





# County of McKinley

P.O. Box 70 • 207 West Hill Avenue

Gallup, New Mexico 87305-0070

505-722-3868

Fax 505-863-6362

Commissioner Dist. 1.  
Carol Bowman-Musket

Commissioner Dist. 2  
Genevieve Jackson

Chairman  
Commissioner Dist. 3  
David Dallago Jr

County Attorney  
Doug Decker

Acting Manager  
Dezire Gomez

## INVITATION FOR BIDS

THE COUNTY OF MCKINLEY IS REQUESTING COMPETITIVE SEALED BIDS FOR THE FOLLOWING GOODS OR SERVICES:

**TITLE: Dirt & Rock Hauling for Magistrate Court Development**

**IFB NO.: 2011-15**

**OPEN: Monday, July 18, 2011, 2:00 p.m. local time**

**FOR PURCHASING INFORMATION CONTACT:**

THERESA M. DIAZ, BUYER  
PROCUREMENT AGENT  
PHONE: (505) 722-3868, Ext. 1004

**FOR TECHNICAL INFORMATION CONTACT:**

MARIO GOMEZ  
ASST. ROAD SUPERINTENDENT  
(505) 870-9022

THE OFFICE OF THE MANAGER, COUNTY OF MCKINLEY, WILL RECEIVE COMPETITIVE SEALED BIDS FOR THE GOODS OR SERVICES DESCRIBED IN THIS BID AT:

**VIA MAIL**

OFFICE OF THE MANAGER  
COUNTY OF MCKINLEY  
POST OFFICE BOX 70  
GALLUP, NM 87305-0070

**HAND CARRIED**

OFFICE OF THE MANAGER  
COUNTY COURTHOUSE, 3RD FLOOR  
207 WEST HILL  
GALLUP, NM 87301

ANY BIDS RECEIVED AFTER BID OPENING DATE/TIME WILL BE RETURNED UNOPENED. PLEASE USE THE ENCLOSED MAIL LABEL ON THE OUTSIDE OF YOUR ENVELOPE.

**NOTE: USE OF THE MAIL SERVICE IS AT YOUR OWN RISK FOR PROPER DELIVERY.**

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<b>OFFEROR CHECK LIST:</b> This checklist is provided as an aid in completing your bid. <b><i>DO NOT RETURN IT WITH YOUR BID.</i></b>	<b>PAGE 2</b>
<b>QUOTATION SHEET:</b> These pages provide an area for data about your bid including delivery date, discounts, residence preference number, compliance agreement and prices offered. <b><u>THEY MUST BE COMPLETED IN FULL AND RETURNED TO THE COUNTY OF McKINLEY PURCHASING DEPARTMENT FOR EVALUATION.</u></b>	<b>PAGES 3-4</b>
<b>SPECIFICATIONS:</b> All bidders must comply fully with these specifications. See specifications compliance form enclosed (Appendix A). Read, <b>answer and return with your bid.</b>	<b>PAGE 5</b>
<b>SUPPLEMENTAL TERMS AND CONDITIONS:</b> These are supplemental to the standard terms and conditions of this bid. Read and retain them for your records. <b><i>DO NOT RETURN IT WITH YOUR BID.</i></b>	<b>PAGES 6-8</b>
<b>SPECIFICATIONS COMPLIANCE FORM:</b> Complete and return this form with your bid if the goods or services you are offering do not meet the specifications in this bid, but you believe that they are equivalent and should be included in the evaluation process (see 'specifications' above).	<b>APPENDIX A</b>
<b>NO-RESPONSE STATEMENT:</b> Complete and return this form if you are not responding to this bid and want to remain on the County of McKinley vendors list.	<b>APPENDIX B</b>
<b>STANDARD TERMS AND CONDITIONS:</b> Read and retain these documents for your records. <b><i>DO NOT RETURN IT WITH YOUR BID.</i></b>	<b>APPENDIX C</b>

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**OFFERER'S CHECK LIST**

THIS CHECK LIST IS OFFERED AS AN AID IN COMPLETING YOUR BID. **YOU ARE NOT REQUIRED TO RETURN IT WITH YOUR BID.** IF THERE ARE QUESTIONS ABOUT THIS INVITATION FOR BID, PLEASE CALL THE PURCHASING DEPARTMENT AT (505) 722-3868 FOR ASSISTANCE.

1. READ ALL TERMS AND CONDITIONS OF THIS BID.
2. INCLUDE MANUFACTURER, STOCK NUMBER, PACKAGE SIZE, QUANTITY, ETC. **WHERE REQUIRED.**
3. INCLUDE UNIT AND EXTENDED PRICE (THIS IS VER IMPORTANT!)
4. PROMPT PAYMENT TERMS INCLUDED.
5. IF APPLICABLE, NEW MEXICO STATE PURCHASING DEPARTMENT ISSUED IN STATE RESIDENTS PREFERENCE NO.
6. SPECIFICATIONS EXCEPTIONS FORM (APPENDIX A) COMPLETED, SIGNED AND RETURNED WITH YOUR BID.
7. SPECIFICATIONS AND/OR DESCRIPTIVE LITERATURE INCLUDED **AS REQUIRED.**
8. BID BOND IN PROPER FORMAT INCLUDED, **IF REQUIRED.**
9. LICENSES/CERTIFICATIONS COMPLIANCE FOR COMPLETED AND SIGNED, **IF REQUIRED.**

**RETAIN THIS FORM FOR YOUR RECORDS**

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**QUOTATION SHEET**

**DUE DATE: Monday, July 18, 2011 at 2:00 pm Local Time**

Having carefully examined the notice to bidders, general instructions to bidders, terms and conditions, supplemental terms and conditions, and project specifications, addenda(s), the site of the work, the work on the above-named project, the undersigned hereby proposes to furnish all materials, labor, equipment, tools, transportation, services, licenses, fees, permits, etc. (not including New Mexico Gross Receipt Taxes or any additive alternates) required by said documents and to complete all divisions of the work stipulated. The Board reserves the right to reject any or all bids and waive any/all formalities.

<b>Item No.</b>	<b>Description</b>	<b>Unit Price</b>	<b>Extended Price</b>
1. 1 LOT	Dirt & Rock Hauling for Magistrate Court Development.	\$_____	\$_____
	(77,000 cubic yards of dirt per specifications (Rock trucks should be used for hauling)		

**SEE ATTACHED SPECIFICATIONS FOR COMPLIANCE**

Company Name: \_\_\_\_\_ Name: \_\_\_\_\_  
Address: \_\_\_\_\_ Signature: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_ Title: \_\_\_\_\_  
Telephone: \_\_\_\_\_ Fax No. \_\_\_\_\_  
E-Mail: \_\_\_\_\_ Website: \_\_\_\_\_  
Please state: Terms: \_\_\_\_\_ F.O.B. Point: Destination  
Delivery Date: \_\_\_\_\_  
Federal ID or Social Security Number: \_\_\_\_\_  
Received addenda numbers \_\_\_\_\_, \_\_\_\_\_, when issued.

**In State Preference No.** \_\_\_\_\_

- Liability Insurance is required.
- Copy of Workers' Compensation Insurance is required.
- McKinley County Business License.

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**APPLICABLE ONLY WHEN CHECKED:  
FAILURE TO PROVIDE THE FOLLOWING INFORMATION WILL  
RESULT IN YOUR BID TO BE NON-RESPONSIVE.**

- [ X ] New Mexico Contractors License No. \_\_\_\_\_
- [ ] Bid Bond of 5% Included
- [ ] Performance Bond of 100% is required on notice to proceed.

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**SPECIFICATIONS**

**RESPONSIBILITY OF SUCCESSFUL BIDDER**

Bidder shall mark YES when the vendor meets the specification completely and shall mark NO if the vendor does not meet the specification to its fullest. All NO responses shall be explained on a separate sheet of paper title: EXCEPTIONS TO THE SPECIFICATIONS, APPENDIX A.

**MEET OR EXCEEDS**

**Yes \_\_\_\_\_ No \_\_\_\_\_**

1. Dirt & Rock Hauling: 77,000 cubic yards  
of dirt and rocks from Magistrate Court Development  
Site 285 South Boardman Drive to City Dump Grounds  
North of Gallup

**SUPPLEMENTAL TERMS AND CONDITIONS**

THESE SUPPLEMENTAL TERMS AND CONDITIONS ARE IN ADDITION TO THE GENERAL INSTRUCTIONS, TERMS AND CONDITIONS AND, IN THE EVENT OF A CONFLICT BETWEEN THE PROVISIONS OF THE GENERAL INSTRUCTIONS, TERMS AND CONDITIONS AND THESE SUPPLEMENTAL TERMS AND CONDITIONS, THE PROVISIONS OF THESE SUPPLEMENTAL TERMS AND CONDITIONS SHALL CONTROL.

**AWARD OF CONTRACT; LOWEST RESPONSIVE OFFER:**

A CONTRACT RESULTING FROM THIS BID WILL BE AWARDED ON THE BASIS OF THE LOWEST TOTAL ALL OR NONE JUDGED RESPONSIVE AND ACCEPTABLE BY THE COUNTY.

**AWARD OF CONTRACT; MULTIPLE AWARDS:**

THE COUNTY RESERVES THE RIGHT TO MAKE MULTIPLE AWARDS AS A RESULT OF THIS REQUEST IF DOING SO MAY BE ADVANTAGEOUS TO THE COUNTY.

**CONTRACT PERIOD:**

A CONTRACT RESULTING FROM THIS BID WILL BE EFFECTIVE UPON RECEIPT OF PURCHASE ORDER.

**DESIGN CONFORMANCE; OSHA**

THE DESIGN OF ALL EQUIPMENT PURCHASED AS A RESULT OF A BID MADE IN RESPONSE TO THIS REQUEST SHALL BE IN CONFORMANCE WILL ALL APPLICABLE REGULATIONS OF THE FEDERAL OCCUPATIONAL SAFETY AND HEALTH ACT WHICH ARE IN EFFECT AT THE TIME OF DELIVERY.

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**ESTIMATED QUANTITIES:**

THE ESTIMATED QUANTITIES LISTED DO NOT CONSTITUTE AN ORDER, AND ARE NOT NECESSARILY COMPREHENSIVE; THEY ARE A REPRESENTATIVE SAMPLE OF WHAT IS LIKELY TO BE PURCHASED DURING THE COURSE OF A CONTRACT RESULTING FROM THIS REQUEST AND WILL BE USED ONLY TO EVALUATE BIDS AND AWARD SUCH A CONTRACT. THESE QUANTITIES AS STATED MAY INCREASE OR DECREASE DEPENDING ON THE ACTUAL NEEDS OF THE COUNTY. THE PURCHASING DEPARTMENTS WILL PLACE ACTUAL ORDERS.

**FREIGHT, PREPAID:**

FREIGHT WILL BE F.O.B. DESTINATION-FREIGHT PREPAID. F.O.B. POINT OTHER THAN INDICATED BY THE COUNTY WILL NOT BE ACCEPTABLE.

**GUARANTEED PERFORMANCE:**

THE BIDDER, IF AWARDED A CONTRACT AS A RESULT OF THIS BID, GUARANTEES THAT THE MATERIALS SUPPLIED ARE CAPABLE OF THE PERFORMANCE REQUIRED IN THE SPECIFICATIONS IN THIS BID, AND AGREES TO MAKE SUCH CHANGES, ADJUSTMENTS OR REPLACEMENTS AS ARE IMMEDIATELY NECESSARY IN ORDER FOR THE MATERIALS TO MEET THE PURCHASING REQUIREMENTS AT NO COST TO THE COUNTY. IF DEFECTS OR SPECIFICATION FAILURES ARE DISCOVERED, THE PURCHASING OFFICER SHALL HAVE THE RIGHT, NOTWITHSTANDING ACCEPTANCE AND PAYMENT TO REQUIRE THE UNIT/ITEM TO BE PROPERLY FURNISHED IN ACCORDANCE WITH THE SPECIFICATIONS AND DRAWINGS AT THE COST AND EXPENSE OF THE BIDDER OR THE BIDDER'S SURETY.

**INSPECTION OF MATERIALS:**

THE COUNTY RESERVES THE RIGHT TO INSPECT MATERIALS PROVIDED BY THE BIDDER THROUGH A CONTRACT RESULTING FROM THIS BID TO DETERMINE THEIR QUALITY, FITNESS AND SUITABILITY. INSPECTION OF THESE MATERIALS MAY BE CONDUCTED WHENEVER THE COUNTY CONSIDERS NECESSARY.

**MANUFACTURER'S INFORMATION:**

ANY BID MADE IN RESPONSE TO THIS INVITATION MUST INCLUDE THE MANUFACTURER'S MAKE AND MODEL NUMBER (AS APPLICABLE) OF EACH ITEM AND LITERATURE CLEARLY DESCRIBING THE ITEM. FAILURE TO PROVIDE THIS INFORMATION MY RESULT IN REJECTION OF THE BID.

**MATERIALS AND WORKMANSHIP:**

ALL MATERIALS FURNISHED BY THE BIDDER SHALL BE FREE FROM DEFECTS AND IMPERFECTIONS. WORKMANSHIP SHALL BE IN ACCORD WITH THE BEST INDUSTRY STANDARDS AND PRACTICES. BOTH MATERIALS AND WORKMANSHIP SHALL BE SUBJECT TO THE APPROVAL OF THE COUNTY.

**PRICE ESCALATION:**

IF THE BIDDER DOES NOT OFFER A FIRM PRICE, OR IF A BID CONTAINS AN ESCALATION CLAUSE, THE BID MAY BE CONSIDERED ONLY UNDER THE FOLLOWING CONDITIONS:

- A. OFFERED PRICES MUST BE FIRM FOR AT LEAST NINETY (90) CALENDAR DAYS AFTER WRITTEN NOTIFICATION OF A CONTRACT.
- B. ALL PRICE INCREASES SHALL BE ACCOMPANIED BY A CERTIFIED LETTER FROM THE BIDDER'S SUPPLIER SHOWING THE PRICE INCREASE TO THE BIDDER.

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- C. ALL INVOICES OF THE OFFERED ITEMS, FROM SUPPLIERS TO THE BIDDER, SHALL BE SUBJECT TO AUDITING BY THE COUNTY AND FURNISHED WITHOUT DELAY UPON REQUEST.
- D. THE COUNTY RESERVES THE RIGHT TO CANCEL A CONTRACT RESULTING FROM THIS BID AND SOLICIT A NEW CONTRACT IF THE ESCALATED PRICE IS ABOVE THE CURRENT OPEN MARKET PRICE FOR THE SAME COMMODITY. CANCELLATION OF THE CONTRACT SHALL NOT AFFECT ANY OUTSTANDING ORDERS.
- E. ALL REVISIONS OF THE PRICE LIST SHALL BECOME EFFECTIVE WHEN THEY ARE RECEIVED, IN WRITING, AND ACCEPTED, BY THE PURCHASING OFFICE OF THE COUNTY, PROVIDED THAT THEY DO NOT CONFLICT WITH ITEM (F.) OF THIS PARAGRAPH.
- F. ALL APPROVED PRICE CHANGES RESULTING FROM THIS ESCALATION CLAUSE SHALL BE FIRM FOR A PERIOD OF NINETY (90) CALENDAR DAYS AFTER ACCEPTANCE IN WRITING BY THE COUNTY.
- G. THE BIDDER SHALL BE LIMITED TO A MAXIMUM OF TWO PRICE ESCALATIONS PER CONTRACT PERIOD UNLESS OTHERWISE SPECIFIED IN THIS REQUEST.
- H. THE BIDDER SHALL PROVIDE TO THE COUNTY WRITTEN NOTICE OF ANY REQUESTED PRICE CHANGES AT LEAST SIXTY (60) DAYS PRIOR TO THOSE CHANGES TAKING EFFECT.
- I. IF THE BIDDER RECEIVES ANY PRICE DE-ESCALATIONS FROM THE SUPPLIER OF GOODS SOLD TO THE COUNTY THROUGH A CONTRACT RESULTING FROM THIS BID, THE BIDDER IS RESPONSIBLE FOR NOTIFYING THE COUNTY WITHIN TWENTY-FOUR (24) HOURS OF SUCH DE-ESCALATIONS, AND PASSING THOSE PRICE CHANGES ON TO THE COUNTY IMMEDIATELY.

**BRIBES, GRATUITIES, AND KICKBACKS:**

THE PROCUREMENT CODE, SECTIONS 13-1-28 THROUGH 13-1-199, NMSA, 1978 IMPOSES CIVIL AND CRIMINAL PENALTIES FOR CODE VIOLATIONS. IN ADDITION THE NEW MEXICO CRIMINAL STATUTES IMPOSE FELONY/PENALTIES FOR ILLEGAL BRIBES, GRATUITIES AND KICKBACKS.

**OTHER PUBLIC GOVERNMENTAL AGENCIES:**

OTHER PUBLIC GOVERNMENTAL AGENCIES (HEREINAFTER, OPGA) MAY PURCHASE FROM ANY INVITATION FOR BID (IFB) ISSUED BY THE COUNTY OF MCKINLEY UNLESS OTHERWISE STATED. IT SHALL FURTHER BE UNDERSTOOD THAT WHEN THE TERMS "COUNTY OF MCKINLEY" OR "COUNTY" ARE USED, THE OPGA ALSO APPLIES, UNLESS OTHERWISE STATED. IT SHALL BE THE RESPONSIBILITY OF THE VENDOR TO VERIFY WHETHER THE PURCHASING ENTITY IS LEGITIMATE.



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**APPENDIX B  
NO-BID STATEMENT**

In an effort to make the procurement of County of McKinley goods and services as competitive as possible, we are soliciting information from vendors who cannot bid.

Completion of this form will assist us in evaluating factors, which relate to the competitiveness of our bids. Please check any of the boxes below, which may apply.

- Specifications - Restrictive, unclear, specialty item, etc.
- Manufacturing - Unique item, production time for model or item has expired, etc.
- Bid Time - Insufficient time to properly bid.
- Delivery Time - Specified delivery time cannot be met.
- Payment - Delay in payment process.
- Miscellaneous - Do not wish to bid, do not handle this type of item(s), unable to compete, etc.

The intent in obtaining this information is to utilize it to adjust procedures, if appropriate and to obtain maximum participation in the competitive bid process. Vendor comments are not restricted to those items listed. Please submit any statement relative to this bid, which you feel has an impact on your inability to bid.

**VENDOR STATEMENT**

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**NOTE: RETURN THIS FORM ONLY IF  
YOU ARE NOT SUBMITTING  
A BID**

\_\_\_\_\_  
**(Signed)**

\_\_\_\_\_  
**(Firm Name)**

## COUNTY OF MCKINLEY INVITATION FOR BIDS

### APPENDIX C GENERAL INSTRUCTIONS, TERMS AND CONDITIONS

IMPORTANT: **READ CAREFULLY BEFORE SUBMITTING BIDS. FAILURE TO DO SO SHALL NOT ABSOLVE THE BIDDER FROM RESPONSIBILITY TO PERFORM OR DELIVER AS SPECIFIED.**

1. **APPLICABILITY:** Except as otherwise specifically provided in this bid, these General Instructions, Terms and Conditions shall govern the procurement of the items specified in this bid. In the event of a conflict between these General Instructions, Terms and Conditions, Supplemental Conditions or the specifications of this bid, the order of application shall be the Specifications, Supplemental Conditions and the General Instructions, Terms and Conditions. In addition, the Public Purchases Ordinance and promulgated Rules and Regulations shall apply.
2. **DEFINITIONS:** As used in this bid, the definitions of the Public Purchases Ordinance apply including the following.
  - A. **"Bid"** means all documents, including those attached or incorporated by reference, issued by the Purchasing Department for soliciting offers to provide goods, services or construction.
  - B. **"Contract"** means any agreement for the procurement of goods, services, construction or concessions. A Purchase Order issued in response to an offer constitutes a contract.
  - C. **"Contractor"** means an offerer who has been awarded a contract.
  - D. **"County"** means the County of McKinley, New Mexico.
  - E. **"Purchase Order"** means a document issued by the Purchasing Office directing the Contractor to deliver goods, services or construction.
  - F. **"Purchasing Office"** means the Purchasing Department of the Office of the Manager of the County.
  - G. **"Purchasing Officer"** means the person charged with the responsibility of administering the Department.
  - H. **"Bidder"** means a business that submits a response to a competitive solicitation.

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- I. **"Responsible Bidder"** means a business which has the capability in all respects to perform fully the contract requirements set out in the competitive solicitation, and the integrity and reliability which will assure good faith performance, and who has not violated or attempted to violate any provision of law or ethical conduct. Factors, which may be considered in determining the offeror's capability to perform, among others, are its financial resources, production or service facilities, service reputation and experience.
  - J. **"Responsive Bid"** means a written offer to furnish goods, services or construction in conformity with standards, specifications, delivery terms and conditions, and all other requirements established in a competitive solicitation.
  - K. **"Successful Bidder"** means the lowest Responsible Bidder to whom McKinley County, on the basis of the County's evaluation, makes an award. A Successful Bidder does not become a contractor until a purchase order is signed by the County.
3. PREPARATION OF BID:
- A. **Submission:** All Bids must be submitted on the Invitation for Bids form enclosed. Failure to do so may disqualify your offer. It is the responsibility of the bidder to submit sufficient additional information to allow for a thorough evaluation of the bid submitted.
  - B. **Preparation Method:** All information required in this Bid must be typewritten or handwritten in ink and must be legible. Erasures or other changes must be initialed by the person signing the offer. Each bid must be signed on the appropriate pages by an individual authorized to bind the bidder submitting the bid.
  - C. **Unit Prices:** The unit price for each item offered shall be shown unless otherwise specified. In the case of a discrepancy between the unit price and the extended price, the unit price will govern in determining the price used for evaluation. Unit prices offered should be for the units specified.
  - D. **Delivery Time:** Delivery time stated in the specifications shall apply. Deviations by the bidder shall be stated on the Specification Exception form, Appendix A. Time, if stated in number of days, will be consecutive calendar days.
  - E. **Payment Terms:** The Invitation for Bids form provides space for the bidder to identify the payment terms that the bidder is offering. Terms of less than twenty (20) days will not be considered. The discount term shall not begin until the goods, services or construction have been delivered and accepted and the correct invoice received in the County Accounts Payable Office.

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- F. Freight Policy: Freight will be F.O.B. Destination (As indicated on the Invitation for Bids form), Freight Prepaid, unless otherwise specified in this Bid.
- G. Taxes: Bidders shall not include any applicable gross receipts taxes in its offered price, unless specified otherwise in this bid, and such offer will be construed in the manner. The County will, under appropriate circumstances, furnish a non-taxable transaction certificate. Determination of whether the tax is due and payment of the tax is the responsibility of the bidder. Applicable taxes are to be included in each invoice due and may not be billed more than sixty (60) days after providing the services to which the taxes apply.
- H. New Material, Etc.: All materials, supplies, equipment, and vehicles specified in this Bid shall be new, the latest in production and manufactured within the last twelve (12) months (computed from the date and time of offer opening) unless otherwise indicated. This does not apply to materials, supplies, equipment or vehicles used by the Contractor to provide the required items of tangible personal property, services or construction.
- I. Warranty: Materials furnished by the successful bidder shall be accompanied by the manufacturer's written warranty against defects in quality, craftsmanship, and materials.

The bidder agrees that the items of tangible personal property, services or construction furnished under any contract resulting from this bid shall be covered by the most favorable commercial warranties the bidder gives to any customer for such items. Further, the bidder agrees that the rights and remedies provided in such warranties extend to the County and are in addition to and do not limit any rights afforded to the County by any other clause of this bid. The bidder agrees not to disclaim warranties of fitness for a particular purpose of merchantability. Warranties shall become effective at the time of acceptance.

- J. Equivalent Bids: Where a product is characteristic of a sole manufacturer, or where a brand name is indicated in the specifications, it shall be defined to mean "minimum acceptable level" or "minimum quality required" by the County unless the specifications state that no substitutions or equivalents will be allowed. If the bidder offers an item other than the one specified, which the bidder considers comparable, the manufacturer's name and model number of that item must be specified in the bid and sufficient performance specification and descriptive data provided to permit a thorough evaluation. Failure to provide the appropriate information may result in disqualification of the bid.
- K. Exception to Specifications: Bidders are to state any exceptions taken to this Bid on the Specifications Exception form, Appendix A. If no exceptions are stated, the bidder is required to furnish the

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items exactly as specified and to comply with all other requirements of this bid.

- L. Indemnity: The bidder to whom an award has been made as a result of this bid expressly agrees to defend, indemnify and save harmless the County and its officer, agents and employees from and against any and all claims, suits, demands, actions, or proceedings of every nature and description brought because of any injury or damage received or sustained by any person, persons, or property arising out of the bidder's providing the goods, services for construction pursuant to the bid or by reason of any act or omission, neglect or misconduct of the bidder, the agents, employees or subcontractors of the bidder or the agents or employees of any subcontractor of the bidder. The indemnity required herein shall not be limited by reason of the specification of any particular insurance coverage.
- M. Patent Indemnity: If any item furnished pursuant to any contract resulting from this bid shall be covered by any patent, copyright, or application for patent or copyright, the bidder shall defend, indemnify and save harmless the County from any and all loss, cost or expense or any and all claims suits, or judgments as a result of the use of such item in violation of rights under such patent, copyright, or application for patent or copyright.
- N. Public Inspection: Each bid shall be open to public inspection, except to the extent the bidder designates trade secrets or other proprietary data to be confidential. Material so designated shall accompany the bid and each page shall be clearly marked and readily separable from the bid in order to facilitate public inspection of the non-confidential portion of the bid. Prices and makes and models or catalog numbers of the items offered, deliveries and terms of payment shall be publicly available at the time of the opening of the bid regardless of any designation to the contrary. The County shall endeavor to restrict distribution of the material designated as confidential to only those individuals involved in the review and analysis of the bids. Bidders are cautioned that materials designated confidential may nevertheless be subject to disclosure to any New Mexico citizen under the Inspection of Public Records Act (Sections 14-2-1 through 14-2-3 N.M.S.A. 1978)
- O. Material Safety Data Sheets: To comply with the Occupational Health and Safety Regulation 1910.1200 for general standards on handling hazardous materials, material safety data sheets may be required for all or part of the products included on this bid. It is the responsibility of the bidder to make this determination and, if required, a copy of the MSDS must accompany the product when delivered to the end user. Failure to comply with this requirement may cause the delivery of products to be rejected and all costs related to such action to be borne by the bidder.

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4. ETHICAL CONDUCT: By submitting its bid in response to this invitation, the bidder certifies that:
- A. It has not offered, given or agreed to give to any County employee or former employee, a gratuity or offer of employment to influence the preparation of or recommendation of award of this bid;
  - B. It has not retained a person or solicited or secured a County Contract for a contingent fee;
  - C. It has not taken any action in restraint of free competitive bidding in connection with this bid;
  - D. It has not in any way violated the ethical conduct or other provisions of the County's Public Purchases Ordinance; and
  - E. It currently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with its performance of any contract resulting from this bid.

5. REQUESTS FOR EXPLANATIONS BY BIDDERS:

- A. Requests for Explanation: Any explanation desired by the bidder regarding the meaning or interpretation of specifications or any part of this bid must be requested in writing and received in the Purchasing Department not less than five (5) working days before the bid opening date.
- B. Response to Bids: Oral explanations or instructions given prior to the opening of the offer shall not be binding. The Purchasing Department must issue any official explanations, in writing.

6. ADDENDA:

Addenda: Changes or amendments to specifications, conditions or provisions herein may be initiated **ONLY** through the Purchasing Department in the form of a written addendum.

Any addenda shall become a part of this bid and should be acknowledged either by being signed and returned with the bid or through letter or telegram that arrives prior to the opening of the bid. Failure to do so may result in disqualification of the bid.

It is the responsibility of all vendors considering making a bid in response to this invitation to ensure that they have received all addenda prior to making a bid. Bidders may contact the Purchasing Department to obtain information regarding any addenda issued. Failure to obtain an addendum shall not be grounds for overturning a recommendation of award.

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### 7. CLARIFICATION OF BIDS:

The County may, in the evaluation of bids, request clarification from bidders regarding their bid, obtain additional material or literature, and pursue other avenues of research as necessary to insure that a thorough evaluation is conducted.

### 8. SUBMISSION OF BID:

- A. Time: Bids not received by the time and date indicated on the Invitation for Bids will not be accepted, and will be returned unopened.
- B. Hand Carried: Bids may be hand carried to the Purchasing Department on the Third Floor of the County Courthouse, 207 West Hill Street, Gallup, New Mexico.
- C. Mailed: Bids may be mailed to the attention of the Purchasing Department, County of McKinley, P.O. Box 70, Gallup, New Mexico 87305-0070. The County shall not be responsible for bids that are mailed and not received by the opening date and time specified in the solicitation.
- D. Receipts: Receipts for hand delivered bids shall be issued by the Office of the Manager (upon request) for bids, which are hand carried.
- E. Envelope Preparation: The envelope/package containing a bid must be sealed and the following identifying information legibly written or typed on the outside.
  - 1). Name of Bidder
  - 2). Bid Number assigned by the County to the Invitation for Bids
  - 3). Opening date as identified on the bid or subsequent addenda
- F. No Other Methods of Bid Delivery: Neither telephone, telegraphic, or facsimile bid shall be accepted.

### 9. EQUAL OPPORTUNITY COMPLIANCE/WORKERS' COMPENSATION:

McKinley County does not discriminate on the basis of race, color, national origin, sex, religion, age, or disability in the employment or the provisions of services. The "Contractor" agrees to comply strictly with the policies of "County", as well as all Federal and State Laws pertaining to Equal Employment Opportunity, including the Americans with Disabilities Act, and will not discriminate against any person or deny any person participation or benefit from the performance of this Agreement as a result of any discriminatory action. The "Contractor" agrees to comply with State Laws and rules applicable to workers' compensation benefits for its employees. If the "Contractor" fails to comply with the Workers' Compensation Act and

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applicable rules when required to do so, the "County" may terminate this agreement.

10. OSHA REQUIREMENTS IN EMPLOYMENT:

McKinley County shall contract with Companies or Firms whose operators and equipment meet OSHA (Occupational Safety and Health Administration) standards in their field of expertise and shall also comply with the McKinley County Loss Control Manual as if an employee of McKinley County.

11. LOCKOUT-TAG OUT POLICY:

McKinley County has adopted standard procedures for Lockout-Tag out for energy isolating devices. Companies or firms under contract with McKinley County shall provide the County's Safety Officer with their Lockout/Tag out procedures or comply with the County's Lockout/Tag out procedures.

12. HAZARDOUS COMMUNICATION PROGRAM:

McKinley County has adopted standard procedures for the Hazard Communication program otherwise referred to as the:"Right to Know Law", to provide knowledge, warning, protection and other materials. Companies or firms under contract with McKinley County shall provide the County's Safety Officer or his designee, with their "Hazard Communication Program" procedures for comply with the County's Hazard Communication Program procedures.

13. NO RESPONSE FORMS:

If the bidder will not be submitting a bid in response to this invitation, the No Bid statement, Appendix B, included in this Bid, should be completed and returned (Recipient's name and reason for not making a bid must be stated). If you are not making a bid, please DO NOT return the entire Bid package. Return ONLY the No Bid statement. If neither a bid nor a No Bid statement is received from a vendor on three (3) consecutive Requests for the same commodity, that bidder may be removed from the Purchasing Office Vendor List for that commodity.

14. WITHDRAWAL OF BIDS:

A bid may be withdrawn in person at any time BEFORE the scheduled opening of bids, provided a receipt for the withdrawn bids is signed by the bidder or the bidder's authorized representative. The County reserves the right to request proof of authorization to withdraw a bid.

15. OPENING OF BIDS:

Time and Place: Bids will be opened by the Purchasing Department at the time and place identified in this Bid. Openings are open to the public. Bidders are encouraged to attend.

## COUNTY OF MCKINLEY

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### 16. DISQUALIFICATION OF BID:

The County reserves the right to reject a bid for, including but not limited to, any one or more of the following circumstances:

- A. In the past the bidder has failed to comply with previous contractual commitments or bids to the County.
- B. In the opinion of the County the bidder is not capable of providing the offered goods, services, or construction as offered or required by the bid or is otherwise not a responsible bidder.
- C. The bidder has not provided sufficient or detailed information, which allows for the evaluation of the bid.
- D. In the opinion of the County the offered prices are higher than the prices for which the specified items or services can be purchased on the open market.
- E. The bidder failed to properly fill in any space on the Invitation for Bids form and attached documents where information or a signature is required.
- F. The bidder did not, at the time the bid is made, have an appropriate New Mexico Contractor's License or Certification when one is required by law, regulation or this Bid.
- G. The bidder failed to submit with their bid, bid bonds or other material requirements of the Bid or has otherwise submitted a non-responsive bid.
- H. There are unauthorized additions, conditions, alternate proposals or other irregularities of any kind, which might make the bid incomplete, indefinite or ambiguous in meaning.
- I. Bid was not submitted in ink or typewritten or there is any erasure or alteration of words or figures relating to pricing which is not initialed in ink by the bidder.
- J. The County determines that a bid contains any misrepresentations whatsoever.

### 17. REJECTION/CANCELLATION OF BIDS:

Any solicitation, prior to opening or after opening, may be canceled or any or all bids may be rejected in whole or in part when it is in the best interest of the County.

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18. MINOR OR TECHNICAL IRREGULARITIES:

Minor or technical irregularities in a bid, when there is no effect on price, quality or quantity may be waived and clerical errors in a bid may be corrected, if permitted by the Purchasing Officer and are in the best interest of the County.

19. NONCONFORMING/CONDITIONAL, OR COUNTER BIDS:

A bid which is nonconforming or conditional, whether in part or in whole will be rejected.

20. BID ANALYSIS:

The County reserves the right to analyze, examine and interpret any bid for a minimum period of ninety (90) consecutive calendar days, after the scheduled time for the opening of bids. Bids may not be rescinded during this period except for good cause and with the written approval of the Purchasing Officer. In those situations where the analysis/evaluation exceeds the ninety (90) calendar days, bidders may withdraw their bids from consideration.

21. AWARD OF CONTRACT:

A. When Award Occurs: The award of a contract occurs when a Purchase Order is issued or other evidence of acceptance by the County is provided to the bidder. A Recommendation of Award does not constitute award of contract.

B. Award: If a contract is awarded, it shall be awarded to the responsive and responsible bidder whose bid is lowest in total price and is the most advantageous to the County, specifications and other factors considered.

C. Basis of Award: The County reserves the right to award a contract based on this Bid in total or by group of items, on the basis of individual items, or any combination of these, which in the judgment of the Purchasing Officer, best serves the interests of the County, unless otherwise stated in this Bid.

D. Increase of Quantities: The County reserves the right to increase the quantities of items of tangible personal property, services or construction to be provided within a twelve (12) month period, under the terms of the Contract, at the same prices, with the consent of the Contractor.

E. Decrease of Quantities: The County reserves the right to decrease the quantities of items of tangible personal property, services or construction to be provided under the terms of the Contract. However, the Contractor shall be offered an opportunity to cancel the portion of the Contract affected by such a decrease if the

## COUNTY OF MCKINLEY

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Contractor is not able to meet the contracted prices by delivering the decreased amount. This clause shall not have effect if the Contract was originally awarded based on estimated quantities.

- F. Contract Changes: In no case shall a contract be changed without the prior written approval of the Purchasing Officer.
- G. To qualify for the five percent (5%) in state Resident Preference, the bidder must provide their assigned Resident Certification Number with their bid (an appropriate place is designated in the Bid Form). If a bidder does not provide their assigned Resident Certification Number with their bid, the bid shall not be considered as made by a resident business or a resident manufacturer and no preference shall be applied during the analysis of that bid.

**NOTE:** Your State Tax Number is NOT your Resident Certification Number.

### 22. PROTEST PROCESS:

- A. Any bidder who is aggrieved in connection with a solicitation or award of an Agreement may protest to the County of McKinley Purchasing Officer in accordance with the requirements of the County of McKinley's Procurement Regulations and the State Procurement Code. The protest should be made in writing within 24 hours after the facts or occurrences giving rise thereto, but in no case later than 15 calendar days after the facts or occurrences giving rise thereto.
- B. In the event of a timely protest under this section, the Purchasing Officer and the County of McKinley shall not proceed further with the procurement unless the Purchasing Officer makes a determination that the award of Agreement is necessary to protect substantial interests of the County of McKinley (13-1-173 NMSA 1978).
- C. The Purchasing Officer or his designee shall have the authority to take any action reasonably necessary to resolve a protest of an aggrieved bidder concerning procurement. This authority shall be exercised in accordance with adopted regulations, but shall not include the authority to award money damages or attorney's fees (13-1-174 NMSA 1978).
- D. The Purchasing Officer or his designee shall promptly issue a determination relating to the protest. The determination shall:
  - 1) State the reasons for the action taken; and
  - 2) Inform the Protestant of the right to judicial Review of the determination pursuant to 13-1-183 NMSA 1978.

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- E. A copy of the determination issued under 13-1-175 NMSA 1978 shall immediately be mailed to the Protestant and other bidders involved in the procurement (13-1-176 NMSA 1978).

### 23. DELIVERY, ACCEPTANCE AND GUARANTEE:

- A. No Delivery Before Purchase Order is Issued: No bidder, including the bidder to whom an award is made shall deliver any item of tangible personal property, commence services or construction prior to the  
  
Issuance of a Purchase Order or Notice to Proceed issued by the County Purchasing Department.
- B. Cancellation for Non-Delivery: The County reserves the right to cancel any order not delivered by a guaranteed date stipulated in this bid or any contract resulting from this invitation without liability on the County's part.
- C. Acceptance of Delivery: Acceptance by the County of any delivery shall not relieve the Contractor of any guarantee or warranty, expressed or implied. Such acceptance of delivery shall not be considered an acceptance of services or materials not in accordance with the specifications. Such acceptance of delivery shall not waive the County's right to require replacement of defective material or inadequate service.

### 24. INSPECTIONS:

- A. Prior To Acceptance of Delivery: All items of tangible personal property, services or construction shall be provided exactly as offered, and may be inspected prior to acceptance of delivery by the County.
- B. Inferior Materials, Etc.: All items of tangible personal property, services or construction found inferior to the quality specified in this Bid, deficient or incorrect in weight, measurement, workmanship, handicraft or otherwise, may be rejected as a whole or in part and then shall be removed by the Contractor at the Contractor's own risk and expense promptly after notice of rejection. The Contractor shall assume responsibility for taking the necessary action to correct or replace the rejected items, within the time frame specified in the notice of rejection.

### 25. INVOICE AND PAYMENTS:

The Contractor shall submit an accurate invoice, in duplicate, for each purchase. Invoices shall refer to the Purchase Order Number, the Release Form Number if applicable, and shall be itemized unless otherwise

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specified in this Bid. Invoices are to be mailed to: McKinley County, Board of Commissioners, Accounts Payable, P.O. Box 70, Gallup, New Mexico 87305-0070. Invoices mailed or provided to any other entity will result in a delay in making payment. Offerors are encouraged to inquire if payments due are not received within thirty (30) days after delivery of goods/services and submittal of invoice by contacting the Accounts Payable at (505) 722-3868.

26. DEFAULT/TERMINATION FOR CAUSE:

If, through any cause, the Contractor fails to fulfill the Contractor's obligations under any contract resulting from this Bid in a timely and proper manner, or if the Contractor violates any of the covenants, agreements or stipulations of such contract, the County shall notify the Contractor of such violations in writing and allow the Contractor a reasonable time, set out in the notice, to correct the default. If the default is not corrected within the specified time period the County shall have the right to cancel the contract and any or all other current contracts with the Contractor, and, if applicable, to purchase the required goods or services from another source or sources. The County shall provide written notice to the Contractor specifying the effective date of cancellation. The notice of cancellation may be contained in the notice of default.

If a contract resulting from this Bid is canceled, the Contractor shall not be relieved of liability to the County for damages caused by its breach of the contract. The County reserves the right to recover such damages, including but not limited to any excess cost incurred in having to purchase contract goods/services from other sources by a deduction from an unpaid balance due to the Contractor, collection against a performance or labor and materials payment bond, a combination of these remedies, or any other legal method available. In addition, the Contractor may be removed from the Purchasing Office Vendor List or determined to be ineligible to respond to future solicitations, as being not responsible.

27. TERMINATION FOR THE CONVENIENCE OF THE COUNTY:

The County may terminate any contract resulting from this Bid at any time by giving at least thirty (30) days' notice in writing of such termination to the Contractor. In such event, the Contractor shall be paid under the terms of the contract for all goods/services provided to and accepted by the County, if ordered or accepted by the County prior to the effective date of termination.

28. TERMINATION FOR LACK OF APPROPRIATIONS:

Funding for the contract resulting from this Bid has been appropriated by the County Commission for the County's current fiscal year. Notwithstanding any other provisions in the contract resulting from this Bid, its continuation beyond the end of the any fiscal year is contingent on the County Commission making the appropriations necessary to fund the contract. If sufficient appropriations are not made the contract may be terminated at the end of the County's then current fiscal year upon written

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notice given by the County to the Contractor. Such termination shall not constitute a default. All payment obligations of the County and all of its interest in the contract will cease upon the date of termination. The County's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final.

29. COOPERATIVE PROCUREMENT AGREEMENT:

**This Invitation to Bid is under a Cooperative Procurement Agreement with County of McKinley, City of Gallup, and McKinley County Schools. The items/services listed in this bid apply to all three agencies. Each Central Purchasing Office will issue their own Purchase Order for the items/services mentioned in this bid.**

**The quantities in this bid do not necessarily reflect the total estimated usage by all participating Central Purchasing Offices. Bidder is required to furnish prices F.O.B. (freight included) to the following locations:**

Ron Caviggia, CPPB  
Purchasing Agent  
City of Gallup  
P. O. Box 1270  
Gallup, NM 87305

McKinley County Schools  
Marco Abeita, CPPB  
Procurement and Business Svc. Dir.  
P.O. Box 1318  
Gallup, NM 87305

**BIDDERS MUST BECOME FAMILIAR AND COMPLY WITH THE TERMS AND CONDITIONS OF EACH PARTICIPATING AGENCY INVOLVED IN THIS COOPERATIVE PROCUREMENT AGREEMENT.**

McKINLEY COUNTY does not in any way guarantee the bidder any quantities other than for the county needs, other cooperative agencies only have an option to participate off this bid and will be liable for their own requirements.