

APPENDIX A: OPTIONAL ACKNOWLEDGEMENT OF RECEIPT FORM

This form is optional but is required if you wish to receive notices associated with this RFP.

REQUEST FOR PROPOSAL RFP # 2024-09: Housing Rehabilitation and Construction Services

In acknowledgement of receipt of this Request for Proposal the undersigned agrees that s/he has received a complete copy, beginning with the title page and table of contents, and ending with APPENDIX G.

The acknowledgement of receipt should be signed and returned to the Procurement Manager no later than **April 12, 2024**. Only potential Offerors who elect to return this form completed with the indicated intention of submitting a proposal will receive copies of all Offeror written questions and the written responses to those questions as well as RFP amendments, if any are issued.

FIRM: _____

REPRESENTED
BY: _____

TITLE: _____ PHONE NO.: _____

EMAIL: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP
CODE: _____

SIGNATURE: _____ DATE: _____

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

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

Bernadette Segobia-Abeyta, Procurement Manager, bernadettes@ncnmedd.com
NCNMEDD, 644 Don Gaspar, Santa Fe, NM 87505

APPENDIX B: TRANSMITTAL FORM

REQUEST FOR PROPOSAL RFP # 2024-09: Housing Rehabilitation and Construction Services

**ITEMS #1 to #4 EACH MUST BE COMPLETED IN FULL.
FAILURE TO RESPOND TO ALL FOUR (4) ITEMS WILL RESULT IN THE
DISQUALIFICATION OF OFFEROR'S PROPOSAL. DO NOT LEAVE ANY ITEM BLANK.**
(N/A, None, Does not apply, etc. are acceptable responses.)

1. Identify the following information for the submitting organization:

Offeror Name	
Mailing Address	
Telephone	
FED ID#	
NM CRS#	

2. Identify the individual(s) authorized by the organization to (A) contractually obligate, (B) negotiate, and/or (C) clarify/respond to queries on behalf of this Offeror:

	A Contractually Obligate	B Negotiate*	C Clarify/Respond to Queries*
Name			
Title			
E-mail			
Telephone			

* If the individual identified in Column A also performs the functions identified in Columns B & C, then no response is required for those Columns. If separate individuals perform the functions in Columns B and/or C, they must be identified.

3. Use of subcontractors (Select one):

- No subcontractors will be used in the performance of any resultant contract, OR
 The following subcontractors will be used in the performance of any resultant contract:

 (Attach extra sheets, as needed)

4. Describe any relationship with any entity (such as a State Agency, reseller, etc. that is not a subcontractors listed in #3 above), if any, which will be used in the performance of any resultant contract. (N/A, None, Does not apply, etc. are acceptable responses to this item.)

 (Attach extra sheets, as needed)

By signing the form below, the Authorized Signatory attests to the accuracy and veracity of the information provided on this form, and explicitly acknowledges the following:

- On behalf of the submitting-organization identified in item #1, above, I accept the Conditions Governing the Procurement, as required in Section II of this RFP;
- I concur that submission of our proposal constitutes acceptance of the Evaluation Factors contained in Section IV of this RFP; and
- I acknowledge receipt of any and all amendments to this RFP, if any.

_____, 20____

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

APPENDIX C: QUALIFICATIONS & REQUIREMENTS

SECTION 1: CONSTRUCTION EXPERIENCE

a. **Please check all areas in which the Offeror has construction experience:**

Type of Project	Check Here
*Residential rehabilitation/remodeling	
*Residential new construction	
**Multifamily rehabilitation/remodeling	
**Multifamily new construction	
Commercial/office rehabilitation/remodeling	
Commercial/office new construction	
Conversion of motels/hotels into apartments	
Adaptive reuse of buildings	
Accessibility improvement	
Assembly of modular or prefabricated housing	

*Residential includes single-family homes, townhomes, condos, duplexes, triplexes and fourplexes.

**Multifamily includes apartments and structures with five or more units.

b. **In what counties within the State of New Mexico do you provide construction services?
Please list all counties where you work in the box below.**

List all counties here...

c. **Are you willing to employ apprentices enrolled in NCNMEDD’s workforce development program in projects you are contracted to undertake for NCNMEDD?**

Yes _____ No _____

d. **Check to indicate which Scope/s of Work for which you plan to submit a proposal:**

_____ Senior Home Repair

_____ Workforce Housing

SECTION 2: MINIMUM QUALIFICATIONS & REQUIREMENTS

Offeror:

- a. Agrees to perform the services required by RFP# 2024-09 and to adhere to all requirements, specifications, terms, and conditions of such RFP.
- b. Certifies that it holds an active business license with the State of New Mexico.
PLEASE ATTACH COPY OF BUSINESS LICENSE
- c. Certifies that it is a contractor with a current GB-98 or GB-2 license in the State of New Mexico.
PLEASE ATTACH COPY OF CONTRACTOR'S LICENSE
- d. Certifies that it has or has the ability to secure a Performance Surety Bond in favor of the Agency to insure the Contractor's performance upon any subsequent contract award. Each engagement will be different but the option to require a Performance Surety Bond must be available to the Agencies at time of contract award.
PLEASE ATTACH COPY OF BOND
- e. Certifies that it possesses professional liability insurance, in accordance with Section 8.I of 2.2.2 NMAC, covering any error or omission committed during the term of any contract awarded under this RFP.
- f. Certifies that it has an internal quality control system in place and external quality control reviews conducted in accordance with Section 14.C of 2.2.2 NMAC.
- g. Certifies that it will provide all reasonable and commercially accepted measures to ensure the security and confidentiality of information and data provided by NMAC.
- h. Certifies that it is independent and 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 of services required under any contract entered into by NCNMEDD and the Offeror.
- i. Certifies that it has a positive net worth as of the submission date of its proposal and that it shall maintain a positive net worth for the duration of any contract entered into with NCNMEDD.
- j. Certifies that it will comply with confidentiality requirements as stated in the contract.
- k. Certifies that it will comply with all requirements of the most recent Audit Rule.

By signing below, I certify that all information provided in Appendix C is true and correct.

Authorized Signature

_____, 20____
Date

ATTACH COPY OF NEW MEXICO BUSINESS LICENSE HERE

**ATTACH COPY OF NEW MEXICO GB-98 OR GB-2
CONTRACTORS LICENSE HERE**

ATTACH COPY OF PERFORMANCE BOND HERE

APPENDIX D: COST INFORMATION

Due to high inflation for construction projects and the fact that this RFP does not identify specific building projects, NCNMEDD requests actual or per square footage construction costs for a minimum of three recent projects completed in the last three years. Please note this does not bind NCNMEDD to pay similar costs for projects assigned through a potential contract with NCNMEDD as a result of this RFP.

1. Project #1

Name of Project (Optional): _____

Year Completed: _____

This project was: _____ Rehabilitation OR _____ New Construction (check one)

Briefly describe the scope of work in the box below:

Cost per square foot: \$ _____ per square foot

OR

Total cost: \$ _____

Was the project completed within budget? _____ Yes _____ No

2. Project #2

Name of Project (Optional): _____

Year Completed: _____

This project was: _____ Rehabilitation OR _____ New Construction (check one)

Briefly describe the scope of work in the box below:

Cost per square foot: \$ _____ per square foot

OR

Total cost: \$ _____

Was the project completed within budget? _____ Yes _____ No

3. Project #3

Name of Project (Optional): _____

Year Completed: _____

This project was: _____ Rehabilitation OR _____ New Construction (check one)

Briefly describe the scope of work in the box below:

Cost per square foot: \$ _____ per square foot

OR

Total cost: \$ _____

Was the project completed within budget? _____ Yes _____ No

By signing below, I certify that all information provided in Appendix D is true and correct.

Authorized Signature

_____, 20_____
Date

APPENDIX E: CAMPAIGN CONTRIBUTION DISCLOSURE FORM

REQUEST FOR PROPOSAL RFP # 2024-09: Housing Rehabilitation and Construction Services

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

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

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

The following definitions apply:

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

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

or solicitation expenses of a political committee that are paid by an organization that sponsors the committee.

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

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

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

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

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

DISCLOSURE OF CONTRIBUTIONS:

Contribution Made By: _____

Relation to Prospective Contractor: _____

Name of Applicable Public
Official: _____

Date(s) Contribution(s)
Made: _____

Amount(s) of
Contribution(s): _____

Nature of Contribution(s): _____

Purpose of
Contribution(s): _____

*Attach extra pages if necessary

Signature

Date

Title (position)

—OR—

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

Signature

Date

Title (position)

APPENDIX F: REFERENCE QUESTIONNAIRE

REQUEST FOR PROPOSAL RFP # 2024-09: Housing Rehabilitation and Construction Services

The State of New Mexico, as a part of the RFP 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: Procurement Manager by **April 30, 2024**, 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.

(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 NCNMEDD by e-mail at:

Name: Bernadette Segobia-Abeyta, Procurement Manager
Email: bernadettes@ncnmedd.com

This completed form must be submitted no later than 5:00 pm Mountain Daylight Time on **April 30, 2024**, and **must not** be returned to the company requesting the reference.

For questions or concerns regarding this form, please contact the North Central New Mexico Economic Development District Procurement Manager listed above. When contacting us, please be sure to include the Request for Proposal number listed at the top of this page.

Company providing reference: _____

Contact name and title/position _____

Contact telephone number _____

Contact e-mail address _____

Project description; _____

Project dates (starting and ending); _____

QUESTIONS:

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

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 hard-copy 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?

COMMENTS:

APPENDIX G: SAMPLE CONTRACT

Please note any alternate terms and conditions or changes to terms and conditions in the box below, or on the Sample Contract itself:

List alternate terms and conditions here...

North Central New Mexico Economic Development District

Agreement No. _____

THIS Agreement (“Agreement”) is made by and between the North Central New Mexico Economic Development District (NCNMEDD), hereinafter referred to as the “Procuring Agency” and [CONTRACTOR], hereinafter referred to as the “Contractor” and collectively referred to as the “Parties.”

WHEREAS, pursuant to the Procurement Code, NMSA 1978 13-1-28 *et. seq.* and Procurement Code Regulations, NMAC 1.4.1 *et. seq.* the Contractor has held itself out as an entity with the ability to provide the required services to implement the Scope of Work as contained herein and the Procuring Agency has selected the Contractor as the offeror most advantageous to the Procuring Agency; and

WHEREAS, all terms and conditions of the **RFP # 2024-09: Housing Rehabilitation and Construction Services**, and the Contractor’s response to such document(s) are incorporated herein by reference, except for the average square foot cost in Appendix D: Cost Response Form, which was non-binding; and

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

1. **Definitions.**

A. "Business Hours" means 8:00 a.m. to 5:00 p.m. Mountain Time.

B. "New Mexico State Purchasing Agent" or "NMSPA" means the purchasing agent for the State of New Mexico or a designated representative. May be used interchangeably with "State Purchasing Agent" or "SPA".

C. "Procuring Agency" means any state agency or local public body that enters into an Agreement to procure products or services.

D. "RFP" means Request for Proposals as defined in statute and rule.

E. "We," "us" or "our" refers to the State of New Mexico, agencies, commissions, institutions, political sub-divisions and local public bodies allowed by law to participate in the Agreement and whose accounts are created under this Agreement.

F. "You" and "your" refers to **Contractor**.

2. **Scope of Work**.

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

3. **Compensation**.

A. **Compensation Schedule**. The Procuring Agency shall pay to the Contractor based upon hourly and fixed prices for each Deliverable, per the schedule outlined in Exhibit A, less retainage, if any, as identified in paragraph D of this Clause.

B. **Payment**. The total compensation under this Agreement shall not exceed \$[AMOUNT] for work on multiple projects and including New Mexico gross receipts tax. **This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. The Parties do not intend for the Contractor to continue to provide Services without compensation when the total compensation amount is reached. Contractor is responsible for notifying the Procuring Agency when the Services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for Services provided in excess of the total compensation amount without this Agreement being amended in writing prior to services, in excess of the total compensation amount being provided.**

Payment shall be made upon Acceptance of each Deliverable and upon the receipt and Acceptance of a detailed, certified Payment Invoice. Payment will be made to the Contractor's designated mailing address. In accordance with Section 13-1-158 NMSA 1978, payment shall be tendered to the Contractor within thirty (30) days of the date of written certification of Acceptance. All Payment Invoices **MUST BE** received by the Procuring Agency no later than

fifteen (15) days after the termination of this Agreement. Payment Invoices received after such date WILL NOT BE PAID.

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

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

D. Retainage. The Procuring Agency shall retain twenty percent (20%) of the fixed-price Deliverable cost for each Work Order that is the subject of this Agreement as security for full performance of this Agreement. All amounts retained shall be released to the Contractor upon Acceptance of the final Deliverable.

E. Performance Bond. Contractor shall execute and deliver to Procuring Agency, contemporaneously with the execution of this Agreement, a Performance Bond in the amount of ten thousand dollars (\$10,000.00) in the name of the Procuring Agency. The Performance Bond shall be in effect for the duration of this Agreement and any renewals thereof. The required Performance Bond shall be conditioned upon and for the full performance, Acceptance and actual fulfillment of each and every Deliverable, term, condition, provision, and obligation of the Contractor arising under this Agreement. The Procuring Agency's right to recover from the Performance Bond shall include all costs and damages associated with the transfer of Services provided under this Agreement to another Contractor or to the Procuring Agency as a result of Contractor's failure to perform.

The Procuring Agency may require that the Contractor increase the amount of the Performance Bond if working on a Deliverable with critical project execution concerns. The increase will be in an amount appropriate to the Deliverable and agreed to by Procuring Agency and Contractor. The increased Performance Bond shall be remain in effect until completion of the Deliverable and its approval and acceptance by the Procuring Agency.

4. Term.

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE FINAL REQUIRED SIGNATORY. This Agreement shall begin on the date approved by the Final Required Signatory and shall end on [DATE] unless terminated pursuant to this Agreement's Termination Clause or Appropriations Clause. The Procuring Agency reserves the right to renew the Agreement through a written amendment signed by all required signatories

and in accordance with the term of the request for proposals, if this contract was based on a request for proposals.

5. **Termination**

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

B. **Notice; Procuring Agency Opportunity to Cure.**

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

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

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

C. **Liability.** Except as otherwise expressly allowed or provided under this Agreement, the Procuring Agency's sole liability upon termination shall be to pay for acceptable work performed prior to the Contractor's receipt or issuance of a notice of termination; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. **THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE PROCURING AGENCY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.**

6. **Appropriations.**

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the New Mexico Mortgage Finance Authority (MFA) for the performance of this Agreement. If sufficient appropriations and authorization are not made by MFA, this Agreement shall terminate immediately upon written notice being given by the Procuring Agency to the Contractor. The Procuring Agency's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the Procuring Agency proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor

shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

7. **Status of Contractor.**

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

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

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

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

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

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

3) in accordance with NMSA 1978, § 10-16-8(A), (i) the Contractor is not, and has not been represented by, a person who has been a public officer or employee of the Procuring Agency 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 Procuring Agency whose

official act, while in Procuring Agency employment, directly resulted in the Procuring Agency's making this Agreement;

4) this Agreement complies with NMSA 1978, § 10-16-9(A) because (i) the 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, § 10-16-7(A), this Agreement is not a sole source or small purchase contract, and this Agreement was awarded in accordance with the provisions of the Procurement Code;

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

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

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

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

9. **Amendment.**

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

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

10. **Merger.**

This Agreement incorporates all the Agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, Agreements and understandings have been merged into this written Agreement. No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

11. **Penalties for violation of law.**

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

12. **Equal Opportunity Compliance.**

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

13. **Workers Compensation.**

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

14. **Applicable Law.**

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

15. **Records and Financial Audit.**

The Contractor shall maintain detailed time and expenditure records that indicate the date, time, nature and cost of services rendered during the Agreement's term and effect and retain them

for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the Procuring Agency, the Department of Finance and Administration and the State Auditor. The Procuring Agency shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the Procuring Agency to recover excessive or illegal payments.

16. **Invalid Term or Condition.**

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

17. **Enforcement of Agreement**

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

18. **Non-Collusion**

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

19. **Notices.**

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

To the Procuring Agency:

[CONTACT INFORMATION]

To the Contractor:

[CONTACT INFORMATION]

20. **Succession**

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

21. **Headings**

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

22. **Default/Breach.**

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

23. **Equitable Remedies.**

Contractor acknowledges that its failure to comply with any provision of this Agreement will cause the Procuring Agency irrevocable harm and that a remedy at law for such a failure would be an inadequate remedy for the Procuring Agency, and the Contractor consents to the Procuring Agency's obtaining from a court of competent jurisdiction, specific performance, or injunction, or any other equitable relief in order to enforce such compliance. Procuring Agency's rights to obtain equitable relief pursuant to this Agreement shall be in addition to, and not in lieu of, any other remedy that Procuring Agency may have under applicable law, including, but not limited to, monetary damages.

24. **New Mexico Employees Health Coverage.**

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

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

C. Contractor agrees to advise all employees of the availability of State publicly financed health care coverage programs by providing each employee with, as a minimum, the following web site link to additional information: <https://bewellnm.com>.

25. **Indemnification.**

The Contractor shall defend, indemnify and hold harmless the Procuring Agency and the State of New Mexico from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the Procuring Agency and the Risk Management Division of the New Mexico General Services Department by certified mail.

26. **Default and Force Majeure.**

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

27. **Assignment.**

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

28. **Subcontracting.**

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

29. **Inspection of Plant.**

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

30. **Commercial Warranty.**

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

31. **Condition of Proposed Items.**

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

32. **Release.**

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

33. **Confidentiality.**

Any Confidential Information provided to the Contractor by the Procuring Agency or, developed by the Contractor based on information provided by the Procuring Agency in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the Procuring Agency. Upon termination of this Agreement, Contractor shall deliver all Confidential Information in its possession to the Procuring Agency within thirty (30) Business Days of such termination. Contractor acknowledges that failure to deliver such Confidential Information to the Procuring Agency will result in direct, special and incidental damages.

34. **Contractor Personnel.**

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

[PERSONNEL]

B. Personnel Changes. Replacement of any personnel shall be made with personnel of equal ability, experience, and qualification and shall be approved by the Procuring Agency. For all personnel, the Procuring Agency reserves the right to require submission of their resumes prior to approval. If the number of Contractor's personnel assigned to the Project is reduced for any reason, Contractor shall, within ten (10) Business Days of the reduction, replace with the same or greater number of personnel with equal ability, experience, and qualifications, subject to Procuring Agency approval. The Procuring Agency, in its sole discretion, may approve additional time beyond the ten (10) Business Days for replacement of personnel. The Contractor shall include status reports of its efforts and progress in finding replacements and the effect of the absence of the personnel on the progress of the Project. The Contractor shall also make interim arrangements to assure that the Project progress is not affected by the loss of personnel. The Procuring Agency reserves the right to require a change in Contractor's personnel if the assigned personnel are not, in the sole opinion of the Procuring Agency, meeting the Procuring Agency's expectations.

35. **Incorporation by Reference and Precedence.**

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

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

36. **Inspection.**

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

37. **Inspection of Services.**

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

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

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

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

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

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

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

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

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

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

(2) terminate the Agreement for default.

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

38. **Insurance.**

If the services contemplated under this Agreement will be performed on or in State facilities or property, Contractor shall maintain in force during the entire term of this Agreement, the following insurance coverage(s), naming the State of New Mexico, General Services Department or other party to this Agreement as additional insured.

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

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

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

- b. Property damage or combined single limit coverage: \$1,000,000.
- c. Automobile liability (including non-owned automobile coverage): \$1,000,000.
- d. Umbrella: \$1,000,000.

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

IN WITNESS WHEREOF, the Parties hereby execute this Agreement, which will take effect on the last signature date of the required approval authorities below. Each of the signatories, below, may execute this Agreement by hard copy original, facsimile, digital or electronic signature, any of which shall be deemed to be a true and original signature hereunder.

By:

Date:

By:

Date:

The records of the Taxation and Revenue Department reflect that the Contractor is registered with the Taxation and Revenue Department of the State to pay gross receipts and compensating taxes:

BTIN: _____

EXHIBIT A

SCOPE OF WORK

GENERAL SCOPE OF WORK

Contractor shall provide Housing Rehabilitation and Construction Services as described in RFP # 2024-09:

3. **SENIOR HOME REPAIR:** Rehabilitation of existing homes for older adults age 60+ throughout the State of New Mexico, excluding Bernalillo County. Rehabilitation work is expected to improve 60 homes, not to exceed \$25,000 per home and will focus primarily on mitigating health and safety hazards and improving accessibility. **Contractor/s will be responsible for: 1) cost estimating; 2) quality construction work, including all materials and labor; and 3) required building inspections and permitting.** Examples of work to be performed include:
 - Flooring upgrade or replacement to ensure the safety of the person, prevent falling, and/or improve mobility.
 - Roll-in showers, sink modifications, sink cut-outs, bathtub modifications, toilet modifications.
 - Turnaround space modifications, door widening.
 - Cabinet development or adjustments.
 - Ramps to provide access into and within the home
 - Widening /enlargement of garage or carport to accommodate primary vehicle and to allow people using wheelchairs to enter and exit their vehicles safely.
 - Grab bars and handrails.
 - Doorbells, door scopes and adaptive wall switches.
 - Activities which address a health and safety issue in the home, such as adding insulation, repairing leaks, replacing furnaces, etc.
4. **WORKFORCE HOUSING:** Rehabilitation of existing homes, multi-family housing, motels, and/or small commercial buildings for workforce housing units in north central New Mexico (Rio Arriba, Taos, San Miguel, Colfax, Mora, Santa Fe and/or Los Alamos counties). **Contractor/s will be responsible for: 1) cost estimating; 2) quality construction work, including all materials and labor; and 3) required building inspections and permitting.**

PROCESS

The Contractor shall follow this process below for Housing Rehabilitation and Construction Work:

1. Procuring Agency's Housing Coordinator will identify one or more properties for rehabilitation and will provide an assessment of the property or properties and their condition to the Contractor.
 - a. The Housing Coordinator will send to the Contractor a Request for Estimate Form. The form will list all items needing repair or inspection. If the Contractor finds that additional work is needed, the Contractor will request approval from the Housing

Coordinator to include additional items in the quote The Contractor will have 10 business days to complete and return the cost estimates to the Housing Coordinator.

2. Contractor will inspect the property and will provide the Housing Coordinator with a written estimate, which lists all repairs and estimate costs recommended by the Contractor. The Contractor shall also indicate on the estimate: 1) estimated timeframe and schedule to complete the repairs; 2) the personnel who will work on the project; 3) any special conditions or concerns; 4) whether travel expenses will be incurred. Additional information may be requested by the Housing Coordinator.
3. Once the Contractor’s estimate is approved by the Housing Coordinator, the Housing Coordinator will provide to the Contractor a signed Work Order and the contractor may schedule and begin work. **The Contractor shall not commence work until the Work Order is approved by the Housing Coordinator. The Contractor shall not be paid for any work performed without approval.**
4. The Contractor shall apply for and obtain all required permits and inspections and provide documentation of those to the Housing Coordinator.
5. Upon completion of the Work Order, or phases of the Work Order, the Housing Coordinator will inspect and approve the work. The Procuring Agency has the right to inspect work in progress at any time.

COMPENSATION

Contractor may invoice Procuring Agency for the following types of work either on a single invoice, provided that the following items are separated from each other.

1. Rehabilitation and Construction Work

The Contractor shall invoice Procuring Agency for construction labor and materials as follows:

- 20% of the cost estimate prior to starting work. This will enable the Contractor to purchase materials for the project.
- An additional 20% of the cost estimate at 40% completion.
- An additional 20% of the cost estimate at 80% completion.
- An additional 20% of the cost estimate upon completion and after the Housing Coordinator has inspected the Deliverable and approved the final invoice for payment.

2. Hourly Services

Contractor may bill Procuring Agency for hourly services associated with Housing Rehabilitation and Construction services at the hourly rate of \$50.00 per hour plus gross receipts tax. These services are limited to applying for inspections and permits, meeting with property owners and/or potential homeowners, working with realtors or other partners, closing on home purchases, referring homebuyers for financing, filing applications, reporting on grants, etc. The Contractor shall use the following format when invoicing for hourly services:

Date	Description of Servies	Hours Worked	Hourly Rate	Total

3. Travel

If the approved Work Order requires travel greater than 50 miles one-way, Contractor may invoice the Procuring Agency for travel at the current federal mileage rate and may request reimbursement for actual hotel and meal expenses if overnight stays are required upon Housing Coordinator's prior approval. All hotel and meal expenses require itemized receipts and must be within federal GSA rates to be reimbursed.