NORTH CENTRAL REGIONAL TRANSIT DISTRICT

REQUEST FOR QUALIFICATIONS (RFQ)

On-call Engineering Services and Associated Services

RFQ#2020-001

May 5, 2020

Due back June 5, 2020 at 3:00pm
I. DEFINITIONS OF TERMINOLOGY AND ABBREVIATIONS

This section contains definitions of terms used throughout this procurement document, including appropriate abbreviations. All words capitalized for non-grammatical purposes shall have the meaning contained herein or that definition given in the District’s September 6, 2019 Procurement Policy. To the extent there is a conflict the definitions contained in this solicitation shall take precedence.

**Award**- The final execution of the contract document.

**Business Hours**- Means 8:00 AM thru 5:00 PM MST

**Close of Business**- Means 5:00 PM MST

**Confidential**- 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 e.g. no information that could be obtained from a source outside this request for qualifications can be considered confidential information.

**Contract**- Any agreement for the procurement of items of tangible personal property, services or construction.

**Contractor**- Any business having a contract with the District.

**Chief Procurement Officer (CPO)**- Also referred to as purchasing agent or any person or designee authorized by a state agency or local public body to enter into or administer contracts and make written determinations with respect thereto.

**Determination**- 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.

**District**- [The] District is the purchasing agency also referred to as the North Central Regional Transit District or NCRTD.

**Desirable**- The terms "may", "can", "should", "preferably", or "prefers" to identify a desirable or discretionary item or factor.

**Electronic Version/Copy**- 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 compact disc (cd) or USB flash drive. The electronic version/copy can NOT be emailed.

**Evaluation Committee**- A body appointed to perform the evaluation of Offerors’ proposals.
Hourly Rate- The proposed fully loaded maximum hourly rates that include travel, per diem, fringe benefits and any overhead costs for contractor personnel, as well as subcontractor personnel if appropriate.

Mandatory – the terms "must", "shall", "will", "is required", or "are required", identify a mandatory item or factor. Failure to meet a mandatory item or factor will result in the rejection of the Offeror’s proposal.

Minor Technical Irregularities- Anything in the proposal that does not affect the price quality and quantity or any other mandatory requirement.

NCRTD- The North Central Regional Transit District also referred throughout the document as “the District.”

Offeror- Any person, corporation, or partnership who chooses to submit a proposal.

Redacted- 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 this RFQ blacked out BUT NOT omitted or removed.

Request for Qualifications (RFQ)- Means all documents, including those attached or incorporated by reference, used for soliciting proposals.

Responsible Offeror- An offeror who has submitted 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- An offer which conforms in all material respects to the requirements set forth in the request for qualifications. Material respects of a request for qualifications include, but are not limited to price, quality, quantity or delivery requirements.

Sealed- 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 District 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 Chief Procurement Officer. By submitting a proposal, the Offeror agrees to and concurs with this process and accepts the determination of the CPO in such cases.

Staff- Individual who is a full-time, part-time, or an independently contracted employee with the Offerors’ company.

State (the State)- The State of New Mexico.
**Statement of Concurrence** - 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 Offerors proposal. (E.g. “We concur”, “Understands and Complies”, “Comply”, “Will Comply if Applicable” etc.)

**Unredacted** - 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.

**Written** - Means typewritten on standard 8 ½ x 11-inch paper. Larger paper is permissible for charts, spreadsheets, etc. E-mail communications are permitted as long as there is a written confirmation of the receipt of said e-mails. Responsibility for the proof of delivery or receipt of an e-mail shall be with the party sending the e-mail.
II. OVERVIEW OF PROJECT

A. PURPOSE OF THIS REQUEST FOR QUALIFICATIONS

The purpose of the Request for Proposal (RFQ) is to solicit proposals to establish an indefinite delivery and indefinite quantity (IDIQ) contract through negotiations for the procurement of on-call engineering services inclusive of planning, design, environmental, inspection, and construction administration and management for North Central Regional Transit District (NCRTD or “the District”) for next 4 years.

This is a solicitation for qualification based competitive proposals pursuant to section 82 of the District’s procurement policy.

Because this solicitation is for Architectural Engineering (A&E) Services and Other Services. The Federal Transit Administration’s (FTA’s) enabling legislation at 49 U.S.C. Section 5325(b)(1) requires the use of the qualifications-based procurement procedures contained in the “Brooks Act,” 40 U.S.C. Sections 1101 through 1104, to acquire A&E services, but also for program management, construction management, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping and related services.

Qualifications-Based Procurement Procedures. The following procedures apply to qualifications-based procurements:
(a) Qualifications. Unlike other two-step procurement procedures in which price is an evaluation factor, an offeror’s qualifications are evaluated to determine contract award.
(b) Price. Price is excluded as an evaluation factor.
(c) Most Qualified. Negotiations are first conducted with only the most qualified offeror.
(d) Next Most Qualified. Only after failing to agree on a fair and reasonable price may negotiations be conducted with the next most qualified offeror. Then, if necessary, negotiations with successive offerors in descending order may be conducted until contract award can be made to the offeror whose price the recipient believes is fair and reasonable.

A cost reimbursement type contract utilizing individual task orders by the District and project specific purchase orders will be utilized.

B. BACKGROUND INFORMATION

The District is soliciting statements of qualifications from engineering firms which have experience creating design packages, surveying, and construction management in accordance with federal grants, and preparation of transit infrastructure related studies for grant submission. The District operates 27 fixed routes, 3 on-demand routes, with over 449 bus stops, and 48 of those stops have shelters. The District services 10,079 square miles, serving an estimated population of 289,292. It provides predominately free bus transit connecting communities and pueblos throughout the counties of north central New Mexico including Los Alamos, Rio Arriba, Santa Fe and Taos. Further expanding its reach, the signature RTD Blue Buses provide riders with connections to New Mexico Rail Runner, Santa Fe Trails, New Mexico Park and Ride, Los Alamos Atomic City Transit, Taos and Red River
Miner’s Transit. All of its buses are ADA accessible and equipped with bicycle racks. It provides services as far north as Costilla near the Colorado border and as far south as the Town of Edgewood.

C. SCOPE OF PROCUREMENT

The level of effort for all potential projects over the four-year contract term are currently undeterminable, so potential Offerors are being asked to provide job classifications for all potential personnel used under this contract as well as labor hours, overhead and materials of the estimated cost of services.

The potential projects/grants over the next 4 years that could require engineering services by NCRTD, but are not guaranteed by NCRTD are as follows:

1. Provide construction management of Phase VI-A Transportation Alternative Project (TAP) (Funded).

2. Create design package for Phase VII Transportation Alternative Project (TAP) to construct or reconstruct more ADA compliant bus shelters (Likely to Occur-Funded).

3. Provide construction management of Phase VIII Transportation Alternative Project (TAP) (Likely to Occur-Funded).

4. Create design package for Phase IX Transportation Alternative Project (TAP) to construct or reconstruct more ADA compliant bus shelters (Likely to Occur).

5. Provide construction management of Phase X Transportation Alternative Project (TAP) (Likely to Occur).

6. Provide future design package and construction management for any additional phases of Transportation Alternative Project (TAP) funding (Not Guaranteed).

7. Provide future engineering estimates, plans, studies, and construction management for shelters, buildings, and site improvements on a case by case basis within the four-year contract (Not Guaranteed).

It is anticipated that the District will enter into a Professional Services Agreement (PSA) with the selected Contractor to provide professional engineering services on an On-Call basis. The term of the PSA will be: a) one year from the date of execution with the option for 3 additional one-year extensions; or b) the required date for completion of an Assigned Task Order, provided that said Task Order was assigned prior to the contract expiration date. An example PSA has been included in this RFQ.

The District may request the Engineering Firm provide a proposal to complete a scope of work for select engineering projects as defined by the District. The scope of work will be defined as an Assigned Task Order that will establish the individual project scope, schedule, deliverables and cost. The scope of work and fee for individual Assigned Task Orders shall be approved by the Project
Manager and Executive Director. Execution of the PSA and/or the submission of proposals for Task Orders do not guarantee the award of any Assigned Task Orders.

In summary, the On-Call Engineering will take the form of the following structure:

- Project Task Orders: (1) Lump Sum Fee negotiated individually based on the contract rates, for each project and issued as a separate Purchase Order; or (2) Hourly Rate when the scope of services precludes reasonable estimates of time to complete. Engineering Firm shall be required to submit detailed time records, documentation for other expenses, and such other evidence.

- The District will request a lump sum fee or hourly rate proposal for each project (Project Task Order). At its own expense, the Engineering Firm shall visit the site and prepare a detailed lump sum or hourly rate (as applicable) proposal, based on the Firm’s contract rates, for accomplishing the work. Each proposal prepared by the Firm shall include an acceptable description of the nature, extent and character of the work required, as well as performance criteria and delivery schedules.

- All proposals under this Agreement must reference the Agreement/Contract number on the proposal, to confirm that the current contract rates were used in the preparation of the proposal. Proposals that include the Firm’s Terms and Conditions rather than those negotiated as part of the contract will not be accepted.

- Each Project Task Order will be reviewed and approved in writing by the District representative prior to Engineering Firm initiating any work. The Firm shall be Responsible for conveying the information of Project Task Order to its employees, agents or subcontractors or sub-consultants. Firm shall be responsible for any work not expressly set out in any Project Order, but which may be reasonably implied for proper completion of the Project Order. The Project Task Order will clearly define the project schedule, meeting and reporting requirements.

- Following successful negotiations, the District will prepare a purchase order for the agreed scope of work and fee proposal, incorporating by reference the terms and conditions of the resulting contract and forward to the Purchasing Office. Once the Purchasing Office has processed the purchase order (and assigned a number) specific to the Task order, the District may authorize the Firm to proceed with the work.

- The Firm shall not commence any work that has not been authorized by a written purchase order (or change order) executed by the Finance Department and without a written Notice to Proceed from the District’s representative (Project Manager). The Firm assumes all risk and financial liability for any services rendered without such proper authorization.

- Should additional services be requested beyond the scope of any executed Purchase Order, adjustments to the contract amounts shall be negotiated and a change order issued authorizing the additional work.
The Firm’s services shall be considered complete upon satisfactory completion and acceptance by the District’s Representative of the services outlined in the Project Order.

The successful Firm(s) shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all planning, design, drawings, specifications, reports and other services furnished by the Firm or any employee, agent, or subcontractor of the Firm under this Agreement. The Firm shall without additional compensation, correct or revise any errors, omissions, or other deficiencies in its employee’s, agent’s or subcontractor’s designs, drawings, specifications, reports and other services.

The Engineering Firm must acknowledge that approval by the District of drawings, specifications, reports and incidental engineering work or materials furnished under the scope of work shall not in any way relieve the Engineering Firm of its responsibility for the technical accuracy and adequacy of the work. The Engineering Firm shall be and remain liable in accordance with applicable law for all damages to the District caused by the Engineering Firm.

All work will be subjected to the performance audit and indirect cost analysis required by 49 U.S.C. Section 5325(b)(2).

D. TIMETABLE AND BUDGET

At the start of each task order, the Contractor will be expected to produce a project timetable that lists major tasks with their starting and ending dates. Meetings and deliverables should be included as milestones on the timetable. The Contractor shall update and resubmit the timetable as conditions warrant.

At the start of the project, the Contractor will provide a task-by-task budget. The budget will be constructed in a way that allows the Contractor and the NCRTD Project Manager to monitor project financial performance and take corrective actions in a timely manner.

E. AUDITS AND INDIRECT COSTS

As required by 49 U.S.C. Section 5325(b)(2), the following requirements apply to a third-party contract for program management, architectural engineering, construction management, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping, or related services:

(a) Performance of Audits. The third-party contract or subcontract must be performed and audited in compliance with FAR Part 31 cost principles.

(b) Indirect Cost Rates. The recipient and the third-party contractor, its subcontractors and subrecipients, if any, must accept FAR indirect cost rates for the one-year applicable accounting periods established by a cognizant Federal or State government agency, if those rates are not currently under dispute.
(c) Application of Rates. After a firm’s indirect cost rates established as described in subparagraph 3.f(4)(b) of FTA Circular 4220.1F are accepted, those rates will apply for purposes of contract estimation, negotiation, administration, reporting, and payments, not limited by administrative or de facto ceilings.

(d) Prenotification; Confidentiality of Data. Before requesting or using cost or rate data described in subparagraph 3.f(4)(c) above, a recipient must notify the affected firm(s). That data must be kept confidential and may not be accessible by or provided by the agency or group of agencies that share cost data under this subparagraph, except by written permission of the audited firm. If prohibited by law, that cost, and rate data may not be disclosed under any circumstances. FTA recognizes that many States have “Open Records” laws that may make it difficult to maintain confidential cost or rate data. As a result, before requesting or using a firm’s cost or rate data, not only should a recipient notify the affected firm, but it must also obtain permission to provide that data in response to a valid request under applicable State law. The confidentiality requirements of 49 U.S.C. 5325(b)(2)(D) cannot be waived, even if those confidentiality requirements conflict with State law or regulations.

F. CHIEF PROCUREMENT OFFICER

1. The District has a Chief Procurement Officer (CPO) who is responsible for the conduct of this procurement whose name, address, telephone number and e-mail address are listed below:

   Name: Tim Mildren, Chief Procurement Officer
   Address: 1327 N. Riverside Drive
             Española, NM 87532
   Telephone: (505) 629-4701
   Fax: (505) 747-6647
   Email: timm@ncrtd.org

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

   Name: Tim Mildren, Chief Procurement Officer
   Reference RFQ Name: On Call Engineering
                       RFQ # 2020-001
   Address: 1327 N. Riverside Drive
             Española, NM 87532

3. All correspondence, communication and contact regarding any aspect of this solicitation or offers shall be only with the Chief Procurement Officer identified above. Unless otherwise instructed by the, CPO, the offeror and their representatives shall not make any contact with or try to communicate with any member of District, its employees and/or consultants, regarding any aspect of this solicitation or offers. At any time during this procurement up to the time specified in the procurement schedule, offerors may request, in writing, a clarification or interpretation of any aspect, a change to any requirement of the RFQ, or any addenda to the RFQ.
4. Any revisions to the RFQ will be issued and distributed as addenda. Proposers are encouraged to submit any questions or items for clarification in writing to the abovementioned person by 5:00 p.m., April 9, 2019.
III. CONDITIONS GOVERNING THE PROCUREMENT

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

A. SEQUENCE OF EVENTS

The CPO will make every effort to adhere to the following schedule:

<table>
<thead>
<tr>
<th>Action</th>
<th>Responsible Party</th>
<th>Due Dates Sample Time Frames</th>
</tr>
</thead>
<tbody>
<tr>
<td>Request for Qualifications Issued</td>
<td>NCRTD</td>
<td>May 5, 2020</td>
</tr>
<tr>
<td>Questions and Requests for Clarifications due to NCRTD</td>
<td>Potential Offerors</td>
<td>May 8, 2020</td>
</tr>
<tr>
<td>NCRTD Responds to Questions and Clarifications</td>
<td>NCRTD</td>
<td>May 12, 2020</td>
</tr>
<tr>
<td>Responses to Solicitation Due Date</td>
<td>Potential Offerors</td>
<td>June 5, 2020</td>
</tr>
<tr>
<td>Evaluation of Qualification Received</td>
<td>NCRTD</td>
<td>June 9, 2020</td>
</tr>
<tr>
<td>Proposer Presentations/Interviews</td>
<td>Potential Offerors</td>
<td>TBD</td>
</tr>
<tr>
<td>Anticipated Award by Board of Directors</td>
<td>NCRTD</td>
<td>August 7, 2020</td>
</tr>
<tr>
<td>Protest Deadline</td>
<td>NCRTD</td>
<td>August 24, 2020</td>
</tr>
<tr>
<td>Submit Responsibility Determination Form</td>
<td>Offeror</td>
<td>TBD</td>
</tr>
</tbody>
</table>

B. EXPLANATION OF EVENTS

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

1. Cost Analysis and Price Analysis

2 CFR Parts 200 and 1201, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards” (Uniform Guidance) requires the District (also referred to as the “recipient”) to perform a cost analysis or price analysis in connection with every procurement that exceeds the federal simplified acquisition threshold and contract modifications. The method and degree of analysis depends on the facts and circumstances surrounding each procurement, but as a starting point, the recipient must make independent estimates before receiving bids or proposals.

a. Cost Analysis. The recipient must obtain a cost analysis when a price analysis will not provide sufficient information to determine the reasonableness of the contract cost. The recipient must obtain a cost analysis when the offeror submits elements (that is, labor hours, overhead, materials, and so forth) of the estimated cost, (such as professional consulting and A&E contracts, and so forth). The recipient is also expected to obtain a cost analysis when price competition is inadequate, when only a sole source is available, even if the procurement is a contract modification, or in the event of a change order. The recipient, however, need not obtain a cost analysis if it can justify price reasonableness of the proposed contract based on a catalog or market...
price of a commercial product sold in substantial quantities to the general public or based on
prices set by law or regulation.

(1) Federal Cost Principles. Federal cost principles contain many requirements about the
allowability and allocability of costs.

(2) Profit. FTA expects the recipient to negotiate profit as a separate element of the cost for
each contract in which there has been no price competition, and in all acquisitions in which
the recipient performs or acquires a cost analysis. To establish a fair and reasonable profit, the
recipient needs to consider the complexity of the work to be performed, the risk undertaken
by the contractor, the contractor’s investment, the amount of subcontracting, the quality of
the contractor’s record of past performance, and industry profit rates in the surrounding
geographical area for similar work.

b. Price Analysis. If the recipient determines that competition was adequate, a price analysis,
rather than a cost analysis, is required to determine the reasonableness of the proposed contract
price. As discussed previously in subsection 3.a of this Chapter, the price analysis for micro-
purchases may be limited. Similarly, the recipient may use an abbreviated price analysis for small
purchases in most cases. One method to record this price analysis is through the use of a preprinted
form on which a contracting officer (or other responsible person) can annotate a finding of fair
and reasonable pricing and check off the most common reasons why this would be so, such as
catalog or market prices offered in substantial quantities to the general public, regulated prices
(for example, for many utilities purchases), or a comparison with recent prices for similar goods
and services. Guidance on Cost and Price Analysis. FTA recognizes that some recipients may
have difficulty obtaining the information necessary to conduct a proper cost or price analysis.
Although neither FTA nor DOT may change the Uniform Guidance’s requirements for cost or
price analysis, FTA continues to seek a fair, practical solution to this problem consistent with the
flexibility provided to Federal contracting officers under the FAR.

The recipient may use the following resources as guidance in preparing cost or price analyses:

(1) FTA’s “Best Practices Procurement Manual,” Chapter 5,
(2) The National Transit Institute Course, “Cost or Price Analysis and Risk Assessment,”
(4) FAR Part 31, Contract Cost Principles and Procedures, and
(5) Defense Contract Audit Agency Audit Manual. See, the DCAA Web site:
http://www.dcaa.mil. Note, however, that the requirements of FAR Part 31 and the Defense
Contract Audit Agency Audit Manual may differ from restrictions applicable to an FTA
recipient. Each FTA recipient must comply with those Federal laws and regulations directly
applicable to it.

2. Issuance of RFQ

This RFQ is being issued on behalf of NCRTD as indicated in the sequence of events.
3. **Question Submittals**

Potential Offeror(s) are encouraged to submit written questions prior to the date indicated in the sequence of events to allow potential offerors enough time to complete a responsive and responsible offer.

All written questions will be addressed in writing on the District’s website by the date listed in the Sequence of Events. The submission of questions is not a prerequisite for submission of a proposal.

4. **Deadline to Submit Written Questions**

Potential Offerors may submit written questions to the CPO as to the intent to provide clarification of this RFQ until close of business the day indicated in the sequence of events. All written questions must be addressed and will be responded by the CPO. Questions emailed shall be clearly labeled **“IMPORTANT- [NAME OF OFFEROR] RFQ# 2020-001 QUESTION”**

5. **Response to Written Questions**

Written responses to questions received will be answered by the CPO and posted on the District’s website at [www.ncrtd.org/requests.aspx](http://www.ncrtd.org/requests.aspx).

6. **Submission of RFQ**

**ALL OFFEROR PROPOSALS MUST BE RECEIVED FOR REVIEW AND EVALUATION BY THE CPO OR DESIGNEE NO LATER THAN 5:00 PM MOUNTAIN DAYLIGHT TIME ON THE DATE INDICATED IN THE SEQUENCE OF EVENTS.** Proposals received after these deadlines will not be accepted. The date and time of receipt will be recorded on each proposal.

Documents must be addressed and delivered to the CPO at the address listed in Section I. Proposals must be sealed and labeled on the outside of the package to clearly indicate that they are in response to RFQ# 2020-001. Proposals submitted by facsimile, or other electronic means, will not be accepted.

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 Qualifications. Awarded in this context means the final required signature on the contracts 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 the sequence of events, depending upon the number of proposals...
received. During this time, the CPO 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**

RFQs will be evaluated using the Evaluation Criteria presented within this document. An Evaluation Committee comprised District employees will review and rank the proposals from most qualified to least qualified to perform the scope of services based on the number of points accumulated on the evaluation form.

If necessary, interviews with up to three (3) of the highest ranked firms may be scheduled and conducted by the Evaluation Committee to further differentiate among respondents’ qualifications to further inform final rankings. Each firm will be responsible for all costs (e.g., travel, staff time, and presentation materials) related to any interviews conducted.

Based on the Evaluation Committee’s ranking of the respondents, in conjunction with the results of interviews, the highest ranked firm will be notified by the District’s CPO of an intent to award the contract and will enter into contract negotiations for the project.

The District and the Evaluation Committee reserve the right to reject any and/or all submissions if deemed in its best interests of the District or if they don’t comply with the parameters or requirements set forth in this RFQ. In the same manner the District and the Evaluation Committee reserve the right to waive any irregularities or technicalities when it deems the public interest will be served.

Thereby, the Evaluation Committee will select, and the CPO notify, the finalist Offerors by the deadline of Sequence of Events or before when possible.

9. **Finalize Contractual Agreements**

Any Contractual agreement(s) resulting from this RFQ will be finalized with the most advantageous Offeror(s) per the Sequence of Events or as soon as possible thereafter. This date is subject to change at the discretion of the CPO. In the event mutually agreeable terms cannot be reached with the apparent most advantageous Offeror in the time specified, the District reserves the right to negotiate a best and final offer to finalize a contractual agreement with the next most advantageous Offeror(s) without undertaking a new procurement process.

10. **Contract Awards**

If, and when, the District and the selected firm arrive at a mutually acceptable scope and commensurate fee, the District will present the selected firm and proposed contract to the Board of Directors for approval.
After review of the signed contractual agreement, the CPO and/or a member of the evaluation team will recommend for award to the Board of Directors as per the Sequence of Events or as soon as possible thereafter. This date is subject to change at the discretion of the CPO.

The contract shall be awarded to the Offeror (or Offerors) whose proposals are most advantageous to NCRTD, taking into consideration the evaluation factors set forth in this RFQ.

Contracts presented to the Board of Directors are subject to the Board's approval and the Board has plenary discretion in determining whether to award a contract and whether a proposal is advantageous to the NCRTD taking into consideration the evaluation factors set forth in this RFQ.

11. Protest Deadline

Any protest by an Offeror must be timely and in conformance with NMSA 1978, § 13-1-172 and applicable procurement regulations. ONLY protests delivered directly to the CPO 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 Qualifications. The 15-calendar day protest period shall begin on the day the approval to award of contracts is received by the Board and will end at 5:00 pm Mountain Daylight Time on the 15th day. Protests must be written and shall include the name and address of the protestor, the request for proposal number, a statement of the grounds for protest including appropriate supporting exhibits and specify the ruling requested from the party listed below. The protest must be delivered to CPO before the deadline. Protests received after the deadline will not be accepted.
IV. RESPONSE FORMAT AND ORGANIZATION

A. NUMBER OF COPIES

Proposers shall submit one (1) original-unbound and four (4) bound copies of their proposal. The proposal submittal must be clearly labeled and numbered and indexed and submitted as outlined herein. 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. Organization of sections for hard copy proposals. The original copy shall be clearly marked as such on the front of the binder. Envelopes, packages or boxes containing the original and the copies must be clearly labeled and submitted in a sealed envelope, package, or box bearing the following documentation/binder(s):

List
Proposal - Binder 1
Confidential Information - Binder 2

The original and hard copy information must be identical. In the event of a conflict between versions of the submitted proposal, the Original hard copy shall govern.

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

Responses containing confidential information must be submitted as two separate binders:

- Unredacted version for evaluation purposes
- Redacted version (information blacked out and not omitted or removed) for the public file

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

B. RESPONSE FORMAT

1. Proposal Content and Organization

Proposal (Binder 1):
A. Signed Letter of Transmittal
B. Table of Contents
C. Response Summary (Optional)
D. Response to Contract Terms and Conditions
E. Offeror’s Additional Terms and Conditions
F. Response to Specifications
   1. Organizational Experience
   2. Organizational References
   3. Financial Stability - Financial information considered confidential should be placed in the Confidential Information binder.
   4. Signed Campaign Contribution Form
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 RFQ must be thoroughly completed and included in the appropriate section of the proposal.

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

2. Confidential Information Binder 2
   a) Financial Stability Information
   b) Signed Campaign Contribution Form
V. SPECIFICATIONS

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

A. DEMONSTRATION OF RESPONSIBILITY TO PERFORM THE WORK

The prospective contractor must demonstrate affirmatively to the District that it qualifies as “responsible” under the standards of 49 U.S.C. Section 5325.

49 U.S.C. Section 5325 requires that FTA assisted contract awards be made only to “responsible” contractors possessing the ability, willingness, and integrity to perform successfully under the terms and conditions of the contract. Responsibility is a procurement issue that is determined by the recipient after receiving bids or proposals and before making contract award. FTA expects the prospective contractor to demonstrate affirmatively to the recipient that it qualifies as “responsible” under the standards of 49 U.S.C. Section 5325, and that its proposed subcontractors also qualify as “responsible.” Before making an award to a contractor a recipient shall consider:

A. the integrity of the contractor
B. the contractor’s compliance with public policy
C. the contractor’s past performance
D. the contractor’s financial and technical resources

Only responsible offerors will be considered for award of the contract. Firms not meeting the definition of responsible or failing to meet the “Business Specifications of subsection C. shall not be considered for award of the contract.

B. TECHNICAL SPECIFICATIONS

1. Organizational Experience Expertise and Qualifications

Offerors must provide a description of relevant corporate experience with state government and/or private sector as well as the experience of all proposed subcontractors. The proposal shall thoroughly describe how the Offeror has supplied expertise for similar contracts and must include the extent of their experience, expertise and knowledge as a provider of transit service plans including a statement of qualifications and experience to include ADA, FTA, FHWA, AASHTO, PROWAG, Buy America and other appropriate requirements.

2. Project Management System

In the Project Management System Area, it is highly recommended that the Offeror provide sufficient content and detail to answer completely the following:
1. Describe the firm’s Quality Assurance and Quality Control procedures.
2. Describe the firm’s tracking system to monitor project budget and scope.
3. Provide the firm’s scheduling program/process and identify the type of software or process and list up to three (3) projects where this software has been utilized successfully.
4. Describe the firm’s process for interacting with their internal project team.
5. Describe the firm’s ability to provide interaction with clients and stakeholders.

3. Organizational References

Offerors should provide a minimum of three (3) references from similar projects performed for private, state or large local government clients within the last three years. Offerors are required to submit APPENDIX D, Organization Reference Questionnaire, to the business references they list. The business references must submit the Reference Form directly to the CPO. It is the Offeror’s responsibility to ensure the completed forms are received on or before April 6, 2020 at the end of business day for inclusion in the evaluation process.

Organizational references that are not received or are not complete, may adversely affect the vendor’s score in the evaluation process. The Evaluation Committee may or may not contact any or all business references for validation of information submitted. If this step is taken, the CPO and the Evaluation Committee must all be together on a conference call with the submitted reference so that the CPO and all members of the Evaluation Committee receive the same information.

Offerors shall submit the following Business Reference information as part of offer: (1) Client name; (2) Project description; (3) Project dates (starting and ending); (4) Technical environment; (5) Staff assigned to referenced engagement that will be designated for work per this RFQ; and (6) Client project manager name, telephone number, fax number and e-mail address.

4. Project Specific Qualifications

Demonstrate specific qualifications to perform work on the potential projects/grants over the next 4 years that could require engineering services by NCRTD but are not guaranteed by NCRTD Including all items listed in Section II, C Above.

The level of effort for all potential projects over the four-year contract term are currently undeterminable, so potential Offerors are being asked to provide job classifications for all potential personnel used under this contract.

5. Organizational Personnel and Resources

Demonstrate that the organization has the personnel and capacity to timely complete all projects without diverting resources or personnel from other clients.
6. **Oral Presentation**

If deemed necessary by the Evaluation Committee, Offerors agree to provide the Evaluation Committee the opportunity to interview proposed staff members identified by the RFQ. The Evaluation Committee may request an Offeror to provide an IN PERSON oral presentation of the proposal as an opportunity for the Evaluation Committee to ask questions and/or seek clarifications.

**C. BUSINESS SPECIFICATIONS**

1. **Financial Stability**

Offerors must submit copies of the most recent years independently audited financial statements and the most current 10-K, as well as financial statements for the preceding two years, if they exist. The submission must include the audit opinion, the balance sheet, and statements of income, retained earnings, cash flows, and the notes to the financial statements. If independently audited financial statements do not exist, Offeror must state the reason and, instead, submit sufficient information (e.g. D&B report) to enable the Evaluation Committee to assess the financial stability of the Offeror.

2. **Letter of Transmittal Form**

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

   a) Identify the submitting business entity.
   b) 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.
   c) Identify the name, title, telephone, and e-mail address of the person authorized to negotiate the contract on behalf of the organization (if different than (2) above).
   d) Identify the names, titles, telephone, and e-mail addresses of persons to be contacted for clarification/questions regarding proposal content.
   e) Identify sub-contractors (if any) anticipated to be utilized in the performance of any resultant contract award.
   f) Describe the relationship with any other entity which will be used in the performance of this awarded contract.
   g) Identify the following with a check mark and signature where required:
      i. Explicitly indicate acceptance of the Conditions Governing the Procurement stated in Section III;
      ii. Explicitly indicate acceptance of Section IV of this RFQ; and
         1. Acknowledge receipt of any and all amendments to this RFQ.
         2. Be signed by the person identified in letter “b)” above.

3. **Campaign Contribution Disclosure Form**
The Offeror must complete an unaltered Campaign Contribution Disclosure Form “APPENDIX A” and submit a signed copy with the Offeror’s proposal. This must be accomplished whether or not an applicable contribution has been made.
VI. EVALUATION

A. EVALUATION PROCESS

1. All Offeror proposals will be reviewed for compliance with the requirements and specifications stated within the RFQ by an evaluation committee. Proposals deemed non-responsive or detrimental to the best interest of the District under subsections A or C above will be eliminated from further consideration (the CPO may contact the Offeror for clarification of the response). Responsive proposals shall be evaluated based upon the criteria set forth in section B above. The District will accept responses from all Offerors whose statement of qualifications are deemed responsive and that demonstrate required competencies.

2. The Evaluation Committee may use other sources to perform the evaluation as specified in this solicitation.

3. Responsive proposals will be evaluated on the factors in Table 1: Evaluation Point Summary, which have been assigned a point value (with a maximum total of 100 points). The responsible Offerors with the highest scores will be selected as finalist Offerors, based upon the proposals submitted. In general, the top 3 offerors will be deemed “finalists.” The responsible Offerors whose proposals are most advantageous to the District taking into consideration the evaluation factors in Section IV will be recommended for award.

Table 1: Evaluation Point Summary

<table>
<thead>
<tr>
<th>Factors</th>
<th>Points Available</th>
</tr>
</thead>
<tbody>
<tr>
<td>Organizational Experience Expertise and Qualifications:</td>
<td>20 Points</td>
</tr>
<tr>
<td>Project Management System:</td>
<td>15 Points</td>
</tr>
<tr>
<td>Organizational References</td>
<td>10 Points</td>
</tr>
<tr>
<td>Project Specific Qualifications</td>
<td>20 Points</td>
</tr>
<tr>
<td>Organizational, Personnel and Resources:</td>
<td>20 Points</td>
</tr>
<tr>
<td>Oral Presentation</td>
<td>15 Points</td>
</tr>
</tbody>
</table>
B. 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. Submission of a proposal constitutes acceptance of the Evaluation Factors contained in this RFQ.

2. Incurring Cost

Any cost incurred by the potential Offeror in preparation, transmittal, and/or presentation of any proposal or material or equipment submitted in response to this RFQ shall be borne solely by the Offeror.

3. Prime Contractor Responsibility

Any contractual agreement that may result from this RFQ shall specify that the prime contractor is solely responsible for fulfillment of all requirements of the contractual agreement with a state agency which may derive from this RFQ. The District will enter into a contractual agreement and will only make payments to the prime contractor.

4. Subcontractors/Consent

The use of subcontractors is allowed but they must be disclosed in the proposal. However, the prime contractor will be responsible for the performance of the contractual agreement whether subcontractors are used or not.

5. Materials and Workmanship

The Contractor shall be responsible for all materials and workmanship including but not limited to surveys, fliers, posters, presentations, invitations to attend, transcription of public meeting minutes, etc.

6. Amended Responses

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 should clearly identified as such in the transmittal letter. District personnel will not merge, collate, or assemble proposal materials.

7. Offeror’s Rights to Withdraw Response
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 CPO and must be signed by the Offeror’s duly authorized representative.

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

8. **Offeror’s Offer Firm**

Responses to this RFQ, including proposal prices for goods and 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.

9. **Disclosure of Response Contents**

Proposals will be kept confidential until negotiations and the award are completed by the District. 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 CPO 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 identifiable/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) Potential and or current Data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, NMSA 1978 § 57-3A-1 to 57-3A-7.

The price of products offered, or the cost of services proposed shall not be designated as proprietary or confidential information.

If a written request for disclosure of data for which an Offeror has made a written request for confidentiality is received, the CPO will examine the request and make a written determination that specifies which portions of the proposal should be disclosed.

The proposal will be disclosed unless the Offeror makes clear that legal action to prevent the disclosure will be taken. The proposal shall be open to public inspection subject to any continuing prohibition on the disclosure of confidential data.

10. **No Obligation**

This RFQ in no manner obligates the District to the use of any Offeror’s services until a valid written contract is awarded and approved by appropriate authorities. Individual request and purchasing orders (POs) will be agreed upon in writing prior to the task/manufacturing being completed by the contractor.
11. Termination

This RFQ may be canceled at any time and any and all proposals may be rejected in whole or in part when the District determines such action to be in the best interest of NCRTD.

12. Sufficient Appropriation

Any contract awarded as a result of this RFQ process may be terminated if enough appropriations or authorizations do not exist. Such terminations will be affected by sending written notice to the contractor. The District’s decision as to whether sufficient appropriations and authorizations are available will be accepted by the contractor as final.

13. Legal Review

The District requires that all Offerors agree to be bound by the General Requirements contained in this RFQ. Any Offeror’s concerns must be promptly submitted in writing to the attention of the CPO.

14. Governing Law

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

15. Basis for Proposal

Only information supplied, in writing, by the District through the CPO or in this RFQ should be used as the basis for the preparation of Offeror proposals.

16. Contract Terms and Conditions

The contract between the District and a contractor will follow the format specified by the District and contain the terms and conditions set forth in the Sample Contract Appendix B.

However, the District reserves the right to negotiate provisions in addition to those contained in this RFQ (Sample Contract) with any Offeror. The contents of this RFQ, as revised and/or supplemented, and the successful Offeror’s proposal will be incorporated into and become part of any resultant contract.

The District discourages exceptions from the contract terms and conditions as set forth in the RFQ Sample Contract. Such exceptions may cause a proposal to be rejected as nonresponsive when, in the sole judgment of the 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 RFQ “Sample Contract” proposal of alternate terms and conditions must be disclosed in writing with the proposal. Offerors must provide a brief explanation of the purpose and impact, if any, of each
proposed change followed by the specific proposed alternate wording. The District may or may not accept the alternative language. General references to the Offeror’s terms and conditions or attempts at complete substitutions of the Sample Contract are not acceptable to the District and will result in disqualification of the Offeror’s proposal.

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

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

18. **Offeror Qualifications**

The Evaluation Committee will reject the proposal of any potential Offeror who is not a Responsible Offeror and fails to submit a responsive offer as defined in District Procurement Policy and regulations.

19. **Disclosure of Litigation, Claims and/or Relevant Lawsuits**

The offeror must disclose current and/or ongoing litigation, lawsuits, claims, liabilities, losses and or legal actions relevant to this project (derived from similar projects. 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 RFQ. Failure to disclose any of the aforementioned and/or any other legal actions will disqualify an offeror from the selection process.

20. **Right to Waive Minor Irregularities**

The Evaluation Committee reserves the right to waive minor irregularities and/or informalities. The Evaluation Committee also reserves the right to waive mandatory requirements if 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.

21. **Change in Contractor Representatives**
The District reserves the right to require a change in contractor representatives if the assigned representative(s) is (are) not, in the opinion of the District, adequately meeting the needs of the District.

22. Notice of Penalties

The New Mexico criminal statutes impose felony penalties for bribes, gratuities and kickbacks.

23. District Rights

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

The District reserves the right to cancel the procurement in whole or in part, at its sole discretion, at any time before the Contract is fully executed and approved on behalf of the District.

The District reserves the right to determine any specific Proposal that is conditional or not prepared in accordance with the instructions and requirements of this RFQ to be nonresponsive.

If there is any evidence indicating that two or more offerors are in collusion to restrict competition or are otherwise engaged in anti-competitive practices, the Proposals of all such offerors shall be rejected, and such evidence may be a cause for disqualification of the participants in any future solicitations undertaken by the District.

24. Right to Publish

Throughout the duration of this procurement process and contract term, Offerors and contractors must secure from the District written approval prior to the release of any information that pertains to the potential work or activities covered by this procurement and/or District 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.

25. Ownership of Proposals

All documents submitted in response to the RFQ shall become property of the District.

26. Confidentiality

Any confidential information provided to, or developed by, the contractor in the performance of the contract resulting from this RFQ shall be kept confidential and shall not be made available to any individual or organization by the contractor without the prior written approval of the District.
The Contractor(s) agrees to protect the confidentiality of all confidential information and not to publish or disclose such information to any third party without the procuring District's written permission.

27. Electronic mail address required

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

28. Use of Electronic Versions of this RFQ

This RFQ is being made available by electronic means. In the event of conflict between a version of the RFQ in the Offeror’s possession and the version maintained by the District’s website, the Offeror acknowledges that the version maintained by the District’s website shall govern.

29. Campaign Contribution Disclosure Form

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

30. Disclosure Regarding Responsibility

a) Any prospective Contractor and any of its Principals who enter into a contract greater than sixty thousand dollars ($60,000.00) with any state agency or local public body for professional services, tangible personal property, services or construction agrees to disclose whether the Contractor, or any principal of the Contractor’s company:
   i. Is presently debarred, suspended, proposed for debarment, or declared ineligible for award of contract by any federal entity, state agency or local public body;
   ii. Has within a three-year period preceding this offer, been convicted in a criminal matter or had a civil judgment rendered against them for:
      1. 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;
      2. Violation of federal or state antitrust statutes related to the submission of offers; or
      3. 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;
iii. 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;

iv. Has, preceding this offer, been notified of any delinquent federal or state taxes in an amount that exceeds $3,000 of which the liability remains unsatisfied. Taxes are considered delinquent if the following criteria apply:

1. 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.

2. 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.

3. Have within a three-year period preceding this offer, had one or more contracts terminated for default by any federal or state agency or local public body.

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

c) The Contractor shall provide immediate written notice to the CPO if, at any time during the term of this Agreement, the Contractor learns that the Contractor’s disclosure was at any time erroneous or became erroneous by reason of changed circumstances.

d) A disclosure that any of the items in this requirement exist will not necessarily result in termination of this Agreement. However, the disclosure will be considered in the determination of the Contractor’s responsibility and ability to perform under this Agreement.

e) Failure of the Contractor to furnish a disclosure or provide additional information as requested will render the Offeror nonresponsive.

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

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

31. Conflict of Interest

In order to prevent real or apparent conflicts of interest the District prohibits contractors that have participated in FTA-funded design or evaluation services from bidding on any result in construction work, series or capital equipment purchases. All specifications prepared by design consultants must be written in such a manner the any reasonable, competent contractor could understand the requirement and perform the work.

a) Pursuant to the Governmental Conduct Act, NMSA 1978, 10-16-1 et. seq., an Offeror shall have no direct or indirect interest that conflicts with the performance of services covered under this RFQ and potential contract.

b) A conflict of interest or the appearance of a conflict of interest may occur if the Offeror is directly or indirectly involved whether through direct association with contract representatives, members of the evaluation team, indirect associations, through recreational activities or otherwise with a member of the District.

c) The Offeror warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement. The Offeror certifies requirements of the Governmental Conduct Act, Sections 10-16-1 through 10-16-18, NMSA 1978, regarding contracting with a public officer or state employee or former state employee have been followed.

29
APPENDIX A

CAMPAIGN CONTRIBUTION DISCLOSURE FORM
Campaign Contribution Disclosure Form

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

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

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

The following definitions apply:

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

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

“Family member” means spouse, father, mother, child, father-in-law, mother-in-law, daughter-in-law or son-in-law.”
“Pendency of the procurement process” means the time period commencing with the public notice of
the request for qualifications and ending with the award of the contract or the cancellation of the
request for qualifications.

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

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

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

DISCLOSURE OF CONTRIBUTIONS:

Contribution Made By: ________________________________________________________

Relation to Prospective Contractor: ____________________________________________

Name of Applicable Public Official: ____________________________________________

Date Contribution(s) Made: ___________________________________________________

Amount(s) of Contribution(s) _________________________________________________

Nature of Contribution(s) ____________________________________________________

Purpose of Contribution(s) ____________________________________________________

(Attach extra pages if necessary)

__________________________________________  ______________________________________

Signature Date

__________________________________________

Title (position)

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

______________________________  ______________________
Signature                                      Date

______________________________
Title (Position)
APPENDIX B
SAMPLE CONTRACT
This AGREEMENT (this “Agreement”) is entered into by and between the North Central Regional Transit District, a duly formed subdivision of the State of New Mexico, (“NCRTD or District”), and ________________ (hereinafter collectively the “Parties”) to be effective for all purposes as of March 30, 2020.

NOW, THEREFORE, for and in consideration of the premises and the covenants contained herein, District and Contractor agree as follows:

SECTION A. SERVICES: This is an Agreement for on-call engineering and architectural services.

1. Contractor Services. District, at its sole discretion, will notify Contractor when Contractor services are required. Tasks shall be submitted by the District to the Contractor on a form substantially consistent with the specimen attached hereto as Exhibit A. The Services will include:

   a. Continue to provide all services contained in their response to the RFQ and the Scope of Work from the 2016 solicitation and any and all addenda as described in the NCRTD’s RFQ and as outlined in the task order.

   b. Deliver completed project in a timely manner with all work to be done in cooperation with the District’s project coordinator and in accordance with the task order.

   c. Submit invoices as outlined in Contractor’s proposal, containing a detailed report of work performed. Invoices shall be substantially in the form outlined in Contractor’s proposal, and shall contain a detailed report of work performed sufficient to meet New Mexico Department of Transportation, Federal Highway Administration requirements and Federal Transit Administration requirements in Appendix A. Contractor recognizes and acknowledges that the District must make reports of progress including actual costs and expenses incurred as of the reporting date. Contractor’s failure to timely submit information sufficient for this purpose may compromise the District’s ability to obtain federal funds and may in turn compromise payments by the District to the Contractor for amounts otherwise compensable under this Agreement.

   d. Contractor may be required to attend NCRTD Board meetings and provide advice to the full NCRTD Board if requested to do so by the Executive Director.

   e. Contractor may be required to perform such acts and render such services as are reasonably necessary to complete the work contemplated under this Agreement.
f. Contractor understands and agrees that the professional services covered by this scope of work are to be performed and delivered by the principal professionals within the Contractor’s firm and those listed in its response to the RFQ and that substitution of subcontractors or delegation of critical work to subordinates needs prior approval from the NCRTD.

g. All deliverables required under this Agreement, including material, products, reports, policies, procedures, software improvements, databases, and any other products and processes, whether in written or electronic form, shall remain the exclusive property of and shall inure to the benefit of District as works for hire. Contractor shall not use, sell, disclose, or obtain any other compensation for such works for hire. In addition, Contractor may not, with regard to all work, work product, deliverables or works for hire required by this Agreement, apply for, in its name or otherwise, any copyright, patent or other property right and acknowledges that any such property right created or developed remains the exclusive right of District. Contractor shall not use deliverables in any manner for any other purpose without the express written consent of the District.

2. Contractor General Requirements.

   a. Contractor shall supply all equipment and labor necessary to perform the scope of work as described above.

   b. If notified by District to perform Services identified herein, standard work hours shall be from 8:00 a.m. to 5:00 p.m. during normal business days, Monday through Friday.

SECTION B. TERM: The term of this Agreement shall commence effective March 30, 2020 and shall continue to June 30, 2021. The contract may terminate sooner if the aggregate compensation of $100,000 is exhausted prior to the expiration of the term of this Agreement.

SECTION C. COMPENSATION:

1. The NCRTD shall pay to the Contractor a fee consistent with the fee schedule attached hereto as Exhibit B and the agreed upon task order plus New Mexico gross receipts tax. Said amount shall be paid per the terms of the task orders. The agreed upon amount is inclusive of Contractor expenses anticipated to be incurred in the performance of services in the Agreement such as copying, mileage, printing, travel, and per diem, telephone and computer research charges at the normal rate for such expenses charged by the Contractor to its other clients. Per diem and mileage expenses shall not exceed the amounts provided in the Per Diem and Mileage Act or as set forth below.

2. Payment shall be made upon receipt of invoice from the Contractor in accordance with the task order. All invoices shall contain a detailed report of work performed and expenses incurred. Prepayment by public entities is generally not permitted under New Mexico law. Therefore, the delivery of service and timely billing thereafter is a condition precedent to any payment by NCRTD to Contractor.

3. Payment of taxes for any money received under this Agreement shall be the Contractor’s sole responsibility. The New Mexico Gross Receipts Tax (NMGRT) levied on the amounts payable
under this Agreement shall be paid by the District to the Contractor and have not been incorporated into the fee amounts listed on the task orders.

4. Contractor agrees to Refund to the District, in the same proportion as it was paid to the Contractor, expenditures under this agreement when determined by independent audit to be ineligible for payment.

5. Total compensation for all Agreements, including all possible extensions, shall not exceed a combined total of ______________ ($_______000.00), excluding NMGRT.

SECTION D. TAXES: Contractor shall be responsible for remittance of the NMGRT levied on the amounts payable under this Agreement.

SECTION E. STATUS OF CONTRACTOR, STAFF, AND PERSONNEL: This Agreement calls for the performance of services by Contractor as an independent contractor. Contractor is not an agent or employee of District and will not be considered an employee of District for any purpose. Contractor, its agents or employees shall make no representation that they are District employees, nor shall they create the appearance of being employees by using a job or position title on a name plate, business cards, or in any other manner, bearing the District’s name or logo. Neither Contractor nor any employee of Contractor shall be entitled to any benefits or compensation other than the compensation specified herein. Contractor shall have no authority to bind District to any agreement, contract, duty or obligation. Contractor shall make no representations that are intended to, or create the appearance of, binding District to any agreement, contract, duty, or obligation. Contractor shall have full power to continue any outside employment or business, to employ and discharge its employees or associates as it deems appropriate without interference from District; provided, however, that Contractor shall at all times during the term of this Agreement maintain the ability to perform the obligations in a professional, timely and reliable manner.

SECTION F. STANDARD OF PERFORMANCE: Contractor agrees and represents that it has and will maintain the personnel, experience and knowledge necessary to qualify it for the particular duties to be performed under this Agreement. Contractor shall perform the Services described herein in accordance with a standard that exceeds the industry standard of care for performance of the Services.

SECTION G. DELIVERABLES AND USE OF DOCUMENTS: All deliverables required under this Agreement, including material, products, reports, policies, procedures, software improvements, databases, and any other products and processes, whether in written or electronic form, shall remain the exclusive property of and shall inure to the benefit of District as works for hire. Contractor shall not use, sell, disclose, or obtain any other compensation for such works for hire. In addition, Contractor may not, with regard to all work, work product, deliverables or works for hire required by this Agreement, apply for, in its name or otherwise, any copyright, patent or other property right and acknowledges that any such property right created or developed remains the exclusive right of District. Contractor shall not use deliverables in any manner for any other purpose without the express written consent of the District.

SECTION H. EMPLOYEES AND SUBCONTRACTORS: Contractor shall be solely responsible for payment of wages, salary or benefits to any and all employees or subcontractors retained by Contractor in the performance of the Services. Contractor agrees to indemnify, defend and hold
harmless District for any and all claims that may arise from Contractor's relationship to its employees and subcontractors.

**SECTION I. INSURANCE:** Contractor shall obtain and maintain insurance of the types and in the amounts set out below throughout the term of this Agreement with an insurer acceptable to District. Contractor shall assure that all subcontractors maintain like insurance. Compliance with the terms and conditions of this Section is a condition precedent to District’s obligation to pay compensation for the Services and Contractor shall not provide any Services under this Agreement unless and until Contractor has met the requirements of this Section. District may require certificates of insurance or other evidence acceptable to District that Contractor has met its obligation to obtain and maintain insurance and to assure that subcontractors maintain like insurance. General liability insurance and automobile liability insurance shall name District as an additional insured and provide that District will be notified no less than thirty (30) days in advance of cancellation. These insurance requirements may only be waived by the Executive Director of the District who shall not be deemed to have waived any such requirement unless the waiver specifies the specific insurance coverage requirement waived and is in writing.

1. **General Liability Insurance:** $1,000,000 combined single limit per occurrence.

2. **Workers’ Compensation:** In an amount as may be required by law. District may immediately terminate this Agreement if Contractor fails to comply with the Worker’s Compensation Act and applicable rules when required to do so.

3. **Automobile Liability Insurance for Contractor and its Employees:** An amount at least equal to the minimum required by state law on any owned, and/or non-owned motor vehicles used in performing Services under this Agreement.

**SECTION J. NEW MEXICO TORT CLAIMS ACT:** Any liability incurred by the NCRTD in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended. The NCRTD and its “employees” as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

**SECTION K. APPROPRIATIONS:** The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the NCRTD for the performance of this Agreement. If sufficient appropriations and authorization are not made by the NCRTD, this Agreement shall terminate upon written notice being given by the NCRTD to the Contractor. The NCRTD's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. By executing this Agreement the NCRTD represents that the staff will make good faith efforts to ensure that sufficient money is budgeted and appropriated to make the payments that may become due for the work performed under this Agreement. However, by signing this Agreement Contractor hereby acknowledges and agrees that staff has no obligation to seek or obtain approval for any amendment, extension, or other charges.

**SECTION L. RECORDS AND AUDITS:** The Contractor shall maintain, throughout the term of this Agreement and for a Contractor shall maintain throughout the term of this Agreement and for a period of six (6) years thereafter records that indicate the date, time, and nature of the services rendered. Contractor shall make available for inspection by District all records, books of account, memoranda,
and other documents pertaining to District at any reasonable time upon request. These records shall be subject to inspection by the NCRTD, the Department of Finance and Administration, and the State Auditor. The NCRTD shall have the right to audit the billing both before and after payment. Payment under this Agreement shall not foreclose the right of the NCRTD to recover excessive illegal payments.

SECTION M. NON-DISCRIMINATION: During the term of this Agreement, Contractor shall not discriminate against any employee or applicant for an employment position to be used in the performance of the obligations of Contractor under this Agreement, with regard to race, color, religion, sex, age, ethnicity, national origin, sexual orientation or gender identity, disability or veteran status.

SECTION N. INDEMNITY AND RELEASE: Contractor shall indemnify, hold harmless and defend District, its Council members, employees, agents and representatives, from and against all liabilities, damages, claims, demands, actions (legal or equitable), and costs and expenses, including without limitation attorneys’ fees, of any kind or nature, arising from Contractor’s performance hereunder or breach hereof and the performance of Contractor’s employees, agents, representatives and subcontractors. The Contractor, upon acceptance of final payment of the amount due under this Agreement, releases the NCRTD, its officers and employees, from all contract liabilities, claims and obligations whatsoever arising from or under this Agreement. The Contractor agrees not to purport to bind the NCRTD to any obligation not assumed herein by the NCRTD unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

SECTION O. FORCE MAJEURE: Neither District nor Contractor shall be liable for any delay in the performance of this Agreement, nor for any other breach, nor for any loss or damage arising from uncontrollable forces such as fire, theft, storm, war, or any other force majeure that could not have been reasonably avoided by exercise of due diligence.

SECTION P. NON-ASSIGNMENT: Contractor may not assign this Agreement or any privileges or obligations herein without the prior written consent of District.

SECTION Q. LICENSES: Contractor shall maintain all required licenses including, without limitation, all necessary professional and business licenses, throughout the term of this Agreement. Contractor shall require and shall assure that all of Contractor’s employees and subcontractors maintain all required licenses including, without limitation, all necessary professional and business licenses.

SECTION R. SEVERABILITY: In case any one or more of the provisions contained in this Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

SECTION S. APPLICABLE LAW: Contractor shall abide by all applicable federal, state and local laws, regulations, and policies and shall perform the Services in accordance with all applicable laws, regulations, and policies during the term of this Agreement. In any lawsuit or legal dispute arising from the operation of this Agreement, Contractor agrees that the laws of the State of New Mexico shall govern. Venue shall be in the First Judicial District Court of New Mexico, New Mexico.
SECTION T. PROHIBITED INTERESTS: Contractor agrees that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. Contractor further agrees that it will not employ any person having such an interest to perform services under this Agreement.

SECTION U. TERMINATION:

1. **Generally.** District may terminate this Agreement with or without cause upon ten (10) days prior written notice to Contractor. Upon such termination, Contractor shall be paid for Services actually completed to the satisfaction of District at the rate set out in Section C. Contractor shall render a final report of the Services performed to the date of termination and shall turn over to District originals of all materials prepared pursuant to this Agreement.

2. **Funding.** This Agreement shall terminate without further action by District on the first day of any District or federal fiscal year for which funds to pay compensation hereunder are not appropriated by the District or the federal government. District shall make reasonable efforts to give Contractor advance notice that funds have not been and are not expected to be appropriated for that purpose.

SECTION V. NOTICE: Any notices required under this Agreement shall be made in writing, postage prepaid to the following addresses, and shall be deemed given upon hand delivery, verified delivery by electronic transmission or three (3) days after deposit in the United States mail:

NCRTD:  
Anthony Mortillaro  
Executive Director  
1327 N. Riverside Drive  
Espanola, NM 87532  
Anthonym@ncrtd.org

Contractor:

SECTION W. INVALIDITY OF PRIOR AGREEMENTS: This Agreement supersedes all prior contracts or agreements, either oral or written, that may exist between the parties with reference to the services described herein and expresses the entire agreement and understanding between the parties with reference to said services. It cannot be modified or changed by any oral promise made by any person, officer, or employee, nor shall any written modification of it be binding on District until approved in writing by both District and Contractor.

SECTION X. CAMPAIGN CONTRIBUTION DISCLOSURE FORM AND CONFLICT OF INTEREST; GOVERNMENTAL CONDUCT ACT.

1. The Contractor represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement.

2. The Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, NMSA 1978, Section 10-16-1 et seq.
Without in anyway limiting the generality of the foregoing, the Contractor specifically represents and warrants that:

a. in accordance with NMSA 1978, Section 10-16-4.3, the Contractor does not employ, has not employed, and will not employ during the term of this Agreement any District employee while such employee was or is employed by the District and participating directly or indirectly in the District’s contracting process;

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

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

d. this Agreement complies with NMSA 1978, Section 10-16-9(A) because (i) the Contractor is not a legislator; (ii) the Contractor is not a member of a legislator's family; (iii) the Contractor is not a business in which a legislator or a legislator's family has a substantial interest; or (iv) if the Contractor is a legislator, a member of a legislator’s family, or a business in which a legislator or a legislator's family has a substantial interest, disclosure has been made as required by NMSA 1978, Section 10-16-9(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; and

e. in accordance with Section NMSA 1978, 10-16-13, the Contractor has not directly participated in the preparation of specifications, qualifications or evaluation criteria for this Agreement or any procurement related to this Agreement; and in accordance with NMSA 1978, Section 10-16-3 and Section 10-16-13.3, the Contractor has not contributed, and during the term of this Agreement shall not contribute, anything of value to a public officer or employee of the District.

3. Contractor’s representations and warranties in Paragraphs A and B of this Article 10 are material representations of fact upon which the District relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the District if, at any time during the term of this Agreement, Contractor learns that Contractor’s representations and warranties in Paragraphs A and B of this Article 9 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor’s representations and warranties in
Paragraphs A and B of this Article 12 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 District and notwithstanding anything in the Agreement to the contrary, the District may immediately terminate the Agreement.

4. All terms defined in the Governmental Conduct Act have the same meaning in this Article 10.

5. A Campaign Contribution Disclosure Form may be required for any contribution to elected officials serving on the District’s Board consistent with the local governing bodies respective requirements. This Section acknowledges compliance with Chapter 81 of the Laws of 2006 of the State of New Mexico.

SECTION Y. COMPLIANCE WITH FEDERAL RESTRICTIONS:

The Contractor acknowledges and agrees that contracts such as this Agreement which are funded with, or implicate federal laws, grant requirements and restrictions are subject to state and federal requirements and compliance above and beyond the express terms set forth in this Agreement and that Contractor has made independent inquiry and satisfied itself that it may perform the work required under this Agreement while, at all times, maintaining compliance with said restrictions. Express requirements and restrictions include but are not limited to:

A. All requirements of 49 U.S.C. §5304 whether express or implied.

B. Federal Funds received by the NCRTD shall be used solely for activities described in the Scope of Work as set forth in Exhibit B.

C. Federal Funds shall only be allocated for payment of eligible costs as set forth in Exhibit B and as detailed in the Office of Management and Budget Circulars: A-87, A-102, A-133 and Executive Order 12372.

GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

Suspension and Debarment

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the offeror certifies as follows:

The certification in this clause is a material representation of fact relied upon by NCRTD. If it is later determined that the bidder or offeror knowingly rendered an erroneous certification, in addition to remedies available to NCRTD, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or offeror agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any
contract that may arise from this offer. The bidder or offeror further agrees to include a provision requiring such compliance in its lower tier covered transactions.

**BUY AMERICA REQUIREMENTS**

49 U.S.C. 5323(j)
49 CFR Part 661

Although this is a design contract and therefore does not directly require compliance with Buy America, the A/E firm shall design the project in such a way as to take into account the requirements of Federal Transit Administration's Buy America requirements upon the construction of the maintenance facility.

**LOBBYING**

31 U.S.C. 1352
2 CFR 200
49 CFR Part 20

The undersigned [Contractor] certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.).]

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.
[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such expenditure or failure.]

The Contractor, ___________________, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, et seq., apply to this certification and disclosure, if any.

________________________ Signature of Contractor's Authorized Official

________________________ Name and Title of Contractor's Authorized Official

_________________________ Date

**DISADVANTAGED BUSINESS ENTERPRISE (DBE)**

**49 CFR Part 26**

**Disadvantaged Business Enterprises**

This contract is covered under New Mexico Department of Transportation's Disadvantaged Business Enterprise Plan and the Contractor agrees to provide any information and data required by the NCRTD in order for the NCRTD to include the work performed under this Agreement in the State's DBE reporting.

1. **Disadvantaged Business Enterprise (DBE) Policy.**

   A. This Agreement is subject to the requirements of 49 CFR Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The Department’s proposed overall goal for FTA participation for the 2018 fiscal year is 1.46%, through race-neutral means.

   B. The Subrecipient shall not discriminate on the basis of race, color, national origin, or sex in the performance of the Agreement. The Subrecipient shall carry out applicable requirements of 49 CFR Part 26 in the administration of the Project. Failure by the Subrecipient to carry out these requirements is a material breach of the Agreement, which may result in the termination or other such remedy as the Department deems appropriate. Each contract the Subrecipient signs with a contractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

   C. The Subrecipient agrees to ensure that Disadvantaged Business Enterprises as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of Contracts and subcontracts financed in whole or in part with Federal funds. In this regard, all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that Disadvantaged Business Enterprises have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of U.S. DOT assisted contracts. The Subrecipient will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.
D. The Subrecipient is required to pay its contractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the awarded contractor’s receipt of payment for that work from the Department.

E. The Subrecipient must promptly notify the Department, whenever a DBE contractor is terminated or fails to complete its work and must make good faith efforts to engage another DBE contractor to perform at least the same amount of work. The Subrecipient may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the Department.

Subcontractors and Assignors of FTA funds must meet applicable Disadvantaged Business Enterprise (DBE) Program requirements when funds are used in whole or in part to finance procurements for applicable products and services. To that end, Subcontractors with contracting opportunities must sign and submit a Disadvantaged Business Enterprise Race-Neutral Implementation Agreement for Federal Transit Administration Subrecipients, which is attached in Appendix E.

ADA ACCESS

Facility Accessibility. Facilities to be used in public transportation service must comply with 42 U.S.C. Sections 12101 et seq. and DOT regulations, “Transportation Services for Individuals with Disabilities (ADA),” 49 CFR Part 37; and Joint ATBCB/DOT regulations, “Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles,” 36 CFR Part 1192 and 49 CFR Part 38. Notably, DOT incorporated by reference the ATBCB’s “Americans with Disabilities Act Accessibility Guidelines” (ADAAG), revised July 2004, which include accessibility guidelines for buildings and facilities, and are incorporated into Appendix A to 49 CFR Part 37. DOT also added specific provisions to Appendix A modifying the ADAAG, with the result that buildings and facilities must comply with both the ADAAG and amendments thereto in Appendix A to 49 CFR Part 37.

NOTIFICATION RELATED TO FRAUD, WASTE, ABUSE, OR OTHER LEGAL MATTERS

If a current or prospective legal matter that may affect the Federal Government emerges, the Contractor must promptly notify NCRTD so that it can notify the Federal Government. The Contractor must include a similar notification requirement in its Third-Party Agreements and must require each Third-Party Participant to include an equivalent provision in its subagreements at every tier, for any agreement that is a “covered transaction” according to 2 C.F.R. §§ 180.220 and 1200.220. The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason. Matters that may affect the Federal Government include, but are not limited to, the Federal Government’s interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government’s administration or enforcement of federal laws, regulations, and requirements.
IN WITNESS WHEREOF, the parties have executed this Agreement on the date(s) set forth opposite the signatures of their authorized representatives to be effective for all purposes on the date first written above.

NORTH CENTRAL REGIONAL TRANSIT DISTRICT

BY: ______________________  ______________________  
ANTHONY J. MORTILLARO  DATE
EXECUTIVE DIRECTOR

Approved as to form:

_________________________
PETER DWYER
LEGAL COUNSEL

CONTRACTOR:

BY: ______________________  ______________________  
NAME: ______________________  DATE
TITLE: ______________________
APPENDIX C

LETTER OF TRANSMITTAL FORM
APPENDIX C
Letter of Transmittal Form

RFQ#: _____________________________

Offeror Name: _____________________  FED ID# _______________________________

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-Contractors (Select one)
____ No sub-contractors will be used in the performance of any resultant contract OR
____ The following sub-contractors will be used in the performance of any resultant contract:
_________________________________________________________________________________
(Attach extra sheets, as needed)

6. Please describe any relationship with any entity (other than Subcontractors listed in (5) above) which will be used in the performance of any resultant contract.
______________________________________________________________________________
(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 RFQ.
___ I acknowledge receipt of any and all amendments to this RFQ.

________________________________________________
Authorized Signature and Date (Must be signed by the person identified in item #2, above.)

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

Authorized Signature and Date (Must be signed by the person identified in item #2, above.)
APPENDIX D

ORGANIZATIONAL REFERENCE QUESTIONNAIRE
NCRTD, as a part of the RFQ process, requires Offerors to submit a minimum of three (3) business references as required within this document. The purpose of these references is to document Offeror’s experience relevant to the scope of work in an effort to establish Offeror’s responsibility.

Offeror is required to send the following reference form to each business reference listed. The business reference, in turn, is requested to submit the Reference Form directly to:

North Central Regional Transit District  
c/o Tim Mildren, CPO  
1327 N. Riverside Drive  
Española, NM 87532

by June 1, 2020 for inclusion in the evaluation process. The form and information provided will become a part of the submitted proposal. Business references provided may be contacted for validation of content provided therein.
RFQ # 2020-???
ORGANIZATIONAL REFERENCE QUESTIONNAIRE
FOR:

(Name of Offeror)

This form is being submitted to your company for completion as a business reference for the company listed above. This form is to be returned to North Central Regional Transit District, c/o Purchasing Agent via facsimile or e-mail at:

Name: Tim Mildren
Address: 1327 N. Riverside Drive
        Española, NM 87532

Telephone: (505)629-4701
Fax: (505)747-6647
Email: timm@ncrtd.org

no later than June 1, 2020 and must not be returned to the company requesting the reference.

For questions or concerns regarding this form, please contact the Purchasing Agent listed above. When contacting us, please be sure to include the Request for Proposal number listed at the top of this page.

<table>
<thead>
<tr>
<th>Company providing reference:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Contact name and title/position</td>
<td></td>
</tr>
<tr>
<td>Contact telephone number</td>
<td></td>
</tr>
<tr>
<td>Contact e-mail address</td>
<td></td>
</tr>
<tr>
<td>Project description</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Project dates (starting and ending)</th>
<th></th>
</tr>
</thead>
</table>
QUESTIONS:

1. In what capacity have you worked with this Company in the past?

COMMENTs:

2. How would you rate this firm's knowledge and expertise?
   _____ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)

COMMENTs:

3. How would you rate the vendor's flexibility relative to changes in the project scope and timelines?
   _____ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)

COMMENTs:

4. What is your level of satisfaction with documentation and/or materials produced by the vendor?
   _____ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)

COMMENTs:

5. How would you rate the dynamics/interaction between the vendor and your staff?
   _____ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)

COMMENTs:
6. Who were the vendor’s principal representatives involved in your project and how would you rate them individually? Would you comment on the skills, knowledge, behaviors or other factors on which you based the rating?
(3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)

Name: _______________________________ Rating:
Name: _______________________________ Rating:
Name: _______________________________ Rating:
Name: _______________________________ Rating:

COMMENTS:

7. How satisfied are you with the products developed by the vendor?
(3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)

COMMENTS:

8. With which aspect(s) of this vendor's services are you most satisfied?
COMMENTS:

9. With which aspect(s) of this vendor's services are you least satisfied?
COMMENTS:

10. Would you recommend this vendor's services to your organization again?
APPENDIX E

CERTIFICATIONS
CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

(To be submitted with each bid or offer exceeding $100,000)

The undersigned [Contractor] certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.)]

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such expenditure or failure.]

The Contractor, ___________________, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, et seq., apply to this certification and disclosure, if any.

__________________________ Signature of Contractor's Authorized Official
__________________________ Name and Title of Contractor's Authorized Official
__________________________ Date
NON-COLLUSION AFFIDAVIT

This affidavit is to be filled out and executed by the Bid; if a corporation makes the bid, then by its properly executed agent. The name of the individual swearing to the affidavit should appear on the line marked “Name of Affiant.” The affiant’s capacity, when a partner or officer of a corporation, should be inserted on the line marked “Capacity.” The representative of the Bidder should sign his or her individual name at the end, not a partnership or corporation name, and swear to this affidavit before a notary public, who must attach his or her seal.

State of _________________________, County of _________________________

I, _________________________, being first duly sworn, do hereby state that

(Name of Affiant)

I _________________________ of _________________________

(Capacity) (Name of Firm, Partnership or Corporation)

Whose business is __________________________________________________________

And who resides at ______________________________________________________

And that _________________________

(Give names of all persons, firms, or corporations interested in the bid)

is/are the only person(s) with me in the profits of the herein contained Contract; that the Contract is made without any connection or interest in the profits thereof with any persons making any bid or Proposal for said Work; that the said Contract is on my part, in all respects, fair and without collusion or fraud, and also that no members of the Board of Trustees, head of any department or bureau, or employee therein, or any employee of the Authority, is directly or indirectly interested therein.

Signature of Affiant: _________________________ Date: _______________________

Sworn to before me this _________________________ day of _________________________, 20______.

Notary public: _________________________
My commission expires: _________________________

Seal
OFFEROR FORM

Bidder shall complete the following form and include it in the Bid.

OFFEROR

By execution below by a duly authorized representative(s) of the Bidder, the Bidder hereby offers to furnish equipment and services as specified in its Bid submitted to the District in response to RFQ 202-??? On Call Engineering

Offeror: ______________________________________________________________

Street address: ________________________________________________________

City, State, ZIP: ________________________________________________________

Name and title of Authorized Signer(s): ________________________________

Name and title of Authorized Signer(s): ________________________________

Phone: ________________________________

Authorized signature: ______________________________            Date: _____________________

Authorized signature: ______________________________            Date: _____________________
INTRODUCTION AND INSTRUCTIONS:

The New Mexico Department of Transportation (NMDOT) Transit and Rail Division, through the NMDOT Office of Equal Opportunity Programs (OEOP), must ensure that Subrecipient of Federal Transit Administration (FTA) funds meet applicable DBE requirements when funds are used in whole or in part to finance procurement and contracts of products and service(s). To that end, Subrecipient with contracting opportunities must submit a Disadvantaged Business Enterprise Race-Neutral Implementation Agreement for Federal Transit Administration Subrecipients (Agreement).

Please read the entire Agreement before completing, and do not change or add to the wording of the Agreement. The Agreement is incorporated into and becomes a material part of your contract with NMDOT, and Subrecipients are responsible for complying with the requirements contained therein.
DISADVANTAGED BUSINESS ENTERPRISE RACE-NEUTRAL IMPLEMENTATION AGREEMENT for North Central Regional Transit District (NCRTD) hereinafter referred to as “Subrecipient.”

I. Definition of Terms

The terms used in this agreement have the meanings defined in 49 CFR Part 26.5.

II. OBJECTIVE/POLICY STATEMENT (§26/1, 26/23)

The Subrecipient intends to receive federal financial assistance from the U.S. Department of Transportation (USDOT) through the New Mexico Department of Transportation (NMDOT), and as a condition of receiving this assistance, the Subrecipient will sign the New Mexico Department of Transportation’s Disadvantaged Business Enterprise Race Neutral Implementation Agreement (hereinafter referred to as Agreement).

The Subrecipient must implement a policy to ensure that DBEs, as defined in 49 CFR Part 26 (also referred to as the DBE Program), have an equal opportunity to receive and participate in USDOT-assisted contracts. It is also their policy:
To ensure nondiscrimination in the award and administration of USDOT-assisted procurement and contracts of products and services contracts.
To create a level playing field on which DBE’s can compete fairly for USDOT-assisted procurement and contracts of products and services contracts.
To ensure that their annual overall DBE participation percentage is narrowly tailored, in accordance with applicable law.
To ensure that only firms that fully meet 49 CFR, Part 26 eligibility standards are permitted to participate as DBEs.
To help remove barriers to the participation of DBEs in USDOT-assisted procurement and contracts of products and services contracts.
To assist the development of firms that can compete successfully in the market place outside the DBE Program.

III. Nondiscrimination (§26.7)

Subrecipient will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR Part 26 on the basis of race, color, sex, or national origin. Subrecipient will not, directly, or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE Program with respect to individuals of a particular race, color, sex, or national origin.

IV. Race-Neutral Means of Meeting the Annual DBE Goal (§26.51)

Subrecipient will assist NMDOT to achieve its Overall Statewide DBE Goal by race-neutral means of facilitating DBE participation. Race-neutral DBE participation includes any time a DBE wins a prime contract through customary competitive procurement procedures, is awarded a subcontract on a prime contract that does not carry a DBE goal, or even if there is a DBE goal, wins a subcontract from a prime contractor that did not consider its DBE status in making the award (e.g., a prime contractor that uses a strict low-bid system to award subcontracts).
Race-neutral means include, but are not limited to, the following:

1. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE, and other small businesses, participation (e.g., unbundling large contracts to make
them more accessible to small businesses, requiring or encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own forces);

2. Providing assistance in overcoming limitations such as inability to obtain bonding or financing (e.g., by such means as simplifying the bonding process, reducing bonding requirements, eliminating the impact of surety costs from bids, and providing services to help DBEs, and other small businesses, obtain bonding and financing);

3. Providing technical assistance and other services;

4. Carrying out information and communication programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists of bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate);

5. Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses;

6. Providing services to help DBEs, and other small businesses, improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency;

7. Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has been historically low;

8. Ensuring distribution of the New Mexico DBE directory, through print and electronic means, to the widest feasible universe of potential contractors; and

9. Assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media.

Subrecipient will encourage utilization of DBE contractors whenever possible on its USDOT-assisted contracts. New Mexico Certified DBE firms and the fields of work in which they participate are listed in the electronic web-based DBE Directory located at https://nmdot.dbesystem.com

V. Quotas (§26.43)

Subrecipient will not use quotas or set-asides in any way in the administration of the DBE Program.
VI. DBE Liaison Officer (§26.25)

Subrecipient must designate a DBE Liaison Officer (DBELO). The DBELO is responsible for implementing the DBE Program as it pertains to the Subrecipient and ensures that the Subrecipient is fully and properly advised concerning DBE Program matters.

VII. Federal Financial Assistance Agreement Assurance (§26.13)

The Subrecipient will sign the following assurance, applicable to and to be included in all USDOT-assisted procurements and contracts for products and services:

The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT-assisted contract, or in the administration of its DBE Program, or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR, Part 26 to ensure nondiscrimination in the award and administration of USDOT-assisted contracts. The recipient’s DBE Program, as required by 49 CFR, Part 26 as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

VIII. Required Contract Clauses (§§26.13, 26.29)

Subrecipient assures that the following clauses will be included in each USDOT-assisted prime contract:

A. Contract Assurance

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of USDOT-assisted procurement and contracts of products and services contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as recipient deems appropriate.

B. Prompt Payment

Prompt Progress Payment to Subcontractors

A prime contractor or subcontractor shall pay to any subcontractor not later than 10 days of receipt of each progress payment. The 10-days is applicable unless a longer period is agreed to in writing. Any delay or postponement of payment over 30 days may take place only for good cause and with the NMDOT’s prior written approval. Any violation of this Section shall subject the violating contractor or subcontractor to penalties, sanctions, and other remedies provided by law. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

Prompt Payment of Retainage

Subrecipient shall include either (1), (2), or (3) of the following provisions in their USDOT-assisted contracts to ensure prompt and full payment of retainage (withheld funds) to subcontractors in compliance with 49 CFR 26.29.
1. No retainage will be held by the agency from progress payments due to the prime contractor. Prime contractors and subcontractors are prohibited from holding retainage from subcontractors. Any delay or postponement of payment may take place only for good cause and with the agency’s prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and other remedies provided by law. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

2. No retainage will be held by the agency from progress payments due the prime contractor. Any retainage kept by the prime contractor or by a subcontractor must be paid in full to the earning subcontractor within 30 days after the subcontractor’s work is satisfactorily completed. Any delay or postponement of payment may take place only for good cause and with the agency’s prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and remedies provided by law. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

3. The agency shall hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the agency of the contract work and pay retainage to the prime contractor based on these acceptances. The prime contractor or subcontractor shall return all monies withheld in retention from all subcontractors within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Any delay or postponement of payment may take place only for good cause and with the agency’s prior written approval. Any violation of these provisions shall subject the violating prime contractor to the penalties, sanctions, and other remedies provided by law. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor; deficient subcontractor performance; and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

IX. Bidders List (§26.11)

The Subrecipient will create and maintain a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on its USDOT-assisted procurement and contracts for products and services. The bidders list will include the name, address and telephone number of each quoting firm and whether the quoter is a New Mexico certified DBE. Subrecipient will include language in its procurement documents that requires each bidding Contractor, at the time that bids are submitted, to list the quotes received for the project as detailed above.

X. Reporting

Subrecipient will report bidders list and related DBE information to the NMDOT Transit and Rail Division or the NMDOT Office of Equal Opportunity Programs upon request.

Subrecipient will complete and submit annually to the NMDOT Office of Equal Opportunity Programs the NMDOT Annual Profile Registration Form. This Form will be mailed to Subrecipient.
Subrecipient will compile and provide such other information related to its procurements and the DBE Program as deemed necessary by the NMDOT Transit and Rail Division or the NMDOT Office of Equal Opportunity Programs.

**XI. Incorporation of Agreement**

This Agreement is incorporated into Subrecipient’s financial assistance agreement with NMDOT by reference and made a part of that agreement.

<table>
<thead>
<tr>
<th>Date:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Signature of Subrecipient Official</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Phone Number:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Printed Name of Subrecipient Official</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>