



313 Cree Meadows Dr.
Ruidoso, NM 88345

REQUEST FOR PROPOSAL

VILLAGE OF RUIDOSO

Revised 1-18-24 Addendum #1

Revised 1-24-24 Addendum #2

Master Agreement with a Qualified Manufacturer **and/or
Direct Purchase for Onsite Delivery, Set Up, Layout, and
Design of Modular Housing Units that Range Between **1- 2-3**
Bedrooms**

RFP: #2024-005P

NIGP: #15547

Date Issued: January 12, 2024
Pre-Proposal Conference: January 22, 2024 @ 1:00 pm Local Time
Due Date: February 5, 2024 @ 10:00 am Local Time

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I. INTRODUCTION

A. PURPOSE OF THIS REQUEST FOR PROPOSALS

The Village of Ruidoso, New Mexico is **Seeking to Enter Into a Master Agreement with a Qualified Manufacturer and/or Direct Purchase for Onsite Delivery, Set Up, Layout, and Design of Modular Housing Units that Range Between ± 2-3 Bedrooms via Request for Proposals (RFP) #2024-005P**. All proposals must conform to requirements established within this document.

The Village of Ruidoso will accept a master agreement with the option of onsite delivery, set up, layout, and design of modular housing units that range between ± 2-3 bedrooms or accept just the onsite delivery, set up, layout, and design of modular housing units that range between ± 2-3 bedrooms with no master agreement.

“Onsite delivery and set up” means complete turnkey delivery. The Village will provide the infrastructure for the electric (via PNM), gas (via Zia Natural Gas), water and sewer (via the Village). Contractors will be responsible for developing their own pad sites and hooking up all electrical, gas, water, and sewer. It is estimated that the infrastructure will be complete within 6 to 8 weeks.

B. BACKGROUND INFORMATION

The Village of Ruidoso is in need of affordable, modular housing units to be delivered to the current location of 603 Meham Drive, Ruidoso, NM and possible other locations. The Village has received funding allocations that must be spent by June 30, 2024; therefore, we are seeking delivery of as many homes as possible to be delivered prior to that date. The Village is anticipating delivery of 12 to 16 modular homes.

C. SCOPE OF PROCUREMENT

The Village is conducting a multi-award proposal for a **Master Agreement with a Qualified Manufacturer and/or Direct Purchase for Onsite Delivery, Set Up, Layout, and Design of Modular Housing Units that Range Between ± 2-3 Bedrooms**. It is anticipated that the award under this RFP will result in a Contract for an initial term of one-year with the option to renew for up to three (3) additional one-year terms/length of project. In no case will the contract, including any and all renewals thereof, exceed a total of four (4) years in duration from the date of the initial contract.

The award shall be made to the responsible offeror(s) whose proposal is most advantageous to the Village of Ruidoso, taking into consideration the evaluation factors set forth in this RFP.

D. PROCUREMENT MANAGER

The Village 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

Any inquiries or requests regarding this procurement should be submitted, in writing, to the Procurement Manager. Offerors may contact **ONLY** the Procurement Manager regarding this procurement. Other village employees or Evaluation Committee members 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 and in a timely fashion will be considered to have been submitted properly and in accordance with statute, rule, and this Request for Proposals. 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:

“Village” means the Village of Ruidoso sponsoring the Procurement action.

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

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

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

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

“Desirable” the terms "may", "can", "should", "preferably", or "prefers" to 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 proposals contain. The digital form may be submitted using a USB flash drive. The electronic version/copy can NOT be emailed.

“Evaluation Committee” means a body appointed to perform the evaluation of Offerors’ proposals.

“Evaluation Committee Report” means a report prepared by the Procurement Manager and the Evaluation Committee for contract award. It will contain written determinations resulting from the procurement.

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

“Hourly Rate” means the proposed fully loaded maximum hourly rates that include travel, per diem, fringe benefits and any overhead costs for Consultant personnel, as well as Sub-Consultant 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 Offeror’s proposal.

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

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

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

“Price Agreement” means a definite quantity contract or indefinite quantity contract which requires the Consultant to furnish items of tangible personal property, services or construction to a state Village or a local public body which issues a purchase order, if the purchase order is within the quantity limitations of the contract, if any.

“Procurement Manager” means any person or designee authorized by a state Village or local public body to enter into or administer contracts and make written determinations with respect thereto.

“Procuring Village” 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 proposal 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 RFP blacked out BUT NOT omitted or removed.

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

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

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

“**Sealed**” means, in terms of a non-electronic submission, that the proposal is enclosed in a package which is completely fastened in such a way that nothing can be added or removed. Open packages submitted will not be accepted except for packages that may have been damaged by the delivery service itself. The 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 proposal, the Offeror agrees to and concurs with this process and accepts the determination of the Procurement Manager in such cases.

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

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

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

“**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 RFP, Questions & Answers, RFP Amendments:

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

II. CONDITIONS GOVERNING THE PROCUREMENT

This section of the RFP contains the schedule, description, and conditions governing the procurement.

RFP #2024-005P

Master Agreement with a Qualified Manufacturer **and/or Direct Purchase** for Onsite Delivery, Set Up, Layout, and Design of Modular Housing Units that Range Between **1 2-3 Bedrooms**

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 RFP	VOR	January 12, 2024
2. Acknowledgement of Receipt Form (Appendix C)	Potential Offerors	January 22, 2024 by 5:00 pm
3. Pre-Proposal Conference	VOR	January 22, 2024 @1:00 pm Local Time
4. Deadline to Submit Questions	Potential Offerors	January 24, 2024 by 5:00 pm
5. Response to Written Questions	Procurement Manager	January 26, 2024 by 5:00 pm
6. Submission of Proposal	Potential Offerors	February 5, 2024 @ 10:00 am Local Time
7. Proposal Evaluation	Evaluation Committee	February 5, 2024
8. Selection of Finalists	Evaluation Committee	February 7, 2024
9. Finalize Contractual Agreements	VOR/Finalist Offerors	February 9, 2024
10. Contract Awards	VOR/Finalist Offerors	February 13, 2024
11. Protest Deadline	VOR	15 Days from award

*Dates indicated in Events 7 through 11 are estimates only, and may be subject to change without necessitating an amendment to the RFP

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 RFP

This RFP is being issued on behalf of the Village of Ruidoso on the date proposed in Section II. A.

2. Acknowledgement of Receipt

Potential Offerors should deliver the "Acknowledgement of Receipt Form" that accompanies this document, APPENDIX C, to have their organization placed on the procurement distribution list. The form should be signed by an authorized representative

of the organization, dated, and returned to the Procurement Manager by the date and time proposed in Section II. A.

The procurement distribution list will be used for the distribution of written responses to questions. Failure to return the Acknowledgement of Receipt form shall constitute a presumption of receipt and the potential Offeror's organization name shall not appear on the distribution list. If a potential Offeror fails to submit the Acknowledgement of Receipt Form, they are still eligible to submit a proposal.

3. Pre-Proposal Conference

A voluntary pre-proposal conference will be held as listed in Schedule II. A. Sequence of Events at the Village of Ruidoso, Council Chambers at 313 Cree Meadows, Ruidoso, NM 88345. An on-site visit will follow the conference.

Offerors are not required to attend; however, it is highly encouraged.

4. Deadline to Submit Written Questions

Potential Offerors may submit written questions to the Procurement Manager as to the intent or clarity of this RFP on the date and time proposed in Section II. A. All written questions must be addressed to the Procurement Manager as declared in Section I, Paragraph D. Questions shall be clearly labeled and shall cite the Section(s) in the RFP or other document which form the basis of the question.

5. Response to Written Questions

Responses to written questions will be distributed as indicated in the sequence of events to all potential Offerors whose organization name appears on the procurement distribution list. An e-mail copy will be sent to all Offeror's that provide the Acknowledgement of Receipt Forms described in II.B.2 before the deadline. Responses will also be posted to: <https://www.ruidoso-nm.gov/purchasing>

6. Submission of Proposal

ALL OFFEROR PROPOSALS 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. Proposals received after this deadline will not be accepted. The date and time of receipt will be recorded on each proposal.

Ruidoso is a rural community, be aware that overnight deliveries often do not arrive by the submission deadline. Please plan accordingly.

Proposals must be addressed and delivered to the Procurement Manager at the address listed in Section I, Paragraph D at **313 Cree Meadows Drive, Ruidoso, NM 88345**. Proposals must be sealed and **labeled on the outside of the package with the number and title of this RFP in addition to the due date and time** to clearly indicate that they are in response to this advertisement. Proposals submitted by facsimile, or other electronic means will not be accepted. (See Exhibit A Proposal Submittal Example)

A public log will be kept of the names of all Offeror organizations that submitted proposals. Pursuant to NMSA 1978, § 13-1-116, the contents of proposals shall not be

disclosed to competing potential Offerors during the negotiation process. The negotiation process is deemed to be in effect until the contract is awarded pursuant to this Request for Proposals. Awarded in this context means the final required Village signature on the contract(s) resulting from the procurement has been obtained.

7. Proposal Evaluation

An Evaluation Committee will perform the evaluation of proposals. This process will take place as indicated in Section II. A., depending upon the number of proposals received. During this time, the Procurement Manager may initiate discussions with Offerors who submit responsive or potentially responsive proposals for the purpose of clarifying aspects of the proposals. However, proposals may be accepted and evaluated without such discussion. Discussions SHALL NOT be initiated by the Offerors.

8. Selection of Finalists

The Evaluation Committee will select, and the Procurement Manager will notify the finalist Offerors as per schedule Section II. A. or as soon as possible. A schedule for the oral presentation and demonstration will be determined at this time, if applicable.

9. Finalize Contractual Agreements

Any Contractual agreement(s) resulting from this RFP will be finalized with the most advantageous Offeror(s) as per schedule Section II. A. or as soon thereafter as possible. This date is subject to change at the discretion of the Village. In the event mutually agreeable terms cannot be reached with the apparent most advantageous Offeror in the time specified, the Village reserves the right to finalize a contractual agreement with the next most advantageous Offeror(s) without undertaking a new procurement process.

10. Contract Awards

After reviewing the Evaluation Committee Report and the signed contractual agreement, the Village Procurement office will award as per the schedule in Section II. A. or as soon as possible thereafter. This date is subject to change at the discretion of the Village.

The contract shall be awarded to the Offeror (or Offerors) whose proposals are most advantageous to the Village and taking into consideration the evaluation factors set forth in this RFP. The most advantageous proposal may or may not have received the most points. The award is subject to appropriate Village approval.

11. Protest Deadline

Any protest by an Offeror must be timely and in conformance with NMSA 1978, § 13-1-172 and applicable procurement regulations. As a Protest Manager has been named in this Request for Proposals, pursuant to NMSA 1978, § 13-1-172, ONLY protests delivered directly to the Protest Manager in writing and in a timely fashion will be considered to have been submitted properly and in accordance with statute, rule and this Request for Proposals. The 15-calendar day protest period shall begin on the day following the award of contracts and will end at 5:00 pm Mountain Standard Time/Daylight Time on the 15th day.

Protests must be written and must include the name and address of the protestor and the request for proposal number. It must also contain a statement of the grounds for protest

including appropriate supporting exhibits and it must specify the ruling requested from the party listed below. The protest must be delivered to:

Purchasing Agent
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 Offerors must indicate their acceptance of the Conditions Governing the Procurement section in the Letter of Transmittal (APPENDIX D). Submission of a proposal constitutes acceptance of the Evaluation Factors contained in Section V. Evaluation of this RFP.

2. Incurring Cost

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

3. Prime Consultant Responsibility

Any contractual agreement that may result from this RFP shall specify that the prime Consultant is solely responsible for fulfillment of all requirements of the contractual agreement with the Village which may derive from this RFP. The Village entering into a contractual agreement with a vendor will make payments to only the prime Consultant.

4. Sub-Consultants/Consent

The use of Sub-Consultants is allowed. The prime Consultant shall be wholly responsible for the entire performance of the contractual agreement whether or not Sub-Consultants are used. Additionally, the prime Consultant must receive approval in writing from the Village before any Sub-Consultant is used during the term of this agreement.

5. Amended Proposals

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

6. Offeror's Rights to Withdraw Proposal

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

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

7. Proposal Offer Firm

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

8. Disclosure of Proposal Contents

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

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

B. If a request is received for disclosure of data for which an Offeror has made a written request for confidentiality, the Village shall examine the Offeror's request and make a written determination that specifies which portions of the proposal should be disclosed. Unless the Offeror takes legal action to prevent the disclosure, the proposal will be so disclosed. The proposal shall be open to public inspection subject to any continuing prohibition on the disclosure of confidential data.

9. No Obligation

This RFP in no manner obligates the Village to the use of any Offeror's services until a valid written contract is awarded and approved by appropriate authorities.

10. Termination

This RFP may be canceled at any time and any and all proposals 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 contract awarded as a result of this RFP process may be terminated if sufficient appropriations or authorizations do not exist. Such terminations will be affected by sending written notice to the Consultant. The Village's decision as to whether sufficient appropriations and authorizations are available will be accepted by the Consultant as final.

12. Legal Review

The Village requires that all Offerors agree to be bound by the General Requirements contained in this RFP. Any Offeror's concerns must be promptly submitted in writing to

the attention of the Procurement Manager before the proposal due date as indicated in Section II.A. Sequence of Events.

13. Governing Law

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

14. Basis for Proposal

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

15. Contract Terms and Conditions

The contract between the Village and Consultant will follow the format specified by the Village and contain the terms and conditions set forth in the Draft Contract for Good and Services (APPENDIX A). However, the Village reserves the right to negotiate provisions in addition to those contained in this RFP and Draft Agreement with any Offeror. The contents of this RFP, as revised and/or supplemented, and the successful Offeror's proposal will be incorporated into and become part of any resultant contract.

The Village discourages exceptions from the contract terms and conditions as set forth in the RFP Draft Professional Services Agreement or Contract. Such exceptions may cause a proposal to be rejected as nonresponsive when, in the sole judgment of the Village (and its evaluation team), the proposal appears to be conditioned on the exception, or correction of what is deemed to be a deficiency, or an unacceptable exception is proposed which would require a substantial proposal rewrite to correct.

Should an Offeror object to any of the terms and conditions as set forth in the RFP Draft Contract for Good and Services (APPENDIX A) strongly enough to propose alternate terms and conditions in spite of the above, the Offeror must propose **specific alternative language**. The Village may or may not accept the alternative language. Any response to the contract terms and conditions shall be submitted on Tab E. See Section III.C.

General references to the Offeror's terms and conditions or attempts at complete substitutions of the Draft Contract for Good and Services are not acceptable to the Village and will result in disqualification of the Offeror's proposal.

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

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

16. Offeror's Additional Terms and Conditions

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

see Section II.C.15 for requirements. Offeror's additional terms and conditions must be submitted with proposal on Tab E. See Section III.C.

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 RFP process prior to selection as successful Offeror), will be discussed only between the Village and the Offeror selected and shall not be deemed an opportunity to amend the Offeror's proposal.

18. Offeror Qualifications

The Evaluation Committee may make such investigations as necessary to determine the ability of the potential Offeror to adhere to the requirements specified within this RFP. The Evaluation Committee will reject the proposal of any potential Offeror who is not a Responsible Offeror or fails to submit a responsive offer as defined in NMSA 1978, § 13-1-83 and 13-1-85.

19. Right to Waive Minor Irregularities

The Evaluation Committee reserves the right to waive minor irregularities. The Evaluation Committee also reserves the right to waive mandatory requirements provided that all of the otherwise responsive proposals failed to meet the same mandatory requirements and the failure to do so does not otherwise materially affect the procurement. This right is at the sole discretion of the Evaluation Committee.

20. Change in Consultant Representatives

The Village reserves the right to require a change in Consultant 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, in agreement with the Evaluation Committee, reserves the right to accept all or a portion of a potential Offeror's proposal.

23. Right to Publish

Throughout the duration of this procurement process and contract term, Offerors and Consultants 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 Offeror's proposal or removal from the contract.

24. Ownership of Proposals

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

25. Confidentiality

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

The Consultant(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). Offeror must have a valid e-mail address to receive this correspondence. (See also Section II.B.5, Response to Written Questions).

27. Use of Electronic Versions of this RFP

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

28. New Mexico Employees Health Coverage

- A. If the Offeror has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Offeror must agree to have in place, and agree to maintain for the term of the contract, health insurance for those employees if the expected annual value in the aggregate of any and all contracts between Consultant and Village exceed \$250,000 dollars.
- B. Offeror must agree to maintain a record of the number of employees who have (a) accepted health insurance; (b) decline health insurance due to other health insurance coverage already in place; or (c) decline health insurance for other reasons. These records are subject to review and audit by a representative of the state or Village.
- C. Offeror must agree to advise all employees of the availability of State publicly financed health care coverage programs by providing each employee with, as a minimum, the following web site link to additional information <https://www.bewellnm.com>.
- D. For Indefinite Quantity, Indefinite Delivery contracts (price agreements without specific limitations on quantity and providing for an indeterminate number of orders to be placed against it); these requirements shall apply the first day of the second month after the Offeror reports combined sales (from state and, if applicable, from local public bodies if from a state price agreement) of \$250,000.

29. Campaign Contribution Disclosure Form (Appendix E)

Offeror must complete, sign, and return the Campaign Contribution Disclosure Form, APPENDIX E, as a part of their proposal. 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 the disqualification of Offeror's proposal.

30. Letter of Transmittal (Appendix D)

Offeror's proposal must be accompanied by the Letter of Transmittal Form located in APPENDIX D which must be completed and signed by an individual person authorized to obligate the company. The letter of transmittal MUST:

1. Identify the submitting business entity.
2. Identify the name, title, telephone, and e-mail address of the person authorized by the Offeror organization to contractually obligate the business entity providing the Offer.
3. Identify the name, title, telephone, and e-mail address of the person authorized to negotiate the contract on behalf of the organization.
4. Identify the name, title, telephone, and e-mail address of persons to be contacted for clarification/questions regarding proposal content.
5. Identify Sub-Consultants (if any) anticipated to be utilized in the performance of any resultant contract award.
6. Describe the relationship with any other entity (other than Sub-Consultants listed in number 5 above) which will be used in the performance of this awarded contract.
7. Identify the following with a check mark and signature where required:
 - a. **Explicitly** indicate acceptance of the Conditions Governing the Procurement stated in Section II. C.1;
 - b. **Explicitly indicate acceptance of Section V of this RFP; and**
 - c. Acknowledge receipt of any and all amendments to this RFP.
8. Be signed by the person identified in number 2 above.

31. Debarment Certification (Appendix F)

A. Any prospective Consultant 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 whether the Consultant, or any principal of the Consultant's company:

1. is presently debarred, suspended, proposed for debarment, or declared ineligible for award of contract by any federal entity, the State of New Mexico, or local public body;
2. has within a three-year period preceding this offer, been convicted in a criminal matter or had a civil judgment rendered against them for:
 - a. the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) contract or subcontract;
 - b. violation of Federal or state antitrust statutes related to the submission of offers; or
 - c. the commission in any federal or state jurisdiction of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violation of Federal criminal tax law, or receiving stolen property;
3. is presently indicted for, or otherwise criminally or civilly charged by any (federal state or local) government entity with the commission of any of the offenses enumerated in paragraph A of this disclosure;

4. has, preceding this offer, been notified of any delinquent Federal or state taxes in an amount that exceeds \$3,000.00 of which the liability remains unsatisfied. Taxes are considered delinquent if the following criteria apply.
 - a. The tax liability is finally determined. The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge of the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.
 - b. The taxpayer is delinquent in making payment. A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.
 - c. Have within a three-year period preceding this offer, had one or more contracts terminated for default by any federal, state, or local public body.
- B. Principal, for the purpose of this disclosure, means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity or related entities.
- C. The Consultant shall provide immediate written notice to the Village Procurement Manager or other party to this Agreement if, at any time during the term of this Agreement, the Consultant learns that the Consultant's disclosure was at any time erroneous or became erroneous by reason of changed circumstances.
- D. A disclosure that any of the items in this requirement exist will not necessarily result in termination of this Agreement. However, the disclosure will be considered in the determination of the Consultant's responsibility and ability to perform under this Agreement. Failure of the Consultant to furnish a disclosure or provide additional information as requested will render the Offeror nonresponsive.
- E. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the disclosure required by this document. The knowledge and information of a Consultant is not required to exceed that which is the normally possessed by a prudent person in the ordinary course of business dealings.
- F. The disclosure requirement provided is a material representation of fact upon which reliance was placed when making an award and is a continuing material representation of the facts during the term of this Agreement. If during the performance of the contract, the Consultant 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 Consultant must provide immediate written notice to the Village Procurement Manager or other party to this Agreement. If it is later determined that the Consultant 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 Procurement Manager or the Village Finance Director may suspend or debar the Consultant from eligibility for future solicitations until such time as the matter is resolved to the satisfaction of the

Village Procurement Manager or Village Finance Director.

32. New Mexico Preferences

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

III. RESPONSE FORMAT AND ORGANIZATION

A. NUMBER OF RESPONSES

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

B. NUMBER OF COPIES AND SUBMITTAL

(See Exhibit A. Proposal Submittal Example)

1. Technical Proposal Submission (Binder 1)

- a. Offerors shall deliver one (1) hard copy of the original proposal and five (5) identical hard copies of their proposals (Binder 1). The binders shall be labeled “Original” and “Copy.”

- b. Offerors shall also deliver one (1) electronic version (cannot be emailed) of the proposal containing both Binders 1 and 2-Cost Proposal or Fee Schedule, on a USB jump drive if, applicable.
- c. The information on the original, hard copies, and electronic copy **must** be identical. In the event of a conflict between versions of the submitted proposal, the Original hard copy shall govern.

2. Cost Proposal or Fee Schedule (Binder 2)

- a. The cost proposal must be submitted in a separate binder and clearly labeled “Cost Proposal” or “Fee Schedule.” Only one original version is needed.

3. Proposal Submission (Binders 1, 2, and Electronic Version Proposal Submission (Binders and Electronic Version))

- a. Binder 1, Binder 2, and the electronic version can be submitted in one package as long as they are labeled appropriately.
- b. Proposals must be delivered by the date and time as indicated in Section II. A. Sequence of Events. Late proposals will not be accepted.
- c. The outside of the package(s) should be clearly labeled referencing the **RFP #, title, due date, and time**.
- d. Proposals shall be delivered to Procurement Manager, 313 Cree Meadows Dr, Ruidoso, NM 88345.

Any proposal that does not adhere to the requirements of this Section and Section III.C.1 Proposal Content and Organization may be deemed non-responsive and rejected on that basis.

C. PROPOSAL FORMAT

All proposals must be submitted as follows:

Hard copies must be typewritten on standard 8 ½ x 11-inch paper (larger paper is permissible for charts, spreadsheets, etc.) and placed **within binders with tabs delineating each section**. This format makes it much easier to find information and to evaluate each proposal.

Organization of binders for hard copy proposals and electronic copy proposals:

1. Proposal Content and Organization

Direct reference to pre-prepared or promotional material may be used if referenced and clearly marked. Promotional material should be minimal. The proposal shall be **organized, indexed with tabs, and in a binder** in the following format and **must contain**, at a minimum, all listed items in the sequence indicated below. (See Exhibit A: Proposal Submittal Example)

Technical Proposal Binder 1:

TAB A: Table of Contents

TAB B: Response to Business Specifications (Section IV. B)

1. Signed Letter of Transmittal Form (Appendix D)
2. Signed Campaign Contribution Form (Appendix E)
3. Signed Debarment Certification (Appendix F)
4. Signed Non-Collusion Affidavit (Appendix G)
5. New Mexico Resident Vendor or Resident Veteran Certificate (if applies)
(Section II.C.32)

TAB C: Response to Technical Specifications (Section IV. C)
(Please reference Section IV.C.1-4)

1. Experience Working With Similar Project and Master Agreements
2. Total Years of Experience
3. Capacity and Capability of the Offeror to Deliver Modular Homes
4. References (Appendix J)

TAB D: Proposal Summary (Optional)

TAB E: Offeror's Response to Contract Terms and Conditions (If applicable) (Section II.C.15)

TAB F: Offeror's Additional Terms and Conditions (If applicable) (Section II.C.16)

TAB G: Other Supporting Material (If applicable)

Within each section of the proposal, Offerors should address the items in the order indicated above. All forms provided in this RFP must be thoroughly completed, signed, and included in the appropriate section of the proposal. Any proposal that does not adhere to these requirements may be deemed non-responsive and rejected on that basis.

The proposal summary (Tab D) may be included by potential Offerors to provide the Evaluation Committee with an overview of the proposal; however, this material will not be used in the evaluation process unless specifically referenced from other portions of the Offeror's proposal.

IV. SPECIFICATIONS

Offerors should respond in the form of a thorough narrative to each specification, unless otherwise instructed. The narratives, including required supporting materials will be evaluated and awarded points accordingly.

A. SCOPE OF WORK

A detailed scope of work has been attached as APPENDIX B.

B. BUSINESS SPECIFICATIONS

1. Letter of Transmittal Form

The Offeror's proposal **must** be accompanied by the Letter of Transmittal Form (APPENDIX D). The form **must** be completed and must be signed by the person authorized to obligate the company.

2. Campaign Contribution Disclosure Form

The Offeror must complete an unaltered Campaign Contribution Disclosure Form and submit a **signed** copy with the Offeror's proposal. This must be accomplished whether or not an applicable contribution has been made. (APPENDIX E).

3. Debarment Certification

The Offeror's proposal **must** be accompanied by the completed and **signed** Debarment Certification form (APPENDIX F).

4. Non-Collusion Affidavit

The Offeror's proposal **must** be accompanied by the completed and notarized Non-Collusion Affidavit (APPENDIX G).

5. New Mexico Preferences

Percentages will be determined based upon the point-based system outlined in NMSA 1978, § 13-1-21 (as amended).

A. New Mexico Business Preference

If the Offeror has provided a copy of their current Preference Certificate the Preference Points for a New Mexico Business is 8% of total points.

B. New Mexico Resident Veterans Business Preference

If the Offeror has provided a copy of their current Preference Certificate the Preference Point is 10% of total points.

C. TECHNICAL SPECIFICATIONS

The Evaluation Criteria listed below will be used to assess the demonstrated competence and qualification for the services and products being solicited.

Offerors should respond in the form of a thorough narrative to each specification, unless otherwise instructed. The narratives, including required supporting materials will be evaluated and awarded points accordingly.

1. Experience Working With Similar Projects and Master Agreements (25 points)

Offers should submit a detailed narrative describing their relevant experience and capabilities in Modular Housing, including the experience of any proposed subcontractors. The documentation should thoroughly describe how the offeror has supplied expertise for similar projects and contracts. Offerors may include any supporting documentation they wish that they feel will support their descriptive narrative.

Offeror should provide any master agreements for modular housing that they have with states, local governments, or other business entities.

Offer should provide a listing of any design work they have done related to modular housing of more than 10 units.

Points will be awarded based on the depth, breadth, and applicability of the offeror's previous experience as it relates to the needs of this effort.

2. Total Years of Experience (25 points)

The Offeror should submit a detailed narrative describing the total years of experience that the company has in providing modular housing, how many years the Offeror's company has been in the modular housing business, and how many modular homes the company has built and delivered in the past 5 years.

Offer should submit a detailed narrative describing any experience in working with Housing Authorities, States, Counties, or private companies in providing modular housing.

Offeror should submit resumes of the main representatives that will be working directly with the Village of Ruidoso.

Points will be awarded based on the strength and convincingness of the response.

3. Capacity and Capability of the Offer to Deliver Modular Homes

The Offeror must describe how they will provide modular housing to the Village of Ruidoso in the time frame given and how many units they can provide for 1, 2, or 3 bedrooms. (June 30, 2024). Note: This information should match the Cost Response Form (Appendix H)

Points will be awarded based on the offeror's ability to deliver units in the time frame given and on how many units can be delivered.

4. Listing of References (Appendix J)

Bidder must supply a listing of three (3) references of similar projects including the following:

- a. Name of the business
- b. Name of contact person.
- c. Contact person's phone number.
- d. Contact person's email address.
- e. Description of services provided to the business.
- f. How many modular homes have been provided to this company?
- g. Do you have a master agreement with this reference? If so, please list the terms of the agreement.

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

V. EVALUATION

A. EVALUATION POINT SUMMARY

The following is a summary of evaluation factors with point values assigned to each. These weighted factors will be used in the evaluation of individual potential Offeror proposals by sub-category.

Factors – correspond to section IV. B. and IV.C.	Points Available
B. Business Specifications	
1. Signed Letter of Transmittal (Appendix D)	Pass / Fail
2. Signed Campaign Contribution Disclosure Form (Appendix E)	Pass / Fail
3. Signed Debarment Certification (Appendix F)	Pass / Fail
4. Signed Non-Collusion Affidavit (Appendix G)	Pass / Fail
C. Technical Specifications	
1. Experience Working With Similar Projects and Master Agreements	25
2. Total Years of Experience	25
3. Capacity and Capability of the Offeror to Deliver Modular Homes	25
4. Listing of References	25
5. Cost Response (Appendix H)	25
TOTAL POSSIBLE POINTS	125 points
New Mexico Preference	8% to 10%

Table 1: Evaluation Point Summary

B. EVALUATION PROCESS

1. All Offeror proposals will be reviewed for compliance with the requirements and specifications stated within the RFP. Proposals deemed non-responsive will be eliminated from further consideration.
2. The Procurement Manager may contact the Offeror for clarification of the response as specified in Section II. B.7.
3. The Evaluation Committee may use other sources to perform the evaluation as specified in Section II. C.18.
4. Responsive proposals will be evaluated on the factors in Section IV, which have been assigned a point value. The responsible Offeror(s) with the highest scores will be selected as finalist Offerors, based upon the proposals submitted. The responsible Offeror(s) whose proposal(s) are most advantageous to the Village taking into consideration the evaluation factors in Section IV will be recommended for award.

Please note, however, that a serious deficiency in the response to any one factor may be grounds for rejection regardless of overall score.

APPENDIX A –DRAFT CONTRACT FOR GOODS AND SERVICES

RFP #2024-005P

Master Agreement with a Qualified Manufacturer and/or Direct Purchase for Onsite Delivery, Set Up, Layout, and Design of Modular Housing Units that Range Between 1- 2-3 Bedrooms

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DRAFT CONTRACT FOR GOODS AND SERVICES

THIS Agreement (“Agreement”) is made by and between the Village of Ruidoso, hereinafter referred to as the "Procuring Agency", and XXXXXXXXXX, hereinafter referred to as the "Consultant" 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: Finance
ATTN: Procurement Manager
Street: 313 Cree Meadows Drive
City, State, Zip: Ruidoso, NM 88345
Phone: 575-258-4343 Ext. 1081
Email: purchasing@ruidoso-nm.gov

Consultant
ATTN:
Title: President
Street: 123 Main Street
City, State, Zip: Any Town, XX 99999
Phone: XXX/XXX-XXXX
Email: xxxx@xxxx.com

WHEREAS, pursuant to the Procurement Code, NMSA 1978 13-1-28 *et. seq.* and Procurement Code Regulations, NMAC 1.4.1 *et. seq.* the Consultant 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 Consultant as the offeror most advantageous to the Village of Ruidoso; and

WHEREAS, all terms and conditions of the **RFP #2024-005P Master Agreement with a Qualified Manufacturer and/or Direct Purchase for Onsite Delivery, Set Up, Layout, and Design of Modular Housing Units that Range Between 1-2-3 Bedrooms** and the Consultant’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 AM to 5:00 PM Local Time.
- B. “Procuring Agency” means any state agency or local 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 (whether RFP or ITB) shall not be added to the Products and Services Schedule.

- D. "RFP" means Request for Proposals as defined in statute and rule.
- E. "RPR" means Resident Project Representative.
- F. "You" and "your" refers to (Consultant Name). "We," "us" or "our" refers to the Village of Ruidoso.
- G. "On-Call" Contract means: a standard on-call contract requires consulting firms to provide work and services for a number of projects, under task or work orders issued on an as-needed or on-call basis.

2. Scope of Work.

The Consultant shall perform the work as outlined in Attachment A Detailed Scope of Work, attached hereto and incorporated herein by reference.

3. Compensation.

A. Compensation Schedule. The Procuring Agency shall pay the Consultant based upon fixed prices for each Deliverable, per the schedule outlined in Attachment B, less retainage, if any, as identified in paragraph D of this Clause.

B. Payment. The total compensation under this Agreement shall not exceed the cost response submitted in the proposal. This amount is a maximum and not a guarantee that the work assigned to be performed by Consultant under this Agreement shall equal the amount stated herein. The Parties do not intend for the Consultant to continue to provide Services without compensation when the total compensation amount is reached. Consultant is responsible for notifying the Procuring Agency when the Services provided under this Agreement reach the total compensation amount. In no event will the Consultant 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 Consultant's designated mailing address. In accordance with Section 13-1-158 NMSA 1978, payment shall be tendered to the Consultant 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 Consultant shall be reimbursed by the Procuring Agency for applicable New Mexico gross receipts taxes, excluding interest or penalties assessed on the Consultant by any authority. **PLEASE NOTE NO PROPERTY TAX WILL BE PAID TO THE CONSULTANT BY THE STATE.** The payment of taxes for any money received under this Agreement shall be the Consultant's sole responsibility and should be reported under the Consultant's Federal and State tax identification number(s).

Consultant and any and all Sub-Consultants shall pay all Federal, state, and local taxes applicable to its operation and any persons employed by the Consultant. Consultant shall require all Sub-Consultants 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.

D. Retainage. Not Applicable. The Parties agree there is no retainage.

E. Performance Bond. Not Applicable. The Parties agree there is no Performance Bond.

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 amendment signed by all required signatories, for three (3) additional years. 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 Consultant 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 Consultant written notice of termination at least thirty (30) days prior to the intended date of termination.

2. Consultant 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. Consultant'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 Consultant 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 Consultant (i) if the Consultant becomes unable to perform the services contracted for, as determined by the Procuring Agency; (ii) if, during the term of this Agreement, the Consultant 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 Consultant'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 Consultant 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 CONSULTANT'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 Consultant. The Procuring Agency's decision as to whether sufficient appropriations are available shall be accepted by the Consultant and shall be final. If the Procuring Agency proposes an amendment to the Agreement to unilaterally reduce funding, the Consultant 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 Consultant.

The Consultant and its agents and employees are independent Consultants performing professional or general services for the Procuring Agency and are not employees of the Village of Ruidoso. The Consultant 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 Consultant acknowledges that all sums received hereunder are reportable by the Consultant for tax purposes, including without limitation, self-employment, and business income tax. The Consultant agrees not to purport to bind the Village of Ruidoso unless the Consultant 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 Consultant 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 Consultant 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 Consultant specifically represents and warrants that:

- 1) in accordance with NMSA 1978, § 10-16-4.3, the Consultant 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 Consultant is not a public officer or employee of the Village; (ii) the Consultant is not a member of the family of a public officer or employee of the Village; (iii) the Consultant 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 Consultant 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 Consultant 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 Consultant 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 (i) the Consultant is not a councilor; (ii) the Consultant is not a member of a councilor's family; (iii) the Consultant is not a business in which a councilor or a councilor's family has a substantial interest; or (iv) if the Consultant 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 Consultant 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 Consultant 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. Consultant'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. Consultant shall provide immediate written notice to the Procuring Agency if, at any time during the term of this Agreement, Consultant learns that Consultant'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 Consultant'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 Consultant 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 Consultant 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 Consultant 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 Consultant is found not to be in compliance with these requirements during the life of this Agreement, Consultant agrees to take appropriate steps to correct these deficiencies.

13. Workers Compensation.

The Consultant agrees to comply with state laws and rules applicable to workers' compensation benefits for its employees. If the Consultant 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,

Consultant 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 Consultant 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 Consultant certifies the Consultant 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 Consultant, for any reason whatsoever, the Procuring Agency may procure the goods or Services from another source and hold the Consultant 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.

Consultant 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 Consultant 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. New Mexico Employees Health Coverage.

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

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

C. Consultant agrees to advise all employees of the availability of State publicly financed health care coverage programs by providing each employee with, as a minimum, the following web site link to additional information: <http://insurenwemexico.state.nm.us/>.

24. Employee Pay Equity Reporting.

Consultant 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 PE10-249 form on the annual anniversary of the initial report submittal for agreements up to one (1) year in duration. If Consultant has (250) or more employees Consultant 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, Consultant 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 Consultant not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, Consultant 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. Consultant also agrees to levy this requirement on any Sub-Consultant(s) performing more than 10% of the dollar value of this Agreement if said Sub-

Consultant(s) meets, or grows to meet, the stated employee size thresholds during the term of the Agreement. Consultant further agrees that, should one or more Sub-Consultant not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, Consultant will submit the required report, for each such Sub-Consultant, within ninety (90 days) of that Sub-Consultant meeting or exceeding the size requirement. Subsequent report submittals, on behalf of each such Sub-Consultant, shall be due on the annual anniversary of the initial report submittal. Consultant 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 Sub-Consultant(s) in accordance with the schedule contained in this Clause. Consultant acknowledges that this Sub-Consultant requirement applies even though Consultant 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 Consultant has already submitted the required report accompanying their response to such solicitation, the report does not need to be re-submitted with this Agreement.

25. Indemnification.

The Consultant 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 Consultant, its officers, employees, servants, Sub-Consultants, or agents resulting in injury or damage to persons or property during the time when the Consultant or any officer, agent, employee, servant or Sub-Consultant 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 Consultant or any officer, agent, employee, servant or Sub-Consultant under this Agreement is brought against the Consultant, the Consultant 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.

26. 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 Consultant fails to meet the provisions of this Agreement and, except as otherwise provided herein, to hold the Consultant liable for any excess cost occasioned by the Village due to the Consultant's default. The Consultant 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 Consultant; 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 Sub-Consultants due to any of the above, unless the Village shall determine that the supplies or services to be furnished by the Sub-Consultant were obtainable from other sources in sufficient time to permit the Consultant 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.

27. Assignment.

The Consultant 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.

28. Subcontracting.

The Consultant 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 Consultant from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the Procuring Agency.

29. Inspection of Plant.

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

30. Commercial Warranty.

The Consultant agrees that the tangible personal property or services furnished under this Agreement shall be covered by the most favorable commercial warranties the Consultant gives to any customer for such tangible personal property or services, and that the rights and remedies provided herein shall extend to the Village and are in addition to and do not limit any rights afforded to the Village by any other Clause of this Agreement or order. Consultant agrees not to disclaim warranties of fitness for a particular purpose or merchantability.

31. 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.

32. 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.

33. Confidentiality.

Any Confidential Information provided to the Consultant by the Procuring Agency or, developed by the Consultant 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 Consultant without the prior written approval of the Procuring Agency. Upon termination of this Agreement, Consultant shall deliver all Confidential Information in its possession to the Procuring Agency within thirty (30) business days of such termination. Consultant acknowledges that failure to deliver such Confidential Information to the Procuring Agency will result in direct, special and incidental damages.

34. Consultant Personnel.

A. Key Personnel. Consultant'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 Consultant 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 Consultant's personnel assigned to the Project is reduced for any reason, Consultant 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 Consultant 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 Consultant 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 Consultant's personnel if the assigned personnel are not, in the sole opinion of the Procuring Agency, meeting the Procuring Agency's expectations.

35. Incorporation by Reference and Precedence.

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

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 request for proposals, including attachments thereto and written responses to questions and written clarifications; (4) the Consultant's best and final offer if such has been made and accepted by the SPA or Procuring Agency or entity; and (5) the Consultant's response to the request for proposals.

36. 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 Consultant's risk and expense promptly after notice of rejection and shall not be allowable as billable items for payment.

37. 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 Consultant 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 Consultant 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 Consultant's performance.

D. If the Procuring Agency performs inspections or tests on the premises of the Consultant or a Sub-Consultant, the Consultant shall furnish, and shall require Sub-Consultants 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 Consultant 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 Consultant 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 Consultant 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 Consultant any cost incurred by the Procuring Agency that is directly related to the performance of such service; or
- (2) terminate the Agreement for default.

38. Contract Provisions

Per Federal Requirements of 44 CFR § 13.36, this contract entered between the Village of Ruidoso (Owner) and (Consultant), unless otherwise specified in the above-mentioned sections, shall be in full compliance with the following paragraph (i) of 44 CFR § 13.36. Owner and Consultant understand that Federal agencies are permitted to require changes, remedies, changed conditions, access and records retention, suspension of work, and other clauses approved by the Office of Federal Procurement Policy.

- A. Administrative, contractual, or legal remedies in instances where Consultants violate

- or breach contract terms and provide for such sanctions and penalties as may be appropriate.
- B. Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement.
 - C. Compliance with Executive Order 11246 of September 24, 1965, entitled “Equal Employment Opportunity,” as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60).
 - D. Compliance with the Copeland “Anti-Kickback” Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). (All contracts and sub-grants for construction or repair)
 - E. Compliance with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR part 5).
 - F. Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5).
 - G. Notice of awarding agency requirements and regulations pertaining to reporting.
 - H. Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention, which arises or is developed in the course of or undersuch contract.
 - I. Awarding agency requirements and regulations pertaining to copyrights and rights in data.
 - J. Access by the grantee, the sub-grantee, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the Consultant which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.
 - K. Financial and administrative records for all projects receiving only federal funds shall be retained for a minimum period of three (3) years following the date of the receipt of the final payment of federal funds. Financial and administrative records for all projects that received state funding shall be retained for a minimum period of six (6) years following the receipt of the final payment of state funds. During the period of record retention, the sub-grant may be audited, and the applicant agrees to make their records available to auditors upon request from DHSEM.
 - L. Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).
 - M. Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).
 - N. Prime Consultant must be in compliance with (2 C.F.R. § 200.319) in regards to hiring Sub-Consultants.

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 CONSULTANT'S DEFAULT/BREACH OF THIS AGREEMENT.

39. Insurance.

If the services contemplated under this Agreement will be performed on or in Village facilities or property, Consultant shall maintain in force during the entire term of this Agreement, the following insurance coverage(s):

- 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) naming the Village of Ruidoso as additional insured . 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. Consultant 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 Consultant. 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.

40. 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:

Consultant:

Lynn D. Crawford, Mayor

Draft Only Do Not Sign

Consultant, Title

Date: _____

Date: _____

ATTEST: _____
Jini S. Turri, Village Clerk

EXHIBIT A -DETAIL SCOPE OF WORK
EXHIBIT B-FEE SCHEDULE

APPENDIX B – DETAILED SCOPE OF WORK

RFP #2024-005P

Master Agreement with a Qualified Manufacturer **and/or Direct Purchase** for Onsite Delivery, Set Up, Layout, and Design of Modular Housing Units that Range Between **1- 2-3 Bedrooms**

General:

The Village of Ruidoso is seeking a proposer (manufacturer/**provider**) that has extensive experience in working with municipalities and providing HUD, NMCID and NMRLD approved modular housing units that are more traditional in housing shape and design that will be placed on concrete pads.

The current plan is for 12 to 16 units. Housing must meet all New Mexico and local compliance requirements.

Housing units will include all appliances, HVAC, water heater and finishings. Houses are not to be rectangular in design and should reflect a more traditional home design. **The village is on a strict timeline to complete the project and must have all units completed and installed by June 2024.**

“Onsite delivery and set up” means complete turnkey delivery. Contractor will be responsible for developing their own pad sites and for hooking up all electrical, gas, water, and sewer. The Village will provide the infrastructure for the electric (Via PNM), gas (Via Zia Natural Gas), water and sewer (Via the Village).

The Village will:

- Provide the infrastructure for electrical via PNM, gas via Zia Natural Gas, water and sewer via the Village of Ruidoso (estimated time 6 to 8 weeks)
- Provide a 30 x 60 clearing free of trees and stumps that contractor can use to develop their own pad sites
- Provide the meter loop
- Widen current roads
- Delivery truck and crane will be able to access the property

Contractor will:

- Develop their own pad sites
- Let the Village know what trees need to be removed prior to delivery
- Provide the appropriate foundation for each unit
- Be responsible for all electrical, gas, water, and sewer hookup to the unit

For each proposed unit, please provide a design layout.

Unit description:

~~Single Bedroom~~

Approximate size	480-580 sq ft
No of bathrooms	1
Laundry area	yes
Porch/deck/patio	can be provided as optional

Two Bedroom	
Approximate size	600-900 sq ft
No of bathrooms	1
Laundry area	yes
Porch/deck/patio	can be provided as optional

Two Bedroom	
Approximate size	600-900 sq ft
No of bathrooms	2
Laundry area	yes
Porch/deck/patio	can be provided as optional

Three Bedroom	
Approximate size	1000-14000 1400 sq ft
No of bathrooms	2
Laundry area	yes
Porch/deck/patio	can be provided as optional

The Village of Ruidoso is seeking a manufacturer/provider that can provide units that would sit on site-built foundations, regular perimeter foundation that include crawl space, pier and beam or pad foundation.

Appliances:

All appliances should be included with the unit to include refrigerator, oven/stove. All appliances should be electric. All appliances should be ENERGY STAR certified.

All units should include heating and cooling units. Units should be ENERGY STAR certified and be ready to be powered by natural gas.

Water Heater:

All units should include a water heater that is fired by natural gas. All water heaters should be ENERGY STAR certified.

Pricing:

Proposers shall provide pricing for each unit on a per square foot price to include delivery and installation.

Delivery and Timeframe:

The Village of Ruidoso is on a strict timetable for spending allocated funds. Units must be delivered prior to June 30, 2024. The village is requesting proposers to estimate how many units can be delivered on or by this date.

Layout:

Proposers shall provide the layout of each unit.

Tentative Site Plan:

Attached is a tentative site plan.

APPENDIX C – ACKNOWLEDGEMENT OF RECEIPT FORM

RFP #2024-005P

Master Agreement with a Qualified Manufacturer and/or Direct Purchase for Onsite Delivery, Set Up, Layout, and Design of Modular Housing Units that Range Between 1- 2-3 Bedrooms

In acknowledgement of receipt of this Request for Proposal the undersigned agrees that they have received a complete copy, beginning with the title page and table of contents, and ending with APPENDIX I.

The acknowledgement of receipt shall be signed and returned to the Procurement Manager no later than date proposed in Section II. A. in the advertised RFP. Only potential Offerors who elect to return this form completed with the indicated intention of submitting a proposal will receive copies of all Offeror written questions and the written responses to those questions as well as RFP amendments, 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 Proposal.

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

Village of Ruidoso
313 Cree Meadows Dr
Ruidoso, NM 88345
E-mail: Purchasing@ruidoso-nm.gov

APPENDIX D – LETTER OF TRANSMITTAL FORM

RFP #2024-005P

Master Agreement with a Qualified Manufacturer and/or Direct Purchase for Onsite Delivery, Set Up, Layout, and Design of Modular Housing Units that Range Between 1 2-3 Bedrooms

Offeror Name: _____ **FEIN#** _____

Items #1 to #7 EACH MUST BE COMPLETED IN FULL Failure to respond to all seven items WILL RESULT IN THE DISQUALIFICATION OF THE PROPOSAL!

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 Offer:

Name _____
Title _____
E-Mail Address _____
Telephone Number _____

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

Name _____
Title _____
E-Mail Address _____
Telephone Number _____

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

Name _____
Title _____
E-Mail Address _____
Telephone Number _____

5. Use of Sub-Consultants (Select one)

No Sub-Consultants will be used in the performance of any resultant contract OR

The following Sub-Consultants will be used in the performance of any resultant contract:

(Attach extra sheets, as needed)

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

(Attach extra sheets, as needed)

7. On behalf of the submitting organization named in item #1, above, I accept the Conditions Governing the Procurement as required in Section II. C.1.
- I concur that submission of our proposal constitutes acceptance of the Evaluation Factors contained in Section V of this RFP.
- I hereby acknowledge receipt of the following addenda to this RFP (if applicable)

Addendum # _____ Dated: _____ Addendum # _____ Dated: _____

Addendum # _____ Dated: _____ Addendum # _____ Dated: _____

Authorized Signature

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

Date

APPENDIX E – CAMPAIGN CONTRIBUTION DISCLOSURE FORM

RFP #2024-005P

Master Agreement with a Qualified Manufacturer and/or Direct Purchase for Onsite Delivery, Set Up, Layout, and Design of Modular Housing Units that Range Between 1- 2-3 Bedrooms

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 Consultant must disclose whether they, a family member or a representative of the prospective Consultant 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 Consultant submits a proposal or, in the case of a sole source or small purchase contract, the two years prior to the date the Consultant signs the contract, if the aggregate total of contributions given by the prospective Consultant, a family member or a representative of the prospective Consultant 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 Consultant, a family member of the prospective Consultant, or a representative of the prospective Consultant 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 Consultant fails to submit a fully completed disclosure statement pursuant to the law.

THIS FORM MUST BE FILED BY ANY PROSPECTIVE CONSULTANT 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 Consultant is submitting a competitive sealed proposal or who has the authority to negotiate a sole source or small purchase contract that may be awarded without submission of a sealed competitive proposal.

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

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

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

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

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

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

DISCLOSURE OF CONTRIBUTIONS:

Contribution Made By: _____

Relation to Prospective Consultant: _____

Name of Applicable Public Official: _____

Date Contribution(s) Made: _____

Amount(s) of Contribution(s):

Nature of Contribution(s): _____

Purpose of Contribution(s): _____

(Attach extra pages if necessary)

Signature Date

Title (position)

—OR—

NO CONTRIBUTIONS IN THE AGGREGATE TOTAL OVER TWO HUNDRED FIFTY DOLLARS (\$250) WERE MADE to an applicable public official by me, a family member or representative.

Signature Date

Title (Position)

APPENDIX F – DEBARMENT CERTIFICATION

RFP #2024-005P

Master Agreement with a Qualified Manufacturer **and/or Direct Purchase** for Onsite Delivery, Set Up, Layout, and Design of Modular Housing Units that Range Between 1- 2-3 Bedrooms

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:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal entity, or the State of New Mexico or local public body department or agency;
2. Have not within a three year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State Antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1) of this certification; and
4. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

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

Typed Name & Title of Authorized Representative

Date

Signature of Authorized Representative

APPENDIX G – NON-COLLUSION AFFIDAVIT

RFP #2024-005P

Master Agreement with a Qualified Manufacturer and/or Direct Purchase for Onsite Delivery, Set Up, Layout, and Design of Modular Housing Units that Range Between 1- 2-3 Bedrooms

STATE OF _____)
)
COUNTY OF _____) SS

_____, being first duly sworn, deposes and says:

That he/she is _____ of _____ who submits herewith to the Village of Ruidoso, a proposal/bid:

That all statement of fact in such proposal/bid are true;

That said proposal/bid was not made in the interest of or on behalf of any undisclosed person, partnership, company, association, organization or corporation;

That said bidder has not, directly or indirectly by agreement, communication or conference with anyone attempted to induce action prejudicial to the interest of Village of Ruidoso, or any bidder of anyone else interested in the proposed contract; and further,

That prior to the public opening and reading or proposal/bid, said bidder:

1. Did not directly or indirectly, induce or solicit anyone else to submit a false or sham proposal/bid;
2. Did not directly or indirectly collude, conspire, connive or agree with anyone else that said bidder or anyone else would submit a false or sham proposal, or that anyone should refrain from bidding or withdraw his proposals/bids;
3. Did not in any manner, directly or indirectly, seek by agreement, communication or conference with anyone to raise or fix the proposal/bid price of said bidder or of anyone else, or to raise or fix any overhead, profit or cost element of their proposal/bid price, or of that of anyone else;
4. Did not directly or indirectly, submit his proposal/bid price or any breakdown thereof, or the contest thereof, or divulge information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository or to any member or agent thereof, or to any individual or group of individuals, except that Village of Ruidoso, or to any person or persons who have a partnership or other financial interests with said bidder in his business.

By: _____

SUBSCRIBED and sworn to before me this _____ day of _____ 20__.

Notary Public: _____

My commission expires: _____

APPENDIX H – COST RESPONSE FORM

RFP #2024-005P

Master Agreement with a Qualified Manufacturer and/or Direct Purchase for Onsite Delivery, Set Up, Layout, and Design of Modular Housing Units that Range Between 1- 2-3 Bedrooms

Name of Proposer: _____

Item No.	Description	# of Bathrooms / Other	Square Footage of Unit	# of Units That Can be Delivered by June 30, 2024	Delivery Time Frame	Cost Per Sq Foot
1	Single Bedroom (Appx Size 480–580 sq ft)	1				\$
						Optional Cost
	Optional: Porch/Deck/Patio	--		--	--	\$
2	Two Bedroom (Appx Size 600 - 900 sq ft)	1				\$
						Optional Cost
	Optional: Porch/Deck/Patio	--		--	--	\$
2	Two Bedroom (Appx Size 600 - 900 sq ft)	2				\$
						Optional Cost
	Optional: Porch/Deck/Patio	--		--	--	\$
3	Three Bedroom (Appx Size 1000 – 1400 sq ft)	2				\$
						Optional Cost
	Optional: Porch/Deck/Patio	--		--	--	

Offer must provide a layout or floor plan for each unit.

Note: Size is a suggestion only.

RFP #2024-005P

Master Agreement with a Qualified Manufacturer and/or Direct Purchase for Onsite Delivery, Set Up, Layout, and Design of Modular Housing Units that Range Between 1-2-3 Bedrooms

APPENDIX I- REFERENCES

Proposer's Name: _____

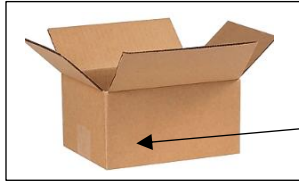
Reference #1	
Name of Company or Business:	
Name of Contact Person:	
Contact Person's Phone Number:	
Contact Person's Email Address:	
Description of Services Provided to the Business:	
How Many Modular Homes Have Been Provided to this Business?	
Do you have a master agreement with this company? If so, please describe the terms of the agreement.	

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 Modular Homes Have Been Provided to this Business?	
Do you have a master agreement with this company? If so, please describe the terms of the agreement.	

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 Modular Homes Have Been Provided to this Business?	
Do you have a master agreement with this company? If so, please describe the terms of the 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:
 RFP #2023-XXXP and Title
 Due Date: xx/xx/xx Time x:xx pm

1. TECHNICAL PROPOSAL (Binder 1): One original and five copies are to be submitted as follows (electronic version must be on a USB drive):

3 ring binder or similar (1 original (hard copy) and 5 copies and 1 USB drive): 1 USB Drive →



Tabs inside of binders:

- Tab A:** Table of Contents
- Tab B:** Response to Business Specifications
 - 1. Signed Letter of Transmittal Form (Appendix D)
 - 2. Signed Campaign Contribution Form (Appendix E)
 - 3. Debarment Certification (Appendix F)
 - 4. Non-Collusion Affidavit (Appendix G)
 - 5. New Mexico Preference
- Tab C:** Response to Technical Specifications
 - 1. List Criteria 1 -4 with full detail
- Tab D:** Proposal Summary (Optional)
- Tab E:** Offeror's Response to Contract Terms & Conditions (If applicable)
- Tab F:** Offeror's Additional Terms & Conditions (If applicable)
- Tab G:** Other Supporting Material (If applicable)

