT be emailed.

**“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.

**“Mandatory”** – the terms "must", "shall", "will", "is required", or "are required," identify a mandatory item or factor. Failure to meet a mandatory item or factor will result in the rejection of the Bid.

**“Minor Technical Irregularities”** means anything in the Bid 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 Bidder.

**“Bidder”** is any person, corporation, or partnership who chooses to submit a Bid.

**“Procurement Manager”** means any person or designee authorized by the Village of Ruidoso to administer procurements and make written determinations with respect thereto.

**“Procuring Agency”** means all Village of Ruidoso 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.

**“Redacted”** means a version/copy of the Bid with the information considered confidential as defined by NMAC 1.4.1.45 and defined herein and outlined in Section II.C.8 of this ITB blacked out BUT NOT omitted or removed.

**“Invitation to Bid (ITB)”** means all documents, including those attached or incorporated by reference, used for soliciting Bids.

**“Responsible Bidder”** means a Bidder who submits a responsive Bid and who has furnished, when required, information and data to prove that their 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 Invitation to Bid.

**“Responsive Bid”** means a bid which conforms in all material respects to the requirements set forth in the Invitation to Bid. Material respects of an Invitation to Bid include, but are not limited to price, quality, quantity, or delivery requirements.

**“Sealed”** means, in terms of a non-electronic submission, that the Bid 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 Village 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 Bid, the Bidder 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 Bidders’ company.

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

**“Unredacted”** means a version/copy of the Bid containing all complete information including any that the Bidder would otherwise consider confidential, such copy for use only for the purposes of evaluation.

**“Village” or “VOR”** means the Village of Ruidoso

**“Written”** means typewritten on standard 8 ½ x 11-inch paper. Larger paper is permissible for charts, spreadsheets, etc.

## **F. PROCUREMENT LIBRARY**

A procurement library has been established. Offerors are encouraged to review the material contained in the Procurement Library by selecting the link provided in the electronic version of this document through your own internet connection. The library contains information such as the electronic version of this ITB, Questions & Answers, and ITB Amendments.

<https://www.ruidoso-nm.gov/purchasing>



## II. CONDITIONS GOVERNING THE PROCUREMENT

This section of the Invitation to Bid (ITB) #2024-008B **Septic Services and Porta Potty Rental and Related Services** contains the schedule, description and conditions governing the procurement.

### A. SEQUENCE OF EVENTS

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

Action	Responsible Party	Due Dates - Time Frames
1. Issue ITB	VOR	January 5, 2024
2. Acknowledgement Receipt Form (Appendix A)	Potential Bidders	January 16, 2024 by 5:00 pm local time
3. Pre-Bid Conference	VOR	None
4. Deadline to submit Questions	Potential Offerors	January 16, 2024 by 5:00 pm local time
5. Response to Written Questions	Procurement Manager	January 18, 2024 by 5:00 pm
<b>6. Submission of Bid</b>	<b>Potential Offerors</b>	<b>January 24, 2024 @ 1:00 pm Local Time</b>
7. Bid Evaluation	VOR	January 24, 2024
8. Finalize Contractual Agreement	VOR/Bidder	January 26, 2024
9. Contract Awards	VOR/ Bidder	February 13, 2024
10. Protest Deadline	VOR	Close of Business, 15 Days after award date

\*Dates indicated in Events 7 through 10 are estimates only, and may be subject to change without necessitating an amendment to the ITB

### B. EXPLANATION OF EVENTS

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

#### 1. Issuance of ITB

This ITB is being issued on behalf of the Village of Ruidoso.

#### 2. Acknowledgement of Receipt

Potential Bidders should hand deliver, return by facsimile, email the Procurement Manager or registered or certified mail the "Acknowledgement of Receipt of Invitation to Bid Form" that accompanies this document, Appendix A, 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 to the Procurement Manager as referenced in Section II. A. Sequence of Events.

The procurement distribution list will be used for the distribution of written responses to questions or any other communication. Failure to return the Acknowledgement of Receipt form shall constitute a presumption of receipt of the ITB, and the potential Bidder's organization name shall not appear on the distribution list.

### **3. Pre-Bid Conference**

No Pre-Bid conference will be held. Bidders are encouraged to submit written questions as per Section II Sequence of Events.

### **4. Deadline to Submit Written Questions**

Potential Bidders may submit written questions to the Procurement Manager as to the intent or clarity of this ITB until Close of Business referenced in II., A. Sequence of Events. All written questions must be addressed to the Procurement Manager as declared in Section I., C. Questions shall be clearly labeled and shall cite the Section(s) in the ITB or other document which form the basis of the question.

### **5. Response to Written Questions**

Written responses to written questions will be distributed as indicated in the sequence of events to all potential Bidders whose organization name appears on the procurement distribution list. An e-mail copy will be sent to all Bidder's that provide Acknowledgement of Receipt Forms before the deadline. Additional copies will be posted to: [www.ruidoso-nm.gov/purchasing](http://www.ruidoso-nm.gov/purchasing)

### **6. Submission of Bid**

ALL BIDS MUST BE RECEIVED FOR REVIEW AND EVALUATION BY THE PROCUREMENT MANAGER OR DESIGNEE NO LATER THAN THE DATE AND TIME PROPOSED IN SECTION II., A. Sequence of Events. Bids received after this deadline will not be accepted. The date and time of receipt will be recorded on each Bid.

Bids must be addressed and delivered to the Procurement Manager at the address listed in Section I., C. Bids must be sealed and labeled on the outside of the package to clearly indicate that they are in response to **ITB #2024-008B Septic Services and Porty Potty Rental and Related Services**. Bids submitted by facsimile, or other electronic means will not be accepted.

Bids will be opened publicly in the presence of one or more witnesses at the time and place designated in the Invitation for Bids. The amount of each bid and each bid item, if appropriate, and such other relevant information as may be specified, together with the name of each bidder, will be recorded, and the record and each bid will be considered public record upon opening, pursuant to §13-1-107 NMAC 1978.

### **7. Bid Evaluation**

The Village will perform the evaluation of Bids in regard to bidder responsibility and bid responsiveness to specifications. This process will take place as indicated in the sequence of events, depending upon the number of bids received.

### **8. Finalize Contractual Agreements**

Any contractual agreement(s) resulting from this ITB will be finalized with the most advantageous Bidder(s) as per the schedule in Section II. A., Sequence of Events or as soon thereafter as possible. This date is subject to change at the discretion of the Village of Ruidoso Purchasing Department. In the event the successful bidder fails to deliver required bonds or other documents prior to award or a Notice to Proceed being issued, the

Village reserves the right to finalize a contractual agreement with the next lowest responsible/responsive bidder(s) without undertaking a new procurement process.

## **9. Contract Awards**

If applicable, the Village Procurement office will award as per the schedule in Section II. A., Sequence of Events or as soon as possible thereafter. This date is subject to change at the discretion of the Village of Ruidoso Purchasing Department. The contract(s) shall be awarded to the lowest responsible Bidder(s) submitting a responsive bid.

## **10. Protest Deadline**

Any protest by a Bidder 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 Invitation to Bid, 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 Invitation to Bid. The 15 calendar day protest period shall begin on the day following the award of contracts and will end at 5:00 pm Mountain Standard Time/Daylight Time on the 15<sup>th</sup> day. Protests must be written and must include the name and address of the protestor and the request for Bid 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.

The protest must be delivered to: Procurement Manager  
Village of Ruidoso Purchasing Department  
313 Cree Meadows Drive, Ruidoso, NM 88345

Protests received after the deadline will not be accepted.

## **C. GENERAL REQUIREMENTS**

### **1. Acceptance of Conditions Governing the Procurement**

Potential Bidders must indicate their acceptance of the Conditions Governing the Procurement section in the Letter of Transmittal Form (Appendix B).

### **2. Incurring Cost**

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

### **3. Prime Contractor Responsibility**

Any contractual agreement that may result from this ITB shall specify that the prime contractor is solely responsible for fulfillment of all requirements of the contractual agreement with the Village which may derive from this ITB. The Village will make payments to only the prime contractor.

### **4. 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 Village awarding any resultant contract, before any subcontractor is used during the term of this agreement.

#### **5. Amended Bids**

A Bidder may submit an amended Bid before the deadline for receipt of Bids. Such amended Bids must be complete replacements for a previously submitted Bid and must be clearly identified as such in the transmittal letter. The Village personnel will not merge, collate, or assemble Bid materials. Bid materials and all bids submitted shall be in a sealed envelope or package.

#### **6. Bidder's Rights to Withdraw Bid**

Bidders will be allowed to withdraw their bid at any time prior to the deadline for receipt of Bids. The Bidder must submit a written withdrawal request addressed to the Procurement Manager and signed by the Bidder's duly authorized representative.

The approval or denial of withdrawal requests received after the deadline for receipt of the Bids is governed by the applicable procurement regulations.

#### **7. Bid Offer Firm**

Responses to this ITB, including Bid prices for services, will be considered firm for sixty (60) days after the due date for receipt of Bids.

#### **8. Disclosure of Bid Contents**

A. Bids documents become public information at the time of opening. At that time, all Bids and documents pertaining to the Bids will be open to the public, except for any material that is clearly marked "proprietary" or "confidential". The Procurement Manager will not disclose or make public any pages of a Bid on which the potential Bidder has stamped or imprinted "proprietary" or "confidential" subject to the following requirements:

B. Proprietary or confidential data shall be readily separable from the Bid in order to facilitate public inspection of the non-confidential portion of the Bid.

C. Confidential data is restricted to:

1. confidential financial information concerning the Bidder's organization;
2. 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 a Bidder has made a written request for confidentiality, the Village Purchasing Division or the Village shall examine the Bidder's request and make a written determination that specifies which portions of the Bid should be disclosed. Unless the Bidder takes legal action to prevent the disclosure, the Bid will be so disclosed. The Bid shall be open to public inspection subject to any continuing prohibition on the disclosure of confidential data.

## **9. No Obligation**

This ITB in no manner obligates the Village or any of its departments to the use of any Bidder's services until a valid written contract is awarded and approved by appropriate authorities.

## **10. Termination**

This ITB may be canceled at any time and any and all bids may be rejected in whole or in part when the Village determines such action to be in the best interest of the Village.

## **11. Sufficient Appropriation**

Any multi-term contract awarded as a result of this ITB process may be terminated if sufficient appropriations or authorizations do not exist following the first term. Such terminations will be affected by sending written notice to the contractor. The Village's decision as to whether sufficient appropriations and authorizations are available will be accepted by the contractor as final.

## **12. Legal Review**

The Village requires that all Bidders agree to be bound by the General Requirements contained in this ITB. Any Bidder's concerns must be promptly submitted in writing to the attention of the Procurement Manager.

## **13. Governing Law**

This ITB and any agreement with a Bidder which may result from this procurement shall be governed by the laws of the State of New Mexico.

## **14. Basis for Bid**

Only information supplied, in writing, by the Village through the Procurement Manager or in this ITB should be used as the basis for the preparation of a bid.

## **15. Contract Terms and Conditions**

The contract between the Village and a contractor will follow the format specified by the Village and contain the terms and conditions set forth in the Sample Contract (Appendix L). The contents of this ITB, as revised and/or supplemented, and the successful Bid, will be incorporated into and become part of any resultant contract.

The Village discourages exceptions to the contract terms and conditions as set forth in the ITB Sample Contract. Such exceptions may cause a Bid to be rejected as nonresponsive when, in the sole judgment of the Village, the Bid appears to be conditioned on the exception, or correction of what is deemed to be a deficiency.

Should a Bidder object to any of the terms and conditions as set forth in the ITB Sample Contract (Appendix L) strongly enough to propose alternate terms and conditions in spite of the above, the Bidder must propose specific alternative language. The Village may or may not accept the alternative language. General references to the Bidder's terms and conditions or attempts at complete substitutions of the Sample Contract are not acceptable to the Village and will result in disqualification of the Bid.

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

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

#### **16. Bidder's Terms and Conditions**

Bidders must submit with the Bid a complete set of any additional terms and conditions they expect to have included in a contract negotiated with the Village.

#### **17. Contract Deviations**

Any additional terms and conditions, which may be the subject of negotiation (such terms and conditions having been proposed during the procurement process, that is, the ITB process prior to selection as a successful Bidder), will be discussed only between the Village and the Bidder selected and shall not be deemed an opportunity to amend the Bid.

#### **18. Bidder Qualifications**

The Village may make such investigations as necessary to determine the ability of the potential Bidder to adhere to the requirements specified within this ITB and reserves the right to reject the Bid of any potential Bidder who is determined not to be a Responsible Bidder or fails to submit a responsive bid as defined in NMSA 1978, § 13-1-82 and 13-1-84.

#### **19. Right to Waive Minor Irregularities**

The Village reserves the right to waive minor irregularities. The Village also reserves the right to waive mandatory requirements provided that all of the otherwise responsive Bids 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 Village.

#### **20. Change in Contractor Representatives**

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

#### **21. 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.

#### **22. Village Rights**

The Village reserves the right to accept or reject all bids, to award or reject any portion of a bid, and to determine the responsiveness of any bid and the responsibility of any bidder.

**23. Right to Publish**

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

**24. Ownership of Bids**

All documents submitted in response to the ITB shall become property of the Village of Ruidoso.

**25. Confidentiality**

Any confidential information provided to, or developed by, the contractor in the performance of the contract resulting from this ITB 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 Village.

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 procuring Village's written permission.

**26. Electronic Mail Address Required**

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

**27. Use of Electronic Versions of this ITB**

This ITB is being made available by electronic means. In the event of conflict between a version of the ITB in the Bidder's possession and the version maintained by the Village, the Bidder acknowledges that the version maintained by the Village shall govern. Please refer to: <https://www.ruidoso-nm.gov/purchasing>

### **III. RESPONSE CONTENT, FORMAT, AND ORGANIZATION**

#### **A. NUMBER OF RESPONSES**

Bidders shall submit only one Bid in response to this ITB.

#### **B. NUMBER OF ORIGINALS**

Bidder shall submit the following:

1. One (1) ORIGINAL, HARD COPY of the Bid and all Bid Documents.  
Bids containing confidential information **must** be submitted as two separate documents plainly marked as “unredacted” and “redacted”:
  - **Unredacted** version for evaluation purposes
  - **Redacted** version (information blacked out and not omitted or removed) for the public file
2. Bid must be clearly labeled and numbered and indexed as outlined in **Section III. C. Bid Format**. All bids must be clearly labeled and submitted in a sealed envelope, package, or box bearing the following information:
  - a) Bidder’s name and address
  - b) Bid number and title
  - c) Date and time of Bid opening

Any Bid that does not adhere to the requirements of this Section and **Section III Response Format, Content, and Organization**, may be deemed non-responsive and rejected on that basis.

#### **C. BID FORMAT, CONTENT, AND ORGANIZATION**

All Bids must be submitted as follows:

1. Hard copies can be handwritten or typewritten on standard 8 ½ x 11-inch paper (larger paper is permissible for charts, spreadsheets, etc.) and placed within binders or otherwise bound or secured on the left hand side, with tabs delineating each section.
2. Direct reference to pre-prepared or promotional material may be used if referenced and clearly marked. Promotional material should be minimal.
3. The Bid must be organized and indexed in the following format and must contain, at a minimum, all listed items in the sequence indicated: (Ref. Section IV. Specifications) (See Exhibit A)
  - a) Signed Cover Page of this ITB
  - b) Signed Letter of Transmittal Form (Appendix B)
  - c) Completed Cost Response Form (Appendix C)



- d) Other Supporting Material (if applicable)
- e) Options, Exceptions, or Variations (Appendix D)
- f) Affidavit of Non-Collusion (Appendix E)
- g) New Mexico Preference Certificate, if Applicable (Appendix F)
- h) Compliance with Regulatory Agencies (Appendix G)
- i) Certification Regarding Debarment, Suspension, and Other Responsibility Matters (Appendix H)
- j) Campaign Contribution Disclosure Form (Appendix I)
- k) Listing of Three (3) References (Appendix J)

Within each section of the Bid, Bidders should address the items in the order indicated above. All Bid Forms provided in this ITB must be thoroughly completed and included in the appropriate section of the Bid. Failure to include all required forms may result in the bid being deemed non-responsive.

The Bid Summary may be included to provide an overview of the Bid; however, this material will not be used in the evaluation process unless specifically referenced from other portions of the Bid.

#### **IV. SPECIFICATIONS**

##### **A. Signed Cover Page of ITB**

Bidder must complete and sign the Cover Page for Bid to be valid

##### **B. Letter of Transmittal Form (Appendix B)**

Bid must be accompanied by the Letter of Transmittal Form (Appendix B) which must be completed and signed by an individual person authorized to obligate the company.

##### **C. Cost Response Form (Appendix C)**

Bidders must complete the Cost Response Form. Cost will be measured by the total of the unit costs on the Cost Response Form plus any additional charges. Additional charges listed must be justified and evidence of need documented in the Bid.

##### **D. Other Supporting Documents**

Bidders may submit any other supporting documents that they feel are necessary as part of their bid.

##### **E. Options, Exceptions, or Variations (Appendix D)**

Bidder must complete and sign the Options, Exceptions, or Variations Form. Select the applicable option and provide details indicated on form if necessary.

##### **F. Affidavit of Non-Collusion (Appendix E)**

Bid must be accompanied by the Affidavit of Non-Collusion (Appendix E) which must be completed and signed to certify the Contractor has not, either directly or indirectly entered into an action in restraint of free competitive bidding in connection with this offer.

## **G. New Mexico Preference Certificate (Appendix F)**

To ensure adequate consideration and application of NMSA 1978, § 13-1-21 (as amended), Bidders must include a copy of their current preference certificate with their Bid. 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>.

### **A. New Mexico Resident Business or Native American Resident Business Preference**

A copy of the current certification must accompany your Bid.

### **B. New Mexico Resident Veterans Business or Native American Resident Veteran Business Preference**

A copy of the current certification must accompany your Bid.

**The Village shall not award a business both a resident business preference a resident veteran business preference.**

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

If the Bidder has provided a copy of their current, valid NM Resident Business or Resident Veteran Business Certificate preference will be given as follows:

1. For a Resident Business or Native American Resident Business, bid will be considered at 8% less than the bid price.
2. For a Resident Veteran Business or Native American Resident Veteran Business, bid will be considered at 10% less than bid price.

## **H. Compliance with Regulatory Agencies (Appendix G)**

Bid must be accompanied by the Compliance with Regulatory Agencies Form which must be completed and signed to certify the Contractor is in compliance.

## **I. Certification Regarding Debarment, Suspension, and Other Responsibility Matters (Appendix H)**

1. Any prospective Contractor and any of its principals who enter into a contract greater than sixty thousand dollars (\$60,000.00) with the Village for professional services, tangible personal property, services or construction agrees to disclose in their bid whether the Contractor, or any principal of the Contractor's company:
  - a. is presently debarred, suspended, proposed for debarment, or declared ineligible for award of contract by any federal entity, state New Mexico or local public body;
  - b. has within a three-year period preceding this offer, been convicted in a criminal matter or had a civil judgment rendered against them for:
    - i. 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;
    - ii. violation of Federal or state antitrust statutes related to the submission of offers; or 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;
- c. 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;
  - d. 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:
    - i. 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.
    - ii. 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.
  - e. have within a three-year period preceding this offer, had one or more contracts terminated for default by any federal or state of New Mexico or local public body.)
2. 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.
  3. The Contractor shall provide immediate written notice to the Village 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.
  4. 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 Bidder nonresponsive.
  5. 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.
  6. 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 Village 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 Governing Body, the Village Manager may terminate the involved contract for cause. Still further the Village Purchasing Agent or the Village Finance Director may suspend or debar the Contractor from eligibility for future solicitations

until such time as the matter is resolved to the satisfaction of the Village Purchasing Agent or Village Finance Director.

**J. Campaign Contribution Disclosure Form (Appendix I)**

Bidder must complete, sign, and return the Campaign Contribution Disclosure Form as part of their Bid. This requirement applies regardless of whether a covered contribution was made or not made for the positions of Mayor and Village Councilors or other identified official. Failure to complete and return the signed unaltered form may result in disqualification.

**K. Listing of References (Appendix J)**

Bidder must supply a listing of at least three (3) references including the following:

1. Name of the business. (Do not use the Village of Ruidoso)
2. Name of contact person.
3. Contact person's phone number.
4. Contact person's email address.
5. Description of services provided to the business.
6. How many porta potties are provided to the company on a weekly basis?
7. What other services do you provided to the company?

References will be called to determine if Bidder is a responsible bidder and capable of providing the services needed for the Village.

**V. EVALUATION PROCESS AND AWARD**

1. No bid may be amended after opening.
2. Bids will be reviewed for compliance with, and responsiveness to, all requirements and specifications stated within this ITB. Bids deemed non-responsive will be eliminated from further consideration.
3. The Procurement Manager may contact the Bidder for clarification of the response if necessary. The Village reserves the right to waive technical irregularities in the form of the bid of the low bidder which do not alter the price, quality or quantity of the services offered pursuant to §13-1-132, NMSA 1978.
4. The Village may use other sources to determine bidder responsibility as specified in this ITB, section II. C. 18.
5. Award will be made to the responsible bidder(s) submitting the lowest responsive bid.

**ITB #2024-008B**

**SEPTIC SERVICES AND PORTA POTTY RENTAL AND RELATED SERVICES**

**APPENDIX A - ACKNOWLEDGEMENT OF RECEIPT FORM**

In acknowledgement of receipt of this Invitation to Bid the undersigned agrees that s/he has received a complete copy, beginning with the title page and table of contents, and ending with Appendix L.

The acknowledgement of receipt should be signed and returned to the Procurement Manager by the date listed in Section II. A. Sequence of Events. Only potential Bidders who elect to return this form completed with the indicated intention of submitting a Bid will receive copies of all Bidder written questions and the written responses to those questions as well as ITB addenda, if any are issued.

FIRM: \_\_\_\_\_

REPRESENTED BY: \_\_\_\_\_

TITLE: \_\_\_\_\_ PHONE NO.: \_\_\_\_\_

E-MAIL: \_\_\_\_\_ FAX NO.: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_\_

This name and address will be used for all correspondence related to the Request for Bid.

**Firm does/does not (circle one) intend to respond to this Request for Bid.**

**Return completed form to:**

Procurement Manager  
313 Cree Meadows Drive, Ruidoso, NM 88345  
Email: [purchasing@ruidoso-nm.gov](mailto:purchasing@ruidoso-nm.gov)  
Phone: (575) 258-4343, Ext. 1081

**ITB #2024-008B**  
**SEPTIC SERVICES AND PORTA POTTY RENTAL AND RELATED SERVICES**

**APPENDIX B - LETTER OF TRANSMITTAL FORM**

**ITB#: 2024-008B Septic Services and Porta Potty Rental and Related Services**

**Bidder Name:** \_\_\_\_\_ **FED ID#:** \_\_\_\_\_

Items #1 to #7 EACH MUST BE COMPLETED IN FULL Failure to respond to all seven items may result in the disqualification of the bid.

1. **Identity (Name) and Mailing Address** of the submitting organization:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. For the person authorized by the organization to contractually obligate on behalf of this Bid:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_ Telephone Number: \_\_\_\_\_

3. For the person authorized by the organization to negotiate on behalf of this Bid:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_ Telephone Number: \_\_\_\_\_

4. For the person authorized by the organization to clarify/respond to queries regarding this Bid:

Name: \_\_\_\_\_

Title: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_ Telephone Number: \_\_\_\_\_

5. Use of Sub-Contractors (Select one)

\_\_\_\_ No sub-contractors will be used in the performance of any resultant contract OR

\_\_\_\_ The following sub-contractors will be used in the performance of any resultant contract:

**APPENDIX B – PAGE 2**

**NAME OF SUBCONTRACTOR**

**WORK TO BE DONE**

**(If no subcontractors are to be used, put “N/A”)**

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6. Please describe any relationship with any entity (other than Subcontractors listed in (5) above) which will be used in the performance of any resultant contract (if any.)

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7. \_\_\_ On behalf of the submitting organization named in item #1, above, I accept the Conditions Governing the Procurement.

\_\_\_ I hereby acknowledge receipt of the following addenda to this ITB (if applicable):

Addendum # \_\_\_\_\_ Dated: \_\_\_\_\_ Addendum # \_\_\_\_\_ Dated: \_\_\_\_\_

Addendum # \_\_\_\_\_ Dated: \_\_\_\_\_ Addendum # \_\_\_\_\_ Dated: \_\_\_\_\_

\_\_\_\_\_  
Authorized Signature  
(Must be signed by the person identified in item #2, above.)

\_\_\_\_\_  
Date

**ITB #2024-008B**  
**SEPTIC SERVICES AND PORTA POTTY RENTAL AND RELATED SERVICES**

**APPENDIX C – COST RESPONSE FORM**

The representations herein are made under penalty of perjury. I hereby offer to the Village of Ruidoso the specified services at the price(s) bid and under the terms and conditions herein, attached, or incorporated by reference. Any bid submitted by a bidder with a qualifying, valid NM Preference will be considered at either 8% or 10% below bid price for the purposes award consideration. See Section IV.G.

In submitting this Bid, the Bidder represents, that:

1. The Bidder has examined all bidding documents and acknowledges any applicable addenda.
2. The Bidder has familiarized themselves with the nature and extent of all requirements.
3. Bidder has given the Procurement Manager written notice of any conflicts, errors, or discrepancies that he has discovered in the bidding documents, and the written resolution thereof by the Procurement Manager is acceptable to the Bidder.
4. The bid is genuine and not made in the interest of, or on behalf of, any undisclosed person, firm or corporation; the Bidder has not directly or indirectly induced or solicited any Bidder to submit false information; the Bidder has not solicited or induced any person, firm or corporation to refrain from bidding; the Bidder has not sought by collusion to obtain for themselves any advantage over any other Bidder or over the Village of Ruidoso.
5. Bidder understands that acceptance and formal award of this bid, along with the placement of order(s) related to this bid, constitutes a complete and binding contract for items and services as specified.
6. The Bidder certifies by submitting a bid, to the best of his or her knowledge and belief, that all information is correct and accurate.
7. Bid price should include the cost for insurance, if applicable (Appendix L-Sample Contract Section 37 Insurance).



**ITB #2024-008B**  
**SEPTIC SERVICES AND PORTA POTTY RENTAL AND RELATED SERVICES**

**APPENDIX C – COST RESPONSE FORM (Page 1)**

Bidder's Name: \_\_\_\_\_

Description	Price Per Unit	Or Price Per Day	Or Price Per Week (7 days)	Or Price Per Month (30 days)
Rental of Long Term Porta Potties with Cleanings				
Rental of Long Term Handicap Porta Potties with Cleanings				
Rental of Short Term Porta Potties with Cleanings				
Rental of Short Term Handicap Porta Potties with Cleanings				
Porta Potty Additional Cleanings, As Needed				
Rental of Hand Wash Stations				
CCLS or Similar Additive for Septic and Vault Toilets, if not included				
Pump Out/Restock Stations				
Additional Charges (Please List):				
	Price Per Event	Or Price Per Unit	Unit of Measure (Gal, etc.)	
CCLS or Similar Additive for Septic and Vault Toilets (Purchased by Village)	NA			
Vault Pumping of Restrooms				
Water Jet Per Vault Cleaning				
Pumping of Portable Trailer Toilets				

Pumping of Septic Tanks and Grease Traps				
Additional Charges (Please List):				
Additional Charges (Please List):				

**ITB #2024-008B**

**SEPTIC SERVICES AND PORTA POTTY RENTAL AND RELATED SERVICES**

**APPENDIX C – COST RESPONSE FORM (Page 2)**

**Bidder’s Proposed Price Percentage Increase Per Year**

	<b>Proposed Percentage Increase Per Year</b>
Year 2	%
Year 3	%
Year 4	%

**ITB #2024-008B**  
**SEPTIC SERVICES AND PORTA POTTY RENTAL AND RELATED SERVICES**

**APPENDIX D - OPTIONS, EXCEPTIONS, OR VARIATIONS**

Please state each and every option, exception, or variation to the specifications (if any) for the products or services offered. **Please check one option, sign below and return with your bid.**

\_\_\_\_\_ THERE **ARE** OPTIONS, EXCEPTIONS, OR VARIATIONS. State in detail below. If necessary, utilize additional sheet(s) labeled "OPTIONS, EXCEPTIONS OR VARIATIONS TO ITB 2024-008B" and include with bid.

\_\_\_\_\_ THERE **ARE NO** OPTIONS, EXCEPTIONS, OR VARIATIONS. The products and/or services offered on this Invitation to Bid meet or exceed all Specifications, Terms, and Conditions set forth without exceptions. I understand products or services not meeting all Specifications, Terms, and Conditions may be cause for rejection of the item or service, of a bid in its entirety, or may result in cancelation of any awarded contract, project or task.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name and Title

**ITB #2024-008B**  
**SEPTIC SERVICES AND PORTA POTTY RENTAL AND RELATED SERVICES**

**APPENDIX E - AFFIDAVIT OF NON-COLLUSION**

I state that I am the \_\_\_\_\_ (title) of \_\_\_\_\_ (name of firm) and that I am authorized to make this affidavit on behalf of my firm, and its owners, directors, and officers. I am the person responsible in my firm for the price(s) and the amount of this Bid.

I further state that:

- 1) The price(s) and amount of this Offer have been arrived at independently and without consultation communication or agreement with any other Bidder or potential Bidder.
- 2) That neither the price(s) nor the amount of this bid, have been disclosed to any other firm or person who is a Bidder or potential Bidder, and they will not be disclosed before bid opening.
- 3) No attempt has been made or will be made to induce any firm or person to refrain from bidding on this contract, or to submit a bid higher than this bid, or to submit any intentionally high or noncompetitive bid or other form of complementary bid.
- 4) This bid is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive bid.
- 5) This firm, its affiliates, subsidiaries, officers, directors and employees are not currently under investigation by any governmental agency and have not in the last four years been convicted of or found liable for any act prohibited by State or Federal law in any jurisdiction, involving conspiracy or collusion with respect to proposing on any public contract, except as described herein.
- 6) I state that this firm understands and acknowledges that the above representations are material and important and will be relied on by the Village of Ruidoso in awarding. I understand and my firm understands that any misstatement in this affidavit is and shall be treated as fraudulent concealment from Village of Ruidoso of the true facts relating to the submission of Bidders for this contract.

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

**ITB #2024-008B**

**SEPTIC SERVICES AND PORTA POTTY RENTAL AND RELATED SERVICES**

**APPENDIX F – NEW MEXICO PREFERENCE CERTIFICATION**

\_\_\_\_\_ (Name of Business) hereby certifies the following in regard to application of the resident preference or resident veteran’s preference to this formal request for bids process:

Please check one box only:

- This business does not have a qualifying New Mexico Preference Certification.
- This business does have a qualifying New Mexico Resident or Native American Resident Business Preference or Resident Veteran Preference or Native American Resident Veterans Business Preference Certification (**Bidder must include a current copy of the certificate with bid**)

If claiming a Resident Veterans Preference Certification, please state annual gross revenue for preceding calendar year:

\$ \_\_\_\_\_

“In conjunction with this procurement and the requirements of this business’ application for a Resident Veteran Business Preference/Resident Veteran Contractor Preference under Sections 13-1-21 or 13-1-22 NMSA 1978, when awarded a contract which was on the basis of having such veteran’s preference, I agree to report to the State Purchasing Division of the General Services Department the awarded amount involved. I will indicate in the report the award amount as a purchase from a public body or as a public works contract from a public body as the case may be.”

“I declare under penalty of perjury that this statement is true to the best of my knowledge. I understand that giving false or misleading statements about material fact regarding this matter constitutes a crime.”

\_\_\_\_\_  
(Signature of Business Representative) \*                      (Date)

\*Must be an authorized signatory for the Business.

The representation made in checking the boxes constitutes a material representation by the business that is subject to inspection and/or protest. A denial of award or recension of award may be made if the statement is proven incorrect.

**ITB #2024-008B**

**SEPTIC SERVICES AND PORTA POTTY RENTAL AND RELATED SERVICES**

**APPENDIX G - COMPLIANCE WITH REGULATORY AGENCIES**

*Please fill out this form to document and submit your response to the Invitation to Bid.*

Has your firm during the past five (5) years been free of any determination by a court or administrative agency of laws and/or regulations pertaining to the payment of prevailing wages or employment of apprentices on public works projects?    Yes    No

If "no" please explain: \_\_\_\_\_

Has your firm during the past five (5) years been free of any determinations by a court or administrative agency of violations or notice of violation pertaining to the Occupational Safety and Health Administration (OSHA), Department of Transportation (DOT), or Environmental Protection Agency (EPA) requirement on a job site?    Yes                  No

If "no" please explain: \_\_\_\_\_

Has your firm during the past five (5) years been free of any determinations by a court or administrative agency of violations pertaining to Construction Industry Division requirements pertaining to projects?  
Yes                  No

If "no" please explain: \_\_\_\_\_

Is your firm free of any Subcontractor Fair Practices Act violations for the past five (5) years?  
Yes                  No

If "no" please explain: \_\_\_\_\_

Has your firm been free of violation of any Federal, State or Local Agency requirement on a jobsite that has resulted in a fine because violations?                  Yes                  No

If "no" please explain: \_\_\_\_\_

The undersigned hereby state under penalty of perjury that the above statements are true and accurate.

Name \_\_\_\_\_ Title \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

**ITB #2024-008B**

**SEPTIC SERVICES AND PORTA POTTY RENTAL AND RELATED SERVICES**

**APPENDIX H- CERTIFICATION REGARDING DEBARMENT,  
SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

The prospective participant certifies to the best of its knowledge and belief that it and its principals:

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

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

Are not presently indicted for otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses in enumerated in paragraph (2) of this certification and

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

I understand that a false statement of this certification may be grounds for rejection of this bid or termination of the award. Under 18USC Sec. 101, a false statement may result in a fine up to \$10,000 or imprisonment for up to 5 years, or both.

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Typed Name and Title of Authorized Representative

---

Signature of Authorized Representative

---

Date

**ITB #2024-008B**  
**SEPTIC SERVICES AND PORTA POTTY RENTAL AND RELATED SERVICES**

**APPENDIX I- CAMPAIGN CONTRIBUTION DISCLOSURE  
FORM**

Pursuant to NMSA 1978, § 13-1-191.1 (2006), any person seeking to enter into a contract with any state Village 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 Village 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 Bid 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 Village 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 Bid or who has the authority to negotiate a sole source or small purchase contract that may be awarded without submission of a sealed competitive Bid.

"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.





**ITB #2024-008B**  
**SEPTIC SERVICES AND PORTA POTTY RENTAL AND RELATED SERVICES**

**APPENDIX J- REFERENCES**

Bidders Name: \_\_\_\_\_

Reference #1	
Name of Company or Business:	
Name of Contact Person:	
Contact Person's Phone Number:	
Contact Person's Email Address:	
Description of Services Provided to the Business:	
How Many Porta Potties are Provided to the Company on a Weekly Basis?	
What Other Services Do You Provide to the Company?	

Reference #2	
Name of Company or Business:	
Name of Contact Person:	
Contact Person's Phone Number:	
Contact Person's Email Address:	
Description of Services Provided to the Business:	
How Many Porta Potties are Provided to the Company on a Weekly Basis?	
What Other Services Do You Provide to the Company?	

Reference #3	
Name of Company or Business:	
Name of Contact Person:	
Contact Person's Phone Number:	
Contact Person's Email Address:	
Description of Services Provided to the Business:	
How Many Porta Potties are Provided to the Company on a Weekly Basis?	
What Other Services Do You Provide to the Company?	

**ITB #2024-008B**  
**SEPTIC SERVICES AND PORTA POTTY RENTAL AND RELATED SERVICES**

**APPENDIX K – SCOPE OF WORK**

**SERVICES:**

- Rental of long term porta potties with cleanings
- Rental of long term handicap porta potties with cleanings
- Rental of short term porta potties with cleanings
- Rental of short term handicap porta potties with cleanings
- Pumpout / Restock Stations
- Rental of hand wash stations
- Vault pumping of restrooms (up to 5 restrooms or more)
- Pumping of portable trailer toilets
- Pumping of septic tanks and grease trap at Eagle Creek Sports Complex
- CCLS or similar additive for septic and vault toilets

**ADDITIONAL INFORMATION:**

On the septic, our current vault restrooms are located at;

- 2-Grindstone Lake
- 1-Alto Lake
- 1-Moon Mountain Disc Golf Course
- 1-Soon to be at Oso Disc Golf Course on the Ski Area Road
- This is subject to change as needed

Septic tanks & grease trap is located at Eagle Creek Sports Complex

Portable toilets will be around the Village, never outside the Village.

**ITB #2024-008B**  
**SEPTIC SERVICES AND PORTA POTTY RENTAL AND RELATED SERVICES**

**APPENDIX L – SAMPLE CONTRACT**

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**DRAFT CONTRACT FOR GOODS AND SERVICES**  
**ITB #2024-008B**  
**SEPTIC SERVICES AND PORTA POTTY RENTAL AND RELATED SERVICES**

THIS Agreement ("Agreement") is made by and between the Village of Ruidoso, hereinafter referred to as the "Procuring Agency", and XXXXXXXXX, hereinafter referred to as the "Contractor" and collectively the "Parties".

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

Village of Ruidoso Department: Purchasing ATTN: Procurement Manager 313 Cree Meadows Drive Ruidoso, NM 88345 Phone: 575-258-4343 ext. 1081 Email: purchasing@ruidoso-nm.gov	Contractor Name ATTN: _____ Title: _____ Street: _____ City, State, Zip: _____ Phone: _____ Email: _____
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WHEREAS, pursuant to the Procurement Code, NMSA 1978 13-1-28 *et. seq.* and Procurement Code Regulations, NMAC 1.4.1 *et. seq.* the Contractor has held itself out as an entity with the ability to provide the required services to implement the Scope of Work as contained herein and the Procuring Agency has selected the Contractor as the offeror most advantageous to the State of New Mexico; and

WHEREAS, all terms and conditions of the **ITB #2024-008B Septic Services and Porta Potty Rental and Related Services** and the Contractor's response to such document(s) are incorporated herein by reference; and

NOW, THEREFORE, THE FOLLOWING TERMS AND CONDITIONS ARE MUTUALLY AGREED BETWEEN THE PARTIES:

1. **Definitions**

- A. "Business Hours" means 8:00 a.m. to 5:00 p.m. Mountain Time.
- B. "Procuring Agency" means any state agency or local public body that enters into an Agreement to procure products or services.

C. "Products and Services schedule" refers to the complete list of products and services offered under this Agreement and the price for each. Product and service descriptions may be amended only through a written amendment signed by all required signatories and with the prior approval of the Agreement Administrator, if any. New products and services beyond those in the original procurement shall not be added to the Products and Services Schedule.

D. "You" and "your" refers to [Contractor Name]. "We," "us" or "our" refers to the Village of Ruidoso.

## 2. **Scope of Work.**

The Contractor shall perform the work as outlined in Exhibit A and attached hereto and incorporated herein by reference.

## 3. **Compensation.**

A. Compensation Schedule. The Procuring Agency shall pay the Contractor based upon fixed prices for each Deliverable, per the schedule outlined in Exhibit B. Bid prices will remain firm for the first year and may be renegotiated beginning with the first renewal based on the percentage increase submitted with the Cost Response Form in the Invitation to Bid. The Village has the right to reject the proposed price increase. Each department will issue an annual purchase order to the Contractor. Deliveries or services shall not begin until the Contractor has received a purchase order.

B. Payment. The total compensation under this Agreement shall not exceed the amounts as listed in the Contractor's bid schedule (Exhibit A) and shall include New Mexico gross receipts tax. This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. The Parties do not intend for the Contractor to continue to provide Services without compensation when the total compensation amount is reached. Contractor is responsible for notifying the Procuring Agency when the Services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for Services provided in excess of the total compensation amount without this Agreement being amended in writing prior to services, in excess of the total compensation amount being provided.

Payment shall be made upon Acceptance of each Deliverable and upon the receipt and Acceptance of a detailed, certified Payment Invoice. Payment will be made to the Contractor's designated mailing address. In accordance with Section 13-1-158 NMSA 1978, payment shall be tendered to the Contractor within thirty (30) days of the date of written certification of Acceptance. All Payment Invoices MUST BE received by the Procuring Agency no later than fifteen (15) days after the termination of this Agreement. Payment Invoices received after such date WILL NOT BE PAID.

C. Taxes. The Contractor shall be reimbursed by the Procuring Agency for applicable New Mexico gross receipts taxes, excluding interest or penalties assessed on the Contractor by any authority. **PLEASE NOTE NO PROPERTY TAX WILL BE PAID TO THE CONTRACTOR BY THE STATE.** The payment of taxes for any money received under this Agreement shall be the Contractor's sole responsibility and should be reported under the Contractor's Federal and State tax identification number(s).

Contractor and any and all subcontractors shall pay all Federal, state, and local taxes applicable to its operation and any persons employed by the Contractor. Contractor shall require all subcontractors to hold the Procuring Agency harmless from any responsibility for taxes, damages and interest, if applicable, contributions required under Federal and/or state and local laws and regulations and any other costs, including transaction privilege taxes, unemployment compensation insurance, Social Security and Worker's Compensation.

#### 4. Term.

This agreement shall be effective **February 14, 2024 through February 13, 2025**, unless terminated pursuant to this Agreement's Termination Clause or Appropriations Clause. The Procuring Agency reserves the right to renew the Agreement through a written renewal signed by all required signatories, for three additional years, but in any case, the Agreement shall not exceed the total number of years allowed pursuant to NMSA 1978, § 13-1-150.

#### 5. Termination.

A. Grounds. The Procuring Agency may terminate this Agreement for convenience or cause. The Contractor may only terminate this Agreement based upon the Procuring Agency's uncured, material breach of this Agreement.

B. Notice; Procuring Agency Opportunity to Cure.

1. Except as otherwise provided in sub-paragraph A of this Clause and the Appropriations Clause of this Agreement, the Procuring Agency shall give Contractor written notice of termination at least thirty (30) days prior to the intended date of termination.

2. Contractor shall give Procuring Agency written notice of termination at least thirty (30) days prior to the intended date of termination, which notice shall (i) identify all the Procuring Agency's material breaches of this Agreement upon which the termination is based and (ii) state what the Procuring Agency must do to cure such material breaches. Contractor's notice of termination shall only be effective (i) if the Procuring Agency does not cure all material breaches within the thirty (30) day notice period or (ii) in the case of material breaches that cannot be cured within thirty (30) days, the Procuring Agency does not, within the thirty (30)



day notice period, notify the Contractor of its intent to cure and begin with due diligence to cure the material breach.

3. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor (i) if the Contractor becomes unable to perform the services contracted for, as determined by the Procuring Agency; (ii) if, during the term of this Agreement, the Contractor is suspended or debarred by the Village of Ruidoso; or (iii) the Agreement is terminated pursuant to the Appropriations Clause of this Agreement.

C. Liability. Except as otherwise expressly allowed or provided under this Agreement, the Procuring Agency's sole liability upon termination shall be to pay for acceptable work performed prior to the Contractor's receipt or issuance of a notice of termination; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination.

*THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE PROCURING AGENCY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.*

#### 6. **Appropriations.**

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Village Council of Ruidoso for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Council, this Agreement shall terminate immediately upon written notice being given by the Procuring Agency to the Contractor. The Procuring Agency's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the Procuring Agency proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

#### 7. **Status of Contractor.**

The Contractor and its agents and employees are independent contractors performing professional or general services for the Procuring Agency and are not employees of the Village of Ruidoso. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of state vehicles, or any other benefits afforded to employees of the Village of Ruidoso as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the Village of Ruidoso unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

8. **Conflict of Interest; Governmental Conduct Act.**

A. The Contractor represents and warrants that it presently has no interest and, during the term of this Agreement, 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.

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978. Without in any way limiting the generality of the foregoing, the Contractor specifically represents and warrants that:

1) in accordance with NMSA 1978, § 10-16-4.3, the Contractor does not employ, has not employed, and will not employ during the term of this Agreement any Procuring Agency employee while such employee was or is employed by the Procuring Agency and participating directly or indirectly in the Procuring Agency's contracting process;

2) this Agreement complies with NMSA 1978, § 10-16-7(A) because (i) the Contractor is not a public officer or employee of the Village; (ii) the Contractor is not a member of the family of a public officer or employee of the Village; (iii) the Contractor is not a business in which a public officer or employee or the family of a public officer or employee has a substantial interest; or (iv) if the Contractor is a public officer or employee of the Village, a member of the family of a public officer or employee of the Village, or a business in which a public officer or employee of the Village or the family of a public officer or employee of the Village has a substantial interest, public notice was given as required by NMSA 1978, § 10-16-7(A) and this Agreement was awarded pursuant to a competitive process;

3) in accordance with NMSA 1978, § 10-16-8(A), (i) the Contractor is not, and has not been represented by, a person who has been a public officer or employee of the Village within the preceding year and whose official act directly resulted in this Agreement and (ii) the Contractor is not, and has not been assisted in any way regarding this transaction by, a former public officer or employee of the Village whose official act, while in Village employment, directly resulted in the Procuring Agency's making this Agreement;

4) this Agreement complies with NMSA 1978, § 10-16-9(A) because

- a. the Contractor is not a councilor;
- b. the Contractor is not a member of a councilor's family;
- c. the Contractor is not a business in which a councilor or a councilor's family has a substantial interest; or
- d. if the Contractor is a councilor, a member of a councilor's family, or a business in which a councilor or a councilor's family has a substantial

interest, disclosure has been made as required by NMSA 1978, § 10-16-7(A), this Agreement is not a sole source or small purchase contract, and this Agreement was awarded in accordance with the provisions of the Procurement Code;

5) in accordance with NMSA 1978, § 10-16-13, the Contractor has not directly participated in the preparation of specifications, qualifications or evaluation criteria for this Agreement, or any procurement related to this Agreement; and

6) in accordance with NMSA 1978, § 10-16-3 and § 10-16-13.3, the Contractor has not contributed, and during the term of this Agreement shall not contribute, anything of value to a public officer or employee of the Procuring Agency.

C. Contractor's representations and warranties in paragraphs A and B of this Clause are material representations of fact upon which the Procuring Agency relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the Procuring Agency if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in paragraphs A and B of this Clause were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in paragraphs A and B of this Clause were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the Procuring Agency and notwithstanding anything in the Agreement to the contrary, the Procuring Agency may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this Agreement.

9. **Amendment.**

A. This Agreement shall not be altered, changed, or amended except by instrument in writing executed by the parties hereto and all other required signatories.

B. If the Procuring Agency proposes an amendment to the Agreement to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Agreement, pursuant to the termination provisions as set forth in the Terminations Clause of this Agreement, or to agree to the reduced funding.

10. **Merger.**

This Agreement incorporates all the Agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, Agreements and

understandings have been merged into this written Agreement. No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

11. **Penalties for Violation of Law.**

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

12. **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. In accordance with all such laws of the State of New Mexico, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

13. **Workers Compensation.**

The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the Procuring Agency.

14. **Applicable Law.**

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a Lincoln County court of competent jurisdiction in accordance with NMSA 1978, § 38-3-1 (G). By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

15. **Records and Financial Audit.**

The Contractor shall maintain detailed time and expenditure records that indicate the date, time, nature, and cost of services rendered during the Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the Procuring Agency, the Department of Finance and Administration and the State Auditor. The Procuring Agency shall have the right to audit billings

both before and after payment. Payment under this Agreement shall not foreclose the right of the Procuring Agency to recover excessive or illegal payments

16. **Invalid Term or Condition.**

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

17. **Enforcement of Agreement.**

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

18. **Non-Collusion.**

In signing this Agreement, the Contractor certifies the Contractor has not, either directly or indirectly, entered into action in restraint of free competitive bidding in connection with this offer submitted to the Purchasing Agency.

19. **Succession.**

This Agreement shall extend to and be binding upon the successors and assigns of the parties.

20. **Headings.**

Any and all headings herein are inserted only for convenience and ease of reference and are not to be considered in the construction or interpretation of any provision of this Agreement. Numbered or lettered provisions, sections and subsections contained herein, refer only to provisions, sections and subsections of this Agreement unless otherwise expressly stated.

21. **Default/Breach.**

In case of Default and/or Breach by the Contractor, for any reason whatsoever, the Procuring Agency may procure the goods or Services from another source and hold the Contractor responsible for any resulting excess costs and/or damages, including but not limited to, direct damages, indirect damages, consequential damages, special damages and the Procuring Agency may also seek all other remedies under the terms of this Agreement and under law or equity.

22. **Equitable Remedies.**

Contractor acknowledges that its failure to comply with any provision of this Agreement will cause the Procuring Agency irrevocable harm and that a remedy at law for such a failure would be an inadequate remedy for the Procuring Agency, and the Contractor consents to the Procuring

Agency's obtaining from a court of competent jurisdiction, specific performance, or injunction, or any other equitable relief in order to enforce such compliance. Procuring Agency's rights to obtain equitable relief pursuant to this Agreement shall be in addition to, and not in lieu of, any other remedy that Procuring Agency may have under applicable law, including, but not limited to, monetary damages.

**23. Employee Pay Equity Reporting.**

Contractor agrees if it has ten (10) or more New Mexico employees OR eight (8) or more employees in the same job classification, at any time during the term of this Agreement, to complete and submit the PE10249 form on the annual anniversary of the initial report submittal for agreements up to one (1) year in duration. If contractor has (250) or more employees' contractor must complete and submit the PE250 form on the annual anniversary of the initial report submittal for agreements up to one (1) year in duration. For agreements that extend beyond one (1) calendar year or are extended beyond one (1) calendar year, contractor also agrees to complete and submit the PE10-249 or PE250 form, whichever is applicable, within thirty (30) days of the annual agreement anniversary date of the initial submittal date or, if more than 180 days has elapsed since submittal of the last report, at the completion of the Agreement, whichever comes first. Should contractor not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, contractor agrees to provide the required report within ninety (90 days) of meeting or exceeding the size requirement. That submittal date shall serve as the basis for submittals required thereafter. Contractor also agrees to levy this requirement on any subcontractor(s) performing more than 10% of the dollar value of this Agreement if said subcontractor(s) meets, or grows to meet, the stated employee size thresholds during the term of the Agreement. Contractor further agrees that, should one or more subcontractor not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, Contractor will submit the required report, for each such subcontractor, within ninety (90 days) of that subcontractor meeting or exceeding the size requirement. Subsequent report submittals, on behalf of each such subcontractor, shall be due on the annual anniversary of the initial report submittal. Contractor shall submit the required form(s) to the Village of Ruidoso Purchasing Department, and other departments as may be determined, on behalf of the applicable subcontractor(s) in accordance with the schedule contained in this Clause. Contractor acknowledges that this subcontractor requirement applies even though Contractor itself may not meet the size requirement for reporting and be required to report itself.

Notwithstanding the foregoing, if this Agreement was procured pursuant to a solicitation, and if Contractor has already submitted the required report accompanying their response to such solicitation, the report does not need to be re-submitted with this Agreement.

**24. Indemnification.**

The Contractor shall defend, indemnify and hold harmless the Procuring Agency 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 performance of this Agreement,

caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors, or agents resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has performed 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 thereof, notify the legal counsel of the Procuring Agency by certified mail.

25. **Default and Force Majeure.**

The Village reserves the right to cancel all, or any part of any orders placed under this Agreement without cost to the Village, if the Contractor fails to meet the provisions of this Agreement and, except as otherwise provided herein, to hold the Contractor liable for any excess cost occasioned by the Village due to the Contractor's default. The Contractor shall not be liable for any excess costs if failure to perform the order arises out of causes beyond the control and without the fault or negligence of the Contractor; such causes include, but are not restricted to, acts of God or the public enemy, acts of the State or Federal Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and defaults of subcontractors due to any of the above, unless the Village shall determine that the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery scheduled. The rights and remedies of the Village provided in this Clause shall not be exclusive and are in addition to any other rights now being provided by law or under this Agreement.

26. **Assignment.**

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the Procuring Agency.

27. **Subcontracting.**

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the Procuring Agency. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the Procuring Agency.

28. **Inspection of Plant.**

The Procuring Agency that is a party to this Agreement may inspect, at any reasonable time during Contractor's regular business hours and upon prior written notice, the Contractor's plant or place of business, or any subcontractor's plant or place of business, which is related to the performance of this Agreement.

29. **Commercial Warranty.**

None.

30. **Condition of Proposed Items.**

Where tangible personal property is a part of this Agreement, all proposed items are to be NEW and of most current production, unless otherwise specified.

31. **Release.**

Final payment of the amounts due under this Agreement shall operate as a release of the Procuring Agency, its officers and employees, and the State of New Mexico from all liabilities, claims and obligations whatsoever arising from or under this Agreement.

32. **Confidentiality.**

Any Confidential Information provided to the Contractor by the Procuring Agency or, developed by the Contractor based on information provided by the Procuring Agency in the performance of this Agreement 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 Procuring Agency. Upon termination of this Agreement, Contractor shall deliver all Confidential Information in its possession to the Procuring Agency within thirty (30) business days of such termination. Contractor acknowledges that failure to deliver such Confidential Information to the Procuring Agency will result in direct, special and incidental damages.

33. **Contractor Personnel.**

A. Key Personnel. Contractor's key personnel shall not be diverted from this Agreement without the prior written approval of the Procuring Agency. Key personnel are those individuals considered by the Procuring Agency to be mandatory to the work to be performed under this Agreement. Key personnel shall be:

(Insert Contractor Staff Name(s))

B. Personnel Changes. Replacement of any personnel shall be made with personnel of equal ability, experience, and qualification and shall be approved by the Procuring Agency. For all personnel, the Procuring Agency reserves the right to require submission of their resumes prior to approval. If the number of Contractor's personnel assigned to the Project is reduced for any reason, Contractor shall, within ten (10) business days of the reduction, replace with the same or greater number of personnel with equal ability, experience, and qualifications, subject to Procuring Agency approval. The Procuring Agency, in its sole discretion, may approve additional time beyond the ten (10) business days for replacement of personnel. The Contractor shall include status reports of its efforts and progress in finding replacements and the effect of the absence of the personnel on the progress of the Project. The Contractor



shall also make interim arrangements to assure that the Project progress is not affected by the loss of personnel. The Procuring Agency reserves the right to require a change in Contractor's personnel if the assigned personnel are not, in the sole opinion of the Procuring Agency, meeting the Procuring Agency's expectations.

**34. Incorporation by Reference and Precedence.**

If this Agreement has been procured pursuant to a request for proposals, this Agreement is derived from (1) the invitation to bid (ITB) or request for proposal, (including any written clarifications to the request for proposals and any agency response to questions); (2) the Contractor's best and final offer; and (3) the Contractor's response to the invitation to bid (ITB) or request for proposals (RFP).

In the event of a dispute under this Agreement, applicable documents will be referred to for the purpose of clarification or for additional detail in the following order of precedence: (1) amendments to the Agreement in reverse chronological order; (2) the Agreement, including the scope of work and all terms and conditions thereof; (3) the invitation to bid (ITB) or request for proposals (RFP), including attachments thereto and written responses to questions and written clarifications; (4) the Contractor's best and final offer if such has been made and accepted by the SPA or Procuring Agency or entity; and (5) the Contractor's response to the request for proposals.

**35. Inspection.**

If this Agreement is for the purchase of tangible personal property (goods), final inspection and acceptance shall be made at Destination. Tangible personal property rejected at Destination for non-conformance to specifications shall be removed at Contractor's risk and expense promptly after notice of rejection and shall not be allowable as billable items for payment.

**36. Inspection of Services.**

If this Agreement is for the purchase of services, the following terms shall apply.

A. Services, as used in this Clause, include services performed, workmanship, and material furnished or utilized in the performance of services.

B. The Contractor shall provide and maintain an inspection system acceptable to the Procuring Agency covering the services under this Agreement. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Procuring Agency during the term of performance of this Agreement and for as long thereafter as the Agreement requires.

C. The Procuring Agency has the right to inspect and test all services contemplated under this Agreement to the extent practicable at all times and places during the term of the Agreement. The Procuring Agency shall perform inspections and tests in a manner that will not unduly delay or interfere with Contractor's performance.

D. If the Procuring Agency performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in Agreement price, all reasonable facilities and assistance for the safe and convenient performance of such inspections or tests.

E. If any part of the services does not conform with the requirements of this Agreement, the Procuring Agency may require the Contractor to re-perform the services in conformity with the requirements of this Agreement at no increase in Agreement amount. When the defects in services cannot be corrected by re-performance, the Procuring Agency may:

(1) require the Contractor to take necessary action(s) to ensure that future performance conforms to the requirements of this Agreement; and

(2) reduce the Agreement price to reflect the reduced value of the services performed.

F. If the Contractor fails to promptly re-perform the services or to take the necessary action(s) to ensure future performance in conformity with the requirements of this Agreement, the Procuring Agency may:

(1) by Agreement or otherwise, perform the services and charge to the Contractor any cost incurred by the Procuring Agency that is directly related to the performance of such service; or

(2) terminate the Agreement for default.

THE PROVISIONS OF THIS CLAUSE ARE NOT EXCLUSIVE AND DO NOT WAIVE THE VILLAGE PARTIES OF THIS AGREEMENT OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.

### 37. Insurance.

If the services contemplated under this Agreement will be performed on or in Village facilities or property, Contractor shall maintain in force during the entire term of this Agreement, the following insurance coverage(s), naming the Village of Ruidoso as additional insured.

A. Workers Compensation (including accident and disease coverage) at the statutory limit. Employers' liability: \$100,000.

B. Comprehensive general liability (including endorsements providing broad form property damage, personal injury coverage and contractual assumption of liability for all liability the Contractor has assumed under this Agreement). Limits shall not be less than the following:

a. Bodily injury: \$1,000,000 per person /\$1,000,000 per occurrence.

b. Property damage or combined single limit coverage: \$1,000,000.

c. Automobile liability (including non-owned automobile coverage): \$1,000,000.

d. Umbrella: \$1,000,000.

C. Contractor shall maintain the above insurance for the term of this Agreement and name the Village of Ruidoso as an additional insured and provide for 30 days cancellation notice on any Certificate of Insurance form furnished by Contractor. Such certificate shall also specifically state the coverage provided under the policy is primary over any other valid and collectible insurance and provide a waiver of subrogation.

**38. Arbitration.**

Any controversy or claim arising between the parties shall be settled by arbitration pursuant to NMSA 1978 § 44-7A-1 *et seq.*

IN WITNESS WHEREOF, the parties have executed this Agreement. The effective date is the date of approval by the Village of Ruidoso out hereinafter.

**SIGNATURES:**

**Village of Ruidoso:**

\_\_\_\_\_  
Lynn D. Crawford, Mayor

\_\_\_\_\_  
Date

**CONTRACTOR:**

Draft Only Do Not Sign

\_\_\_\_\_  
Contractor, Title

\_\_\_\_\_  
Date

**ATTEST:**

\_\_\_\_\_  
Jini S. Turri, Village Clerk

- Exhibit A: Scope of Work
- Exhibit B: Price Agreement

**EXHIBIT A - PROPOSAL SUBMITTAL EXAMPLE (Note: This is only an Example)**

On the outside of the delivery package, please label the following:



Label on outside of package:

ITB #2024-XXXB and Title  
Due Date: xx/xx/xx Time x:xx pm

**1. TECHNICAL PROPOSAL (Binder 1):** One original, hard copy is to be submitted as follows:

3 ring binder, folder, or similar (1 original (hard copy):

1 Original Binder or Folder and



“Original” Label



**Tabs inside of binders or folders:**

- Tab A:** Signed Cover Page of ITB
- Tab B:** Signed Letter of Transmittal Form (Appendix B)
- Tab C:** Completed Cost Response Form (Appendix C)
- Tab D:** Other Supporting Material (if applicable)
- Tab E:** Options, Exceptions, or Variations (Appendix D)
- Tab F:** Affidavit of Non-Collusion (Appendix E)
- Tab G:** New Mexico Preference Certificate, if Applicable (Appendix F)
- Tab H:** Compliance with Regulatory Agencies (Appendix G)
- Tab I:** Certification Regarding Debarment, Suspension, and Other Responsibility Matters (Appendix H)
- Tab J:** Campaign Contribution Disclosure Form (Appendix I)
- Tab K:** Three References (Appendix J)