



**County of Lincoln
Carrizozo, NM 88301**

**Request for Proposal
FOR ON CALL SPRAY INJECTION ASPHALT & ASPHALT
MAINTENANCE SERVICE
for the County of Lincoln**

RFP #23-24-6

Due: June 7, 2024 @ 3:00 p.m. MDT

FOR ADDITIONAL INFORMATION CONTACT:

Toni Foligno, Procurement Officer (575-) 648-2385, EXT 105
Or via email: Purchasing@lincolncountynm.gov

THE PURCHASING OFFICE OF THE COUNTY OF LINCOLN, WILL RECEIVE COMPETITIVE SEALED PROPOSALS FOR THE GOODS OR SERVICES DESCRIBED IN THIS SOLICITATION AT:

VIA MAIL

COUNTY OF LINCOLN
PURCHASING DEPARTMENT
P.O. Box 711
CARRIZOZO, NM 88301

HAND DELIVERY

COUNTY OF LINCOLN
PURCHASING DEPARTMENT
300 CENTRAL AVENUE
CARRIZOZO, NM 88301

ANY PROPOSAL RECEIVED AFTER BID OPENING DATE/TIME WILL BE RETURNED UNOPENED.

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

Table of Contents

I. INTRODUCTION.....	1
A. PURPOSE OF THIS REQUEST FOR PROPOSALS	1
B. SCOPE OF PROCUREMENT.....	1
C. PROCUREMENT MANAGER.....	1
D. PROPOSAL DELIVERY	2
E. DEFINITION OF TERMINOLOGY.....	2
II. CONDITIONS GOVERNING THE PROCUREMENT	5
A. SEQUENCE OF EVENTS	5
B. EXPLANATION OF EVENTS	6
1. Issue RFP.....	6
2. Acknowledgement of Receipt Form.....	6
3. Deadline to Submit Written Questions.....	6
4. Response to Written Questions	6
5. Submission of Proposal.....	7
6. Proposal Evaluation.....	7
7. Selection of Finalists	7
8. Finalize Contractual Agreements.....	7
9. Contract Awards	7
10. Protest Deadline.....	8
C. GENERAL REQUIREMENTS.....	8
1. Acceptance of Conditions Governing the Procurement.....	8
2. Incurring Cost.....	8
3. Prime Contractor Responsibility	8
4. Subcontractors/Consent	8
5. Amended Proposals.....	9
6. Offeror’s Rights to Withdraw Proposal.....	9
7. Proposal Offer Firm.....	9
8. Disclosure of Proposal Contents	9
9. No Obligation.....	10
10. Termination.....	10
11. Sufficient Appropriation.....	10
12. Legal Review	10
13. Governing Law	10
14. Basis for Proposal.....	10
15. Contract Terms and Conditions.....	10
16. Offeror’s Terms and Conditions	11
17. Contract Deviations	11
18. Offeror Qualifications	11
19. Right to Waive Minor Irregularities	11
20. Change in Contractor Representatives	11
21. Notice of Penalties.....	12
22. Agency Rights.....	12
23. Right to Publish.....	12
24. Ownership of Proposals	12
25. Confidentiality.....	12
26. Electronic mail address required.....	12

27.	<i>Campaign Contribution Disclosure Form</i>	12
28.	<i>Letter of Transmittal</i>	13
29.	<i>Disclosure Regarding Responsibility</i>	13
30.	<i>New Mexico/Native American Resident Preferences</i>	15
A.	NUMBER OF RESPONSES	15
B.	NUMBER OF COPIES	15
1.	<i>Hard Copy Responses</i>	15
C.	PROPOSAL FORMAT	16
1.	<i>Proposal Content and Organization</i>	16
IV.	SPECIFICATIONS	17
A.	DETAILED SCOPE OF WORK	17
B.	MANDATORY SPECIFICATIONS	17
B. 1	<i>Performance/Availability/Response Time</i>	17
1.	<i>Performance Surety Bond</i>	19
3.	<i>Campaign Contribution Disclosure Form</i>	19
4.	<i>Cost</i>	19
5.	<i>Resident Business or Resident Veterans Preference</i>	20
A.	EVALUATION POINT SUMMARY	20
B.	EVALUATION FACTORS - MANDATORY SPECIFICATIONS	20
1.	<i>B.1 Performance/Availability/Response time</i>	20
2.	<i>B.2 Application/Specs or Standards/Equipment</i>	21
3.	<i>B.4 Material/Durability/Products</i>	21
4.	<i>C.1 Performance Bond (See Table 1)</i>	22
5.	<i>C.2 Letter of Transmittal (See Table 1)</i>	22
6.	<i>C.3 Campaign Contribution Disclosure Form (See Table 1)</i>	22
7.	<i>C.4 Cost (See Table 1)</i>	22
8.	<i>C.5. & C.6 New Mexico Preferences</i>	22
C.	EVALUATION PROCESS	23
APPENDIX B		25
CAMPAIGN CONTRIBUTION DISCLOSURE FORM		25
APPENDIX C		28
DRAFT CONTRACT/AGREEMENT		28
APPENDIX D		38
COST RESPONSE FORM		38
APPENDIX E		39
LETTER OF TRANSMITTAL FORM		39

I. INTRODUCTION

A. PURPOSE OF THIS REQUEST FOR PROPOSALS

The purpose of the Request for Proposal (RFP) is to solicit sealed proposals to establish a contract through competitive negotiations for the procurement of On Call Spray Injection Asphalt & Asphalt Maintenance Services.

B. SCOPE OF PROCUREMENT

The TERM of the resulting contract/price agreement shall be for four years, one year with three one-year renewals. The County is seeking the procurement of On Call Spray Injection Asphalt & Asphalt Maintenance Services and will include all time, labor, and materials to complete each maintenance project.

This RFP will be a single award.

This procurement will result in a contractual agreement between two parties; the procurement may ONLY be used by those two parties exclusively.

C. PROCUREMENT MANAGER

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

Name: Toni Foligno, Procurement Manager
Telephone: (575) 648-2385 x Extension 105
Email: Purchasing@lincolncountynm.gov

1. **Any inquiries or requests** regarding this procurement should be submitted, in writing, to the Procurement Manager. Offerors may contact **ONLY** the Procurement Manager regarding this procurement. Other County employees or Evaluation Committee members do not have the authority to respond on behalf of the County.
2. **Protests of the solicitation or award must be submitted in writing to the Protest Manager identified in Section II.B.13.** As a Protest Manager has been named in this Request for Proposals, pursuant to §13-1-172, NMSA 1978 and 1.4.1.82 NMAC, **ONLY** protests delivered directly to the Protest Manager in writing and in a timely fashion will be considered to have been submitted properly and in accordance with statute, rule and this Request for Proposals. Protests submitted or delivered to the Procurement Manager will **NOT** be considered properly submitted.

D. PROPOSAL DELIVERY

All proposals are due and must be received on or before June 7, 2024 at 3:00 p.m. MT. Proposals received after that time and date will not be accepted and will be returned unopened.

All proposals submitted must be in a sealed package or opaque envelope; clearly marked on the outside front of the package with the RFP Title; RFP #; RFP due date; and the words “Sealed Proposal Enclosed”!

All deliveries of proposals via express carrier, courier, or hand delivery, must be addressed and submitted as follows:

Physical Delivery to: **OR**
County of Lincoln
Attn: Purchasing Office
300 Central Avenue
Carrizozo, NM 88301

US Mail to:
County of Lincoln
Attn: Purchasing Office
PO Box 711
Carrizozo, NM 88301

Oral, telephonic, or proposals sent via fax are invalid and will not receive consideration.

E. DEFINITION OF TERMINOLOGY

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

1. “**Agency**” The County of Lincoln New Mexico.
2. “**Award**” means the final execution of the contract document.
3. “**Confidential**” means confidential financial information concerning Offeror’s organization and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act §§57-3-A-1 through 57-3A-7, NMSA 1978,. See also NMAC 1.4.1.45. The following items may **not** be labelled as confidential: Offeror’s submitted Cost response, Staff/Personnel Resumes/Bios (excluding personal information such as personal telephone numbers and/or home addresses), and other submitted data that is **not** confidential financial information or that qualifies under the Uniform Trade Secrets Act.
4. “**Contract**” means any agreement for the procurement of items of tangible personal property, services or construction.
5. “**Contractor**” means any business having a contract with a state agency or local public body.

6. “**Determination**” means the written documentation of a decision of a procurement officer including findings of fact required to support a decision. A determination becomes part of the procurement file to which it pertains.
7. “**Desirable**” – the terms ”may,” ”can,” ”should,” ”preferably,” or ”prefers” identify a desirable or discretionary item or factor.
8. “**Electronic Submission**” means a successful submittal of Offeror’s proposal in such cases where e-mailed or eProNM submissions are accepted.
9. “**Electronic Version/Copy**” means a digital form consisting of text, images or both readable on computers or other electronic devices that includes all content that the Original and Hard Copy proposals contain. The digital form may be submitted using a compact disc (CD) or USB flash drive. The electronic version/copy can NOT be emailed.
10. “**Evaluation Committee**” means a body appointed to perform the evaluation of Offerors’ proposals.
11. “**Evaluation Committee Report**” means a report prepared by the Procurement Manager and the Evaluation Committee to support the Committee’s recommendation for contract award. It will contain scores and written evaluations of all responsive Offeror proposals.
12. “**Final Award**” means, in the context of this Request for Proposals and all its attendant documents, that point at which the final required signature on the contract(s) resulting from the procurement has been affixed to the contract(s) thus making it fully executed.
13. “**Finalist**” means an Offeror who meets all the mandatory specifications of this Request for Proposals and whose score on evaluation factors is sufficiently high to merit further consideration by the Evaluation Committee.
14. “**Hourly Rate**” means the proposed fully loaded maximum hourly rates that include travel, per diem, fringe benefits and any overhead costs for contractor personnel, as well as subcontractor personnel if appropriate, unless otherwise stated.
15. “**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 may result in the rejection of the Offeror’s proposal.
16. “**Minor Irregularities**” means anything in the proposal that does not affect the price, quality and/or quantity, or any other mandatory requirement.
17. “**Multiple Source Award**” means an award of a contract for one or more items of tangible personal property, services or construction to more than one Offeror.
18. “**Offeror**” is any person, corporation, or partnership who chooses to submit a proposal.

19. **“Price Agreement”** means a definite quantity contract or indefinite quantity contract which requires the contractor to furnish items of tangible personal property, services or construction to a state agency or a local public body which issues a purchase order, if the purchase order is within the quantity limitations of the contract, if any.
20. **“Purchasing Agent/Procurement Officer”** means the Chief Procurement Officer for the Agency.
21. **“Procurement Manager”** means any person or designee authorized by a state agency or local public body with the responsibility, authority, and resources to conduct the RFP procurement, make written determinations regarding the RFP procurement, and/or enter into or administer contracts as a result of the RFP procurement.
22. **“Procuring Agency”** means all State of New Mexico agencies, commissions, institutions, political subdivisions and local public bodies allowed by law to procure items of tangible personal property, services or construction from the agreement(s) awarded as a result of this RFP.
23. **“Project”** means a temporary process undertaken to solve a well-defined goal or objective with clearly defined start and end times, a set of clearly defined tasks, and a budget. The project terminates once the project scope is achieved and project acceptance is given by the project executive sponsor.
24. **“Redacted”** means a version/copy of the Offeror’s proposal with the information considered proprietary or confidential (as defined by §§57-3A-1 to 57-3A-7 NMSA 1978 and NMAC 1.4.1.45 and summarized herein and outlined in Section II.C.8 of this RFP) blacked-out BUT NOT omitted or removed.
25. **“Request for Proposals (RFP)”** means all documents, including those attached or incorporated by reference, used for soliciting proposals.
26. **“Responsible Offeror”** means an Offeror who submits a responsive proposal and who has furnished, when required, information and data to prove that his financial resources, production or service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the services, or items of tangible personal property described in the proposal.
27. **“Responsive Offer”** or means an offer which conforms in all material respects to the requirements set forth in the request for proposals. Material respects of a request for proposals include, but are not limited to price, quality, quantity or delivery requirements.
28. **“Sealed”** means, in terms of a non-electronic submission, that the proposal is enclosed in a package which is completely fastened in such a way that nothing can be added or removed. Open packages submitted will not be accepted except for packages that may have been damaged by the delivery service itself. The State reserves the right, however, to accept or reject packages where there may have been damage done by the delivery service itself.

Whether a package has been damaged by the delivery service or left unfastened and should or should not be accepted is a determination to be made by the Procurement Manager. By submitting a proposal, the Offeror agrees to and concurs with this process and accepts the determination of the Procurement Manager in such cases.

29. **“Single Source Award”** means an award of contract for items of tangible personal property, services or construction to only one Offeror.
30. **“Staff”** means any individual who is a full-time, part-time, or an independently contracted employee with the Offerors’ company.
31. **“State (the State)”** means the State of New Mexico.
32. **“Statement of Concurrence”** means an affirmative statement from the Offeror indicating its response to a required Section IV specification agreeing to comply and concur with the stated requirement(s). This statement shall be included in Offerors proposal, pursuant to Section III.C.1. (E.g. “We concur,” “Understands and Complies,” “Comply,” “Will Comply if Applicable,” etc.)
33. **“Unredacted”** means a version/copy of the proposal containing all complete information; including any that the Offeror would otherwise consider confidential, such copy for use only for the purposes of evaluation.
34. **“Written”** means typewritten on standard 8 ½ x 11 inch paper. Larger paper is permissible for charts, spreadsheets, etc.

II. CONDITIONS GOVERNING THE PROCUREMENT

This section of the RFP contains the schedule of events, the descriptions of each event, and the conditions governing this procurement.

A. SEQUENCE OF EVENTS

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

Action	Responsible Party	Due Dates
1. Issue RFP	Agency	May 10 2024
2. Acknowledgement of Receipt Form	Potential Offerors	May 20, 2024
4. Deadline to submit Written Questions	Potential Offerors	May 22, 2024
5. Response to Written Questions	Procurement Manager	May 24, 2024
6. Submission of Proposal	Potential Offerors	June 7 2024
7.* Proposal Evaluation	Evaluation Committee	June 7-10, 2025
8.* Selection of Finalists	Evaluation Committee	June 4, 2025

11.* Finalize Contractual Agreements	Agency/Finalist Offerors	June 5-7, 2024
12.* Contract Awards	Agency/ Finalist Offerors	June 18 2024
13.* Protest Deadline	Protest Manger/Agency	July 3 202

* Dates indicated in Events 7 through 13 are estimates only and may be subject to change without necessitating an amendment to the RFP.

B. EXPLANATION OF EVENTS

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

1. Issue RFP

This RFP is being issued on behalf of the County of Lincoln on the date indicated in Section II.A, Sequence of Events.

2. Acknowledgement of Receipt Form

Potential Offerors may e-mail the Acknowledgement of Receipt Form (APPENDIX A), to the County of Lincoln at Purchasing@lincolncountynm.gov, to have their organization placed on the procurement Distribution List. The form must be returned to the Procurement Manager by 3:00 pm MST/ MDT on the date indicated in Section II.A, Sequence of Events.

The procurement distribution list will be used for the distribution of written responses to questions, and/or any amendments to the RFP. Failure to return the Acknowledgement of Receipt Form does not prohibit potential Offerors from submitting a response to this RFP. However, by not returning the Acknowledgement of Receipt Form, the potential Offeror's representative shall not be included on the distribution list and will be solely responsible for obtaining from the responses to written questions and any amendments to the RFP.

3. Deadline to Submit Written Questions

Potential Offerors may submit written questions to the Procurement Manager as to the intent or clarity of this RFP until 3:00 P.M. MST/MDT as indicated in Section II.A, Sequence of Events. All written questions must be addressed to the Procurement Manager as declared in Section I.C.1. Questions shall be clearly labeled and shall cite the Section(s) in the RFP or other document which form the basis of the question.

4. Response to Written Questions

Written responses to the written questions will be provided via e-mail, on or before the date indicated in Section II.A, Sequence of Events, to all potential Offerors who timely submitted an Acknowledgement of Receipt Form (Section II.B.2 and APPENDIX A) and;

The Questions and Answers will be posted to:

https://www.lincolncountynm.gov/services/purchasing/bid_opportunities.php

5. Submission of Proposal

Proposals submitted by facsimile, or other electronic submission will not be accepted.

ALL PROPOSALS MUST BE RECEIVED BY THE PROCUREMENT MANAGER OR DESIGNEE NO LATER THAN 3:00 PM MST/MDT ON THE DATE INDICATED IN SECTION II.A SEQUENCE OF EVENTS. **NO LATE PROPOSAL CAN BE ACCEPTED.** The date and time of receipt will be recorded on each proposal. Proposals will be time and date stamped.

A log will be kept of the names of all Offeror organizations that submitted proposals. Pursuant to §13-1-116 NMSA 1978, the contents of proposals shall not be disclosed to competing potential Offerors during the negotiation process. The negotiation process is deemed to be in effect until the contract is awarded pursuant to this Request for Proposals. Awarded in this context means the final required County agency signature on the contract(s) resulting from the procurement has been obtained.

6. Proposal Evaluation

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

7. Selection of Finalists

The Evaluation Committee will select, and the Procurement Manager will notify the finalist Offerors, as per schedule Section II.A, Sequence of Events or as soon as possible thereafter. Finalists will be comprised of TWO (2) Offerors receiving the highest cumulative scores in the following Sections: Section IV.B.1 Mandatory Specifications.

8. Finalize Contractual Agreements

After approval of the Evaluation Committee Report, any contractual agreement(s) resulting from this RFP will be finalized with the most advantageous Offeror(s), taking into consideration the evaluation factors set forth in this RFP, as per Section II.A., Sequence of Events, or as soon as possible thereafter. The most advantageous proposal may or may not have received the most points. In the event mutually agreeable terms cannot be reached with the apparent most advantageous Offeror in the timeframe specified, the Agency reserves the right to finalize a contractual agreement with the next most advantageous Offeror(s) without undertaking a new procurement process.

9. Contract Awards

Upon receipt of the signed contractual agreement, the Agency Procurement office will award as per Section II.A., Sequence of Events, or as soon as possible thereafter. The award is subject to appropriate Department and Agency approval.

10. Protest Deadline

Any protest by an Offeror must be timely submitted and in conformance with §13-1-172 NMSA 1978 and applicable procurement regulations. As a Protest Manager has been named in this Request for Proposals, pursuant to §13-1-172 NMSA 1978 and 1.4.1.82 NMAC, ONLY protests delivered directly to the Protest Manager in writing and in a timely fashion will be considered to have been submitted properly and in accordance with statute, rule and this Request for Proposals. The 15-calendar day protest period shall begin on the day following the notice of award of contract(s) and will end at 5:00 pm MST/MDT on the 15th day. Protests must be written and must include the name and address of the protestor and the request for proposal number. It must also contain a statement of the grounds for protest including appropriate supporting exhibits and it must specify the ruling requested from the party listed below.

The protest must be directed to:

Lincon County Manager

Countymanager@lincolncountynm.gov

P.O. Box 711 – 300 Central Avenue, Carrizozo, NM 88301

PROTESTS RECEIVED AFTER THE DEADLINE WILL NOT BE ACCEPTED

C. GENERAL REQUIREMENTS

1. Acceptance of Conditions Governing the Procurement

Offerors must indicate their acceptance to be bound by the Conditions Governing the Procurement, Section II.C, and Evaluation, Section V, by completing and signing the Letter of Transmittal form, pursuant to the requirements in Section II.C.30, located in APPENDIX E.

2. Incurring Cost

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

3. Prime Contractor Responsibility

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

4. Subcontractors/Consent

The use of subcontractors is not allowed in this contract.

5. Amended Proposals

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

6. Offeror's Rights to Withdraw Proposal

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

The approval or denial of withdrawal requests received after the deadline for receipt of the proposals is governed by the applicable procurement regulations, 1.4.1.5 & 1.4.1.36 NMAC.

7. Proposal Offer Firm

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

8. Disclosure of Proposal Contents

The contents of all submitted proposals will be kept confidential until the final award has been completed by the Agency. At that time, all proposals and documents pertaining to the proposals will be available for public inspection, *except* for proprietary or confidential material as follows:

- a. ***Proprietary and Confidential information is restricted to:***
 1. confidential financial information concerning the Offeror's organization; and
 2. information that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, §§57-3A-1 through 57-3A-7 NMSA 1978.
- b. An additional but separate redacted version of Offeror's proposal, as outlined and identified in Section III.B.1.a, shall be submitted containing the blacked-out proprietary or confidential information, in order to facilitate eventual public inspection of the non-confidential version of Offeror's proposal.

IMPORTANT: The price of products offered or the cost of services proposed **SHALL NOT** be designated as proprietary or confidential information.

If a request is received for disclosure of proprietary or confidential materials, the Agency shall examine the request and make a written determination that specifies which portions of the proposal should be disclosed. Unless the Offeror takes legal action to prevent the disclosure, the proposal will be so disclosed. The proposal shall be open to public inspection subject to any continuing prohibition on the disclosure of proprietary or confidential information.

9. No Obligation

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

10. Termination

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

11. Sufficient Appropriation

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

12. Legal Review

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

13. Governing Law

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

14. Basis for Proposal

Only information supplied in writing by the Procurement Manager or contained in this RFP shall be used as the basis for the preparation of Offeror proposals.

15. Contract Terms and Conditions

The contract between an agency and a contractor will follow the format specified by the Agency and contain the terms and conditions set forth in the Draft Contract Appendix C. However, the contracting agency reserves the right to negotiate provisions in addition to those contained in this RFP (Draft Contract) with any Offeror. The contents of this RFP, as revised and/or supplemented, and the successful Offeror's proposal will be incorporated into and become part of any resultant contract.

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

Should an Offeror object to any of the terms and conditions as set forth in the RFP Draft Contract (APPENDIX C) strongly enough to propose alternate terms and conditions in spite of the above, the Offeror must propose **specific** alternative language. The Agency may or may not accept the alternative language. General references to the Offeror's terms

and conditions or attempts at complete substitutions of the Draft Contract are not acceptable to the Agency and will result in disqualification of the Offeror's proposal.

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

If an Offeror fails to propose any alternate terms and conditions during the procurement process (the RFP process prior to selection 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 RFP 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.

16. Offeror's Terms and Conditions

Offerors must submit with the proposal a complete set of any additional terms and conditions they expect to have included in a contract negotiated with the Agency. See Section II.C.15 for requirements.

17. Contract Deviations

Any additional terms and conditions, which may be the subject of negotiation (such terms and conditions having been proposed during the procurement process, that is, the RFP process prior to selection as successful Offeror), will be discussed only between the Agency and the Offeror selected and shall not be deemed an opportunity to amend the Offeror's proposal.

18. Offeror Qualifications

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

19. Right to Waive Minor Irregularities

The Evaluation Committee reserves the right to waive minor irregularities, as defined in Section I.E.16. The Evaluation Committee also reserves the right to waive mandatory requirements, provided that **all** of the otherwise responsive proposals failed to meet the same mandatory requirements and the failure to do so does not otherwise materially affect the procurement. This right is at the sole discretion of the Evaluation Committee.

20. Change in Contractor Representatives

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

21. Notice of Penalties

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

22. Agency Rights

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

23. Right to Publish

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

24. Ownership of Proposals

All documents submitted in response to the RFP shall become property of Lincoln County. If the RFP is cancelled, all responses received shall be destroyed by the County unless the Offeror either picks up, or arranges for pick-up, the materials within three (3) business days of notification of the cancellation. Offeror is responsible for all costs involved in return mailing/shipping of proposals.

25. Confidentiality

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

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 Agency's written permission.

26. Electronic mail address required

A large part of the communication regarding this procurement will be conducted by electronic mail (e-mail). Offeror must have a valid e-mail address to receive this correspondence. (See also Section II.B.4, Response to Written Questions).

27. Campaign Contribution Disclosure Form

Offeror must complete, sign, and return the Campaign Contribution Disclosure Form (APPENDIX B) as a part of their proposal. This requirement applies regardless of 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 Offeror's disqualification.**

28. Letter of Transmittal

Offeror's proposal must be accompanied by a Letter of Transmittal Form (APPENDIX E), which must be **signed** by the individual authorized to contractually obligate the company, identified in #2 below.

Provide the following information:

1. Identify the submitting business entity; Name, Mailing Address, Phone Number, Federal Tax ID Number (TIN), and New Mexico Business Tax ID Number (BTIN, formerly CRS);
2. Identify the Name, Title, Telephone, and E-mail address of the person authorized by the Offeror's organization to (A) contractually obligate the business entity providing the Offer, (B) negotiate a contract on behalf of the organization; and/or (C) provide clarifications or answer questions regarding the Offeror's proposal content (*A response to B and/or C is only necessary if the responses differs from the individual identified in A*);
3. Identify any subcontractor/s that may be utilized in the performance of any resultant contract award;
4. Identify any other entity/-ies that may be used in the performance of this awarded contract; and
5. The individual identified in #2 above, must sign and date the form, attesting to the veracity of the information provided, and acknowledging (a) the organization's acceptance of the Conditions Governing the Procurement stated in Section II.C.1, (b) the organizations acceptance of the Section V Evaluation Factors, and (c) receipt of any and all amendments to the RFP.

Failure to submit a signed Letter of Transmittal Form (Appendix E) will result in Offeror's disqualification.

29. 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:
 1. is presently debarred, suspended, proposed for debarment, or declared ineligible for award of contract by any federal entity, state agency or local public body;
 2. has within a three-year period preceding this offer, been convicted in a criminal matter or had a civil judgment rendered against them for:
 - a. the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) contract or subcontract;
 - b. violation of Federal or state antitrust statutes related to the submission of offers;or

- c. the commission in any federal or state jurisdiction of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violation of Federal criminal tax law, or receiving stolen property;
 3. is presently indicted for, or otherwise criminally or civilly charged by any (federal state or local) government entity with the commission of any of the offenses enumerated in paragraph A of this disclosure;
 4. has, preceding this offer, been notified of any delinquent Federal or state taxes in an amount that exceeds \$3,000.00 of which the liability remains unsatisfied. Taxes are considered delinquent if the following criteria apply.
 - a. The tax liability is finally determined. The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge of the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.
 - b. The taxpayer is delinquent in making payment. A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.
 - c. Have within a three-year period preceding this offer, had one or more contracts terminated for default by any federal 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 State Purchasing Agent or other party to this Agreement if, at any time during the term of this Agreement, the Contractor learns that the Contractor's disclosure was at any time erroneous or became erroneous by reason of changed circumstances.
- 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. Failure of the Contractor to furnish a disclosure or provide additional information as requested will render the Offeror nonresponsive.
- E. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the disclosure required by this document. The knowledge and information of a Contractor is not required to exceed that which is the normally possessed by a prudent person in the ordinary course of business dealings.
- F. The disclosure requirement provided is a material representation of fact upon which reliance was placed when making an award and is a continuing material representation of the facts during the term of this Agreement. If during the performance of the contract, the 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 State Purchasing Agent or other party to this Agreement. If it is later determined that the Contractor knowingly rendered an erroneous disclosure, in addition to other remedies available to the Government, the State Purchasing Agent or Central Purchasing Officer may terminate the involved contract for cause. Still further the State Purchasing Agent or Central Purchasing Officer may suspend or debar the Contractor from eligibility for future solicitations until such time as the matter is resolved to the satisfaction of the State Purchasing Agent or Central Purchasing Officer.

30. New Mexico/Native American Resident Preferences

To ensure adequate consideration and application of §13-1-21 NMSA 1978 (as amended), **Offeror must submit a copy of its valid New Mexico/Native American Resident Preference Certificate or its valid New Mexico/Native American Resident Veteran Preference with its proposal.** Certificates for preferences must be obtained through the New Mexico Department of Taxation & Revenue
<http://www.tax.newmexico.gov/Businesses/in-state-veteran-preference-certification.aspx>.

In accordance with §13-1-21(H) NMSA 1978, an agency shall not award any combination of New Mexico/Native American Resident Preferences.

The New Mexico/Native American Resident Preferences shall not apply if the expenditures for this RFP includes federal funds.

III. RESPONSE FORMAT AND ORGANIZATION

A. NUMBER OF RESPONSES

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

B. NUMBER OF COPIES

1. Hard Copy Responses

Offeror's proposals must be clearly labeled and numbered and indexed as outlined in **Section III.C. Proposal Format**. Proposals must be submitted in the manner outlined below and sealed according to the definition provided in Section I.F.30. Each ORIGINAL Technical response shall be bound on the left side or in a binder or pocket folder, three-hole punched and secured, and shall be clearly marked as "ORIGINAL" on the front, The additional HARD COPIES (if any) must each be submitted in separate binders or pocket folders bound on the left side and must be clearly identified as "COPY" on the front cover.

The Cost portions of Offerors proposal **must** be submitted in separate envelope as indicated below in this section, and **must** be prominently identified as "Cost" on the cover. Envelopes, packages or

boxes containing the original and the copies must be clearly labeled and submitted in a sealed envelope, package or box according to the information provided in Section I.E. It is not necessary to segregate Technical Binders from Cost envelope or binder, if they are submitted within the same sealed envelope, package or box, as long as the Cost Binder/envelope is submitted in separate envelope, folder or binder.

Offerors **must** deliver:

a) **Technical Proposals** – One (1) ORIGINAL, three (3) HARD COPIES. ORIGINAL and all HARD COPIES of the Technical Proposal shall be separately labeled and bound on the left-hand margin. **The Technical Proposals SHALL NOT contain any cost information.**

i. **Confidential Information**: If Offeror’s proposal contains confidential information, as defined in Section I.E.3 and detailed in Section II.C.8, Offeror **must** submit:

- all of the requisite proposals identified in Section III.B.1.a above as **unredacted** (def. Section 1.E.33) versions for evaluation purposes; **AND**
- ONE (1) additional **redacted** (def. Section 1.E.23) HARD COPY. version and “REDACTED” or “CONFIDENTIAL” on the front cover of the hard-copy binder/folder and on the first page of the electronic version file.;

b) **Cost Proposals** – One (1) ORIGINAL, three (3) HARD COPIES, of the proposal containing **ONLY** the Cost Proposal; ORIGINAL and all HARD COPIES of the Cost Proposal shall be in a separately labeled envelope.

The ORIGINAL and HARD COPIES **must** be identical. In the event of a conflict between versions of the submitted proposal, the ORIGINAL shall govern.

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

C. PROPOSAL FORMAT

All proposals must be submitted as follows:

Hard copies must be typewritten on standard 8 ½ x 11-inch paper (larger paper is permissible for charts, spreadsheets, etc.) and bound on the left-hand margin or in a binder with tabs or divider pages delineating each section.

Organization of folders/envelopes for hard copy proposals:

1. Proposal Content and Organization

All proposals must be submitted as follows: The proposal outline below must mirror (except for the Letter of Transmittal and Campaign Contribution Form) the Specifications in Section IV.

Within each section of the proposal, Offerors must organize and address the RFP requirements in the order indicated below. All forms provided in this RFP must be thoroughly completed and included in the appropriate section of Offeror's proposal. **Any and all discussion of proposed costs, rates or expenses must occur ONLY in the Cost Proposal.**

Technical Proposal – DO NOT INCLUDE ANY COST INFORMATION IN THE TECHNICAL PROPOSAL.

1. Signed Letter of Transmittal
2. Signed Campaign Contribution Form
3. Proposal Summary (Optional)*
4. Response to Contract Terms and Conditions (from Section II.C.15), if applicable.
5. Offeror's Additional Terms and Conditions (from Section II.C.16), if applicable.
6. Response to Specifications (**except Cost information which shall be included ONLY in Cost Proposal**)
 - a. Mandatory Specification
 - b. Performance Surety Bond
 - c. New Mexico/Native American Resident Preferences (if applicable)
7. Other Supporting Material (if applicable)

c) Cost Proposal: Cost Proposal Original and copies must be in a separately labeled envelope.

1. Completed Cost Response Form (APPENDIX D)

***Proposal Summary**

A Proposal Summary may be included in Offeror's Technical Proposal, to provide the Evaluation Committee with an overview of the proposal; however, this material will not be used in the evaluation process unless specifically referenced from other portions of the Offeror's proposal. **DO NOT INCLUDE COST INFORMATION IN THE PROPOSAL SUMMARY.**

IV. SPECIFICATIONS

A. DETAILED SCOPE OF WORK

For On Call Spray Injection Asphalt & Asphalt Maintenance Services for minor repairs and maintenance of potholes; asphalt deterioration; "allegator" or other asphalt cracks; as well as radius or other such services in areas within the County of Lincoln, Ruidoso area and unincorporated areas of the County. This service will be on an "on-call" basis, for projects throughout the service contract period.

B. MANDATORY SPECIFICATIONS

B. 1 Performance/Availability/Response Time:

Provide a narrative in the RFP response of how you will provide the services based on the following criteria.

The “On Call Services” contractor/vendor must;

1. be able to respond and schedule and perform requests for services within a reasonable time of which is 48-72 hours after request for services.
2. work around the County Road Department’s schedule, meet the County’s start and completion dates schedule or timelines.
3. be flexible to provide services due to weather and other related schedule changes at short notice.
4. be able to provide services that meet our criteria within reasonable travel time to job sites within our County.
5. be familiar with; Lincoln County. such as possible job site’s locations; terrain; types of roads within the County including surfaces, and subgrade materials they will encounter and provide the services applications to; and providing services with County government or similar agencies.

B. 2 Application/Specs or Standards/Equipment:

Provide a narrative in the RFP response of what system and/or application is used to provide the services of the following and provide the equipment and specs to administer the application.

1. A system, application and/or process using the Dura Patcher Road Repair Spray Injection System [see video: <https://www.youtube.com/watch?v=xS4f0YcetXU> or a similar comparable system/application approved by the Federal Highway Administration, capable of keeping oil at the correct temperature for long periods of time.
2. Fast or easy application with most efficient application time/cost.
3. Offerors must provide in the RFP response the “specs” for equipment or system the Offeror is proposing to use in the application to perform spray injection; patching for maintenance services. Provide the brand; model and type of material(s) to be used in the applications. If an "or equal" system or equipment is to be used, provide the same information above and an explanation of how the system, equipment and product is, in fact, equal to the one specified in the RFP as referenced in section 2.2 Application Specs and Standards of this RFP.

B.3 Materials/Durability/Product(s)

Provide a narrative in the RFP response of your experience providing the following services or process the vendor must have;

1. the ability to overspray area with oil and gravel to prevent additional surface cracking or minimize cracking to failing asphalt.
2. proven record of performance to be successful in our geographical terrain and climate or similar climate; to withstand extreme weather changes and road types that exist within Lincoln County.
3. the ability to be supplied and applied in smaller loads, due to the fact the amount of work within a specific area would not necessitate larger loads and to avoid wasted.

4. capable of keeping oil at the correct temperature for long periods of time.
5. the ability to change the oil mixture to repair potholes and surface cracking to mild winter applications.
6. the use of an oil/gravel mixture for sealing surface cracking on asphalt roadways.

B.4 Mobility/Public Impact:

Provide a narrative in the RFP response on how this will be accomplished, including your traffic control plan.

The vendor must be able to;

1. provide a system or application of the Dura Patch System or comparable equipment able to maneuver within smaller residential roads and minimize traffic impacts. And
2. perform the services with the least impact on the public's mobility on/in treatment areas.

1. Performance Surety Bond

It is required, Offeror(s) must have 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. **A Statement of Concurrence, as defined in Section I.F.37, must be submitted in the Offeror's proposal.**

2. Letter of Transmittal Form

The Offeror's proposal **must** be accompanied by the Letter of Transmittal Form located in APPENDIX E. The form **must** be completed and must be signed by the person authorized to obligate the company. **Failure to submit a signed form will result in Offeror's disqualification.**

3. Campaign Contribution Disclosure Form

The Offeror must complete an unaltered Campaign Contribution Disclosure Form and submit a signed copy with the Offeror's proposal. This must be accomplished whether or not an applicable contribution has been made. (See APPENDIX B). **Failure to complete and return the signed, unaltered form will result in Offeror's disqualification.**

4. Cost

Offerors must complete the Cost Response Form in APPENDIX D. Cost will be measured by Thirty Percent (30%) of the total score. All charges listed on APPENDIX D must be justified and evidence of need documented in the proposal.

5. Resident Business or Resident Veterans Preference

To ensure application of § 13-1-21 NMSA 1978 (as amended), an Offeror **MUST** submit a copy, in this section, of its valid New Mexico/Native Resident Preference Certificate or its valid New Mexico/Native American Resident Veteran Preference Certificate, as issued by the New Mexico Taxation and Revenue Department.

6. Licensing and Insurance

Provide a copy of your licensing pertinent for all related work as well as a copy of your Certificate of Liability Insurance.

V. EVALUATION

A. EVALUATION POINT SUMMARY

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

Evaluation Factors <i>(Correspond to Sections IV.B and IV.C)</i>	Points Available
B. Technical Mandatory Specifications (125 Total Points)	
B. 1. Performance/Availability/Response time	25
B. 2. Application/Specs or Standards/Equipment	50
B. 3. Material/Durability/Products	25
B. 4. Mobility/Public Impact	25
C.1. Performance Surety Bond	Pass/Fail
C.2. Letter Of Transmittal	Pass/Fail
C.3. Campaign Contribution Disclosure Form	Pass/Fail
C.4. Cost	40.50
TOTAL POINTS AVAILABLE	165.50
C.5. New Mexico / Native American Resident Preference (8%)	13.24
C.6. New Mexico / Native American Resident Veteran Preference Points per Section IV C.7 (10%)	16.55

Table 1: Evaluation Point Summary

B. EVALUATION FACTORS - *Mandatory Specifications*

1. B.1 Performance/Availability/Response time

Provide a narrative in the RFP response of how you will provide the services based on the following criteria.

The “On Call Services” contractor/vendor must;

6. be able to respond and schedule and perform requests for services within a reasonable time of which is 48-72 hours after request for services.
7. work around the County Road Department’s schedule, meet the County’s start and completion dates schedule or timelines.
8. be flexible to provide services due to weather and other related schedule changes at short notice.
9. be able to provide services that meet our criteria within reasonable travel time to job sites within our County.
10. be familiar with; Lincoln County. such as possible job site’s locations; terrain; types of roads within the County including surfaces, and subgrade materials they will encounter and provide the services applications to; and providing services with County government or similar agencies.

2. B.2 Application/Specs or Standards/Equipment

Provide a narrative in the RFP response of what system is used for the application to provide the services of the following and provide the equipment and specs to administer the application.

1. A system, application and/or process using the Dura Patcher Road Repair Spray Injection System [see video: <https://www.youtube.com/watch?v=xS4f0YcetXU> or a similar comparable system/application approved by the Federal Highway Administration, capable of keeping oil at the correct temperature for long periods of time.
2. Fast or easy application with most efficient application time/cost.
3. Offerors must provide in the RFP response the “specs” for equipment or system the Offeror is proposing to use in the application to perform spray injection; patching for maintenance services. Provide the brand; model and type of material(s) to be used in the applications. If an "or equal" system or equipment is to be used, provide the same information above and an explanation of how the system, equipment and product is, in fact, equal to the one specified in the RFP as referenced in section 2.2 Application Specs and Standards of this RFP.

3. B.4 Material/Durability/Products

Provide a narrative in the RFP response of your experience providing the following services or process the vendor must have;

1. the ability to overspray area with oil and gravel to prevent additional surface cracking or minimize cracking to failing asphalt.
2. proven record of performance to be successful in our geographical terrain and climate or similar climate; to withstand extreme weather changes and road types that exist within Lincoln County.

3. the ability to be supplied and applied in smaller loads, due to the fact the amount of work within a specific area would not necessitate larger loads and to avoid wasted.
4. capable of keeping oil at the correct temperature for long periods of time.
5. the ability to change the oil mixture to repair potholes and surface cracking to mild winter applications.
6. The use of an oil/gravel mixture for sealing surface cracking on asphalt roadways.

4. C.1 Performance Bond (See Table 1)

Pass/Fail only. No points assigned.

5. C.2 Letter of Transmittal (See Table 1)

Pass/Fail only. No points assigned.

6. C.3 Campaign Contribution Disclosure Form (See Table 1)

Pass/Fail only. No points assigned.

7. C.4 Cost (See Table 1)

The evaluation of each Offeror’s cost proposal will be conducted using the following formula:

$$\frac{\text{Lowest Responsive Offeror's Cost}}{\text{Each Offeror's Cost}} \times 30\% \text{ of Available Award Points}$$

8. C.5. & C.6 New Mexico Preferences

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

C.5 New Mexico Resident Business Preference / Native American Resident Preference

If an Offeror has provided a copy of its New Mexico Resident Preference Certificate or Native American Resident Preference Certificate, the points awarded will be calculated as 8% of the total points available in this RFP.

C.6 New Mexico/Native American Resident Veteran Preference

If an Offeror has provided a copy of its New Mexico Resident Veteran Preference Certificate or Native American Resident Veteran Preference Certificate the points awarded will be calculated as 10% of the total points available in this RFP.

C. EVALUATION PROCESS

1. All Offeror proposals will be reviewed for compliance with the requirements and specifications stated within the RFP. Proposals deemed non-responsive will be eliminated from further consideration.
2. The Procurement Manager may contact the Offeror for clarification of the response as specified in Section II. B.7.
3. Responsive proposals will be evaluated on the factors in Section IV, which have been assigned a point value in Section V. The responsible Offerors with the highest scores may be selected as finalist Offerors, based upon the proposals submitted. In accordance with §13-1-117 NMSA 1978, the responsible Offerors whose proposals are most advantageous to the State taking into consideration the Evaluation Factors in Section V will be recommended for award (as specified in Section II.B.12). Please note, however, that a serious deficiency in the response to any one factor may be grounds for rejection regardless of overall score.

//

APPENDIX A

**REQUEST FOR PROPOSAL
RFP 23-24 –6**

On Call Spray Injection Asphalt & Asphalt Maintenance Services

ACKNOWLEDGEMENT OF RECEIPT FORM

This optional Acknowledgement of Receipt Form establishes a distribution list to be used for the distribution of written responses to questions, and/or any amendments to the RFP. Failure to return the Acknowledgement of Receipt Form does not prohibit potential Offerors from submitting a response to this RFP. However, by not returning the Acknowledgement of Receipt Form, the potential Offeror’s representative shall not be included on the distribution list and will be solely responsible for obtaining from the County web site responses to written questions and any amendments to the RFP.

Only potential bidders who elect to return this form completed with the indicated intention of submitting a proposal are guaranteed to receive copies of all written questions and the County’s written responses to those questions, as well as copies of Addendums, if issued.

The information below will be used for all correspondence related to the Request for Proposal. Only one contact per Offeror is permitted.

ORGANIZATION: _____

CONTACT NAME: _____

TITLE: _____ PHONE NO.: _____

E-MAIL: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

Submit Acknowledgement of Receipt Form to:

Return this form to:
(by U.S. Mail)

Lincoln County Purchasing Department
Toni Foligno, CPO
P.O. Box 711
Carrizozo New Mexico 88301

Or by E-mail:

Purchasing@lincolncountynm.gov

APPENDIX B RFP 23-24-6

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Pursuant to the Procurement Code, Sections 13-1-28, et seq., NMSA 1978 and NMSA 1978, § 13-1-191.1 (2006), as amended by Laws of 2007, Chapter 234, a prospective contractor subject to this section shall disclose all campaign contributions given by the prospective contractor or a family member or representative of the prospective contractor to an applicable public official of the state or a local public body during the two years prior to the date on which a proposal is submitted or, in the case of a sole source or small purchase contract, the two years prior to the date on which the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor or a family member or representative of the prospective contractor to the public official exceeds two hundred fifty dollars (\$250) over the two-year period. A prospective contractor submitting a disclosure statement pursuant to this section who has not contributed to an applicable public official, whose family members have not contributed to an applicable public official or whose representatives have not contributed to an applicable public official shall make a statement that no contribution was made.

A prospective contractor or a family member or representative of the prospective contractor shall not give 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 during the pendency of negotiations for a sole source or small purchase contract.

Furthermore, a solicitation or proposed award for a proposed contract may be canceled pursuant to Section [13-1-181](#) NMSA 1978 or a contract that is executed may be ratified or terminated pursuant to Section [13-1-182](#) NMSA 1978 if a prospective contractor fails to submit a fully completed disclosure statement pursuant to this section; or a prospective contractor or family member or 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.

The state agency or local public body that procures the services or items of tangible personal property shall indicate on the form the name or names of every applicable public official, if any, for which disclosure is required by a prospective contractor.

THIS FORM MUST BE INCLUDED IN THE REQUEST FOR PROPOSALS AND 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 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 a spouse, father, mother, child, father-in-law, mother-in-law, daughter-in-law or son-in-law of (a) a prospective contractor, if the prospective contractor is a natural person; or (b) an owner of a prospective contractor;

“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.

“Prospective contractor” means a person or business that is subject to the competitive sealed proposal process set forth in the Procurement Code [Sections [13-1-28](#) through [13-1-199](#) NMSA 1978] or is not required to submit a competitive sealed proposal because that person or business qualifies for a sole source or 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.

Name(s) of Applicable Public Official(s) if any: _____

Commissioners Todd Proctor; Jon Crunk; Mark Fischer; Samantha Serna; Pierre Pfeffer.
Walter Hill Jr., Assessor; Shannan Hemphill, Clerk; Rhonda Burrows, Probate Judge; Sherrie Huddleston, Treasurer; Sheriff Michael Wood.

DISCLOSURE OF CONTRIBUTIONS BY PROSPECTIVE CONTRACTOR:

Contribution Made By: _____

Relation to Prospective Contractor: _____

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 C
DRAFT CONTRACT/AGREEMENT
BETWEEN THE COUNTY OF LINCOLN AND
_____ FOR
_____ MAINTENANCE SERVICES – RFP# 23-24-6

CONTRACT #NUMBER

This Agreement is made and entered into by and between the County of Lincoln, New Mexico, whose address is P.O. Box 711, Carrizozo, New Mexico 88301, hereinafter referred to as “County” and _____, located _____ hereinafter referred to as “Contractor” and is effective as of the date set forth below upon which it is executed by the County Manager.

IT IS AGREED BETWEEN THE PARTIES:

1. Scope of Work

The Contractor shall perform On-Call Spray Injection Asphalt & Asphalt Maintenance Services which will include all time, labor, and materials to complete each maintenance project and the work outlined in the Scope of Proposal attached hereto as *Exhibit A* and incorporated herein by reference.

2. Compensation

A. The County shall pay to the Contractor in full payment for services satisfactorily performed at the following rates:

Contractor’s Response to RFP #xxx is attached hereto as *Exhibit B*. The total amount payable to the Contractor, including costs and expenses shall not exceed _____ plus applicable gross receipts tax per job. 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. Contractor is responsible for notifying County if the services to be provided may exceed the per job compensation amount. In no event will Contractor be paid for services provided in excess of the total per job compensation amount without prior authorization in writing prior to those services in excess of the total compensation amount being provided.

B. Payment is subject to availability of funds pursuant to the Appropriations paragraph set forth below and to any negotiations between the parties from year to year pursuant to Paragraph 1: Scope of Work. All invoices MUST be received by County no later than fifteen (15) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.

C. Contractor must submit a detailed statement accounting for all services performed and expenses incurred, including copies of invoices showing the wholesale cost of materials utilized

prior to any markup. If County finds that the services of Contractor are not acceptable, within thirty (30) days after the date of receipt of written notice from Contractor that payment is requested, County shall provide Contractor a letter of exception explaining the defect or objection to the services, and outlining steps Contractor may take to provide remedial action. Upon certification by County that the services have been received and accepted, payment shall be tendered to Contractor within thirty (30) days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date of postmark. However, County shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein.

D. The payment of taxes due for any money received under this Agreement shall be Contractor's sole responsibility and shall be reported under Contractor's federal and state tax identification number(s).

E. Contractor is responsible for submitting to County all copies of invoices showing the wholesale cost of materials utilized in the performance of the duties outlined in the Scope of Work attached hereto. Failure to provide a copy of invoices indicating wholesale costs of materials will result in non-payment of those materials until said invoice(s) is/are provided to County.

3. Term

The term of this Agreement shall be for one (1) year and shall commence upon the date of the final signature. County reserves the right to extend this Agreement, on an annual basis (or a portion thereof) and by mutual agreement, for up to three (3) additional years. Under no circumstances will the term of this Agreement, including any extension thereto, exceed four (4) years, unless terminated pursuant to paragraph 4 (Termination) or paragraph 6 (Appropriations). In accordance with §13-1-150 (B) NMSA 1978, no contract term for a professional services contract, including extensions and renewals, shall exceed four (4) years except as set forth in §13-1-150 NMSA 1978.

4. Termination

This Agreement may be terminated by either of the parties hereto upon thirty (30) days' written notice delivered to the other party. Except as otherwise allowed or provided under this Agreement, County's sole liability upon such termination shall be to pay for acceptable work performed prior to Contractor's receipt of the notice of termination, if County is the terminating party, or Contractor's sending the notice of termination, if the Contractor is the terminating party; 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. Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to Contractor if Contractor become unable to perform the services contracted for, as determined by County or if, during the term of this Agreement, Contractor or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of government funds or due to the Appropriations paragraph herein. THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE COUNTY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.

5. Termination Management

Immediately upon receipt by either County or Contractor of notice of termination of this Agreement, Contractor shall:

1. Not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of County;
2. Comply with all directives issued by County in the notice of termination as to the performance of work under this Agreement;
3. Take such action as County shall direct for the protection, preservation, retention or transfer of all property titled to County and records generated under this Agreement.

Any non-expendable personal property or equipment provided to or purchased by Contractor with contract funds shall become property of County upon termination and shall be submitted to County as soon as practicable.

6. Appropriations

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Board of County Commissioners for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Board of County Commissioners, this Agreement shall terminate immediately upon written notice given by County to Contractor. County's decision as to whether sufficient appropriations are available shall be accepted by Contractor and shall be final. If County proposes an amendment to the Agreement to unilaterally reduce funding, 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

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

8. Assignment

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 County.

9. Subcontracting

Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of County. No such subcontract shall relieve primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from County. In all cases, Contractor is solely responsible for fulfillment of this Agreement.

10. Release

Final payment of the amounts due under this Agreement shall operate as a release of the procuring agency of the County, its officers and employees, and the County of Lincoln from all liabilities, claims, and obligations whatsoever arising from or under this Agreement.

11. Product of Service-Copyright

All materials developed or acquired by Contractor under this Agreement shall become the property of the County of Lincoln and shall be delivered to County no later than the termination date of this Agreement. Nothing developed or produced, in whole or in part, by Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of Contractor.

12. Conflict of Interest; Governmental Conduct Act

A. 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 of services required under this Agreement.

B. 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 and Article 16, NMSA 1978. Without in anyway limiting the generality of the foregoing, Contractor specifically represents and warrants that:

1. in accordance with §10-16-4.3 NMSA 1978, Contractor does not employ, has not employed, and will not employ during the term of this Agreement any County employee while such employee was or is employed by County and participating directly or indirectly in County's contracting process;
2. this Agreement complies with §10-16-7(B) NMSA 1978 because:
 - a. Contractor is not a public officer or employee of County;
 - b. Contractor is not a member of the family of a public officer or employee of County;
 - c. Contractor is not a business in which a public officer or employee or the family of a public officer of employee has a substantial interest;
 - d. if Contractor is a public officer or employee of County, a member of the family of a public officer or employee of County, or a business in which a public officer or employee of County or the family of a public officer or employee of County has a substantial interest, public notice was given as required by §10-16-7(B) NMSA 1978 and this Agreement was awarded pursuant to a competitive process;
3. in accordance with §10-16-8(C) NMSA 1978;
 - a. Contractor is not, and has not been represented by a person who has been a public officer or employee of County within the preceding year and whose official act directly resulted in this Agreement;
 - b. Contractor is not, and has not been assisted in any way regarding this transaction by a former public officer or employee of County whose official

act, while in County employment, directly resulted in the County making this Agreement;

4. in accordance with §10-16-13 NMSA 1978, Contractor has not directly participated in the preparation of specifications, qualifications or evaluation criteria for this Agreement or any procurement related to this Agreement;
5. in accordance with §10-16-3 and §10-16-3.1 NMSA 1978, Contractor has not contributed, and during the term of this Agreement shall not contribute anything of value to a public officer or employee of County.

C. Contractor's representations and warranties in paragraphs A and B of Article 13 are material representations of fact upon which County relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to County if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in paragraphs A and B of Article 13 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 Article 13 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 County and notwithstanding anything in the Agreement to the contrary, County may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in Article 13.

13. 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 County proposes an amendment to the Agreement to unilaterally reduce funding due to budget or other considerations, Contractor shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Agreement, pursuant to the termination provision as set forth in Article 4 herein, or to agree to the reduced funding.

14. Merger

This Agreement and the Exhibits attached hereto incorporate 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.

15. Penalties for Violation of Law

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

16. Equal Opportunity Compliance

Contractor agrees to abide by all federal, state and county laws and rules and regulations, pertaining to equal employment opportunity. In accordance with all such laws, Contractor assures that no person in the United States shall, on 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.

17. Applicable Law

The laws of the State of New Mexico shall govern this Agreement and shall be enforceable in the 12th Judicial District Court in the County of Lincoln. 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.

18. Worker's Compensation

Contractor agrees to comply with state laws and rules applicable to worker's compensation benefits for its employees. If Contractor fails to comply with the Worker's Compensation Act and applicable rules when required to do so, this Agreement may be terminated by County.

19. Records and Financial Audit

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 County, the Department of Finance and Administration, and the New Mexico State Auditor and other appropriate state and federal authorities. County shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the County to recover excessive or illegal payments.

20. Disclaimer and Hold Harmless

County shall not be liable to Contractor or Contractor's successors, heirs, administrators, or assigns, for any loss, damage, or injury, whether to Contractor's person or property, occurring in connection with Contractor's performance of Contractor's duties according to this Agreement. Contractor shall hold County harmless from all loss, damage, and injury, including court costs and attorney fees, incurred by County in connection with the performance by Contractor of Contractor's duties according to this Agreement.

21. Indemnification of the County

Contractor agrees to hold harmless, indemnify, and defend County and its "public employees" as defined in the New Mexico Tort Claims Act 41-4-1 through 41-4-29 NMSA 1978 against and from any and all claims, losses, demands, judgments, damages, liabilities, lawsuits, expenses, fees of attorneys, costs or actions of any kind or nature, whether from death, bodily injury or damage to property arising from or out of, connected with, resulting from or related to Contractor's activities in connection herewith, including, but not limited to, any negligence or intentional acts or omissions of Contractor, employees, servants, agents, representatives, customers, invitees, patrons, contractors,

subcontractors, successors, assigns, or suppliers, as well as all of the persons doing business with or receiving services from Contractor. Contractor's agreement to hold harmless, indemnify, and defend County shall not be affected or terminate by cancellation, expiration of the term or renewal period or any other termination of this contract.

By entering into this Agreement, County and its "public employees" as defined in the New Mexico Tort Claims Act, *supra* do not waive sovereign immunity, do not waive any defenses and do not waive any limitations of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act, *supra*.

It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions or any part of this Agreement to create in the public or any member thereof a third party beneficiary or to authorize anyone not a party to this Agreement to maintain any suit for wrongful death, bodily or personal injury, damage to property or any other matter whatsoever, pursuant to the provision of this Agreement.

22. 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.

23. 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.

24. Authority

Individual(s) signing this Agreement on behalf of Contractor represents and warrants that he/she has the power and authority to bind Contractor, and that no further action, resolution or approval from Contractor is necessary to enter into a binding Agreement.

25. Approval of Contractor Personnel

Personnel proposed in Contractor's written proposal to County are considered material to any work performed under this Agreement. No changes of personnel will be made by Contractor without prior written consent of the procuring agency of County. Replacement of any Contractor personnel, if approved, shall be with personnel of equal ability, experience and qualifications. Contractor will be responsible for any expenses incurred in familiarizing the replacement personnel to insure their productivity to the project immediately upon receiving assignments. Approval of replacement personnel shall not be unreasonably withheld. The procuring agency of County shall retain the right to request removal of any of Contractor's personnel at any time.

26. Survival

Articles 22, 27, and 35 of this Agreement shall survive the expiration of this Agreement. Software licenses, leases, maintenance and any other unexpired agreements that were entered into under the terms and conditions of this Agreement shall survive this Agreement.

27. Succession

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

28. Force Majeure

A party shall be excused from performance under this Agreement for any period that the party is prevented from performing as a result of an act of God, strike, war, civil disturbance, epidemic, or court order, provided that the party has prudently and promptly acted to take any and all steps that are within the party's control to ensure performance. Subject to this provision, such non-performance shall not be deemed a default or a ground for termination.

29. Dispute Resolution

The parties hereby agree to attempt to mediate any dispute to a resolution prior to filing litigation. In the event the parties are unable to settle their dispute through mediation, the parties shall be free to pursue any and all remedies available to them through appropriate judicial proceedings. Further, in the event either party is required to enforce the provisions of this Agreement through judicial proceedings, the prevailing party shall be entitled to reasonable attorney's fees and court costs from the non-prevailing party.

30. Notice to Proceed

It is expressly understood that this Agreement is not binding upon County until it is executed by the Board of County Commissioners after voting on the Agreement at a public meeting or unless it is executed by County Manager, if the amount of the Agreement is Five Thousand Dollars (\$5,000.00) or less, excluding applicable gross receipts tax. Contractor is not to proceed with its obligations under this Agreement until Contractor has received a fully executed copy of the Agreement.

31. Cooperation

All parties hereto will fully cooperate with the other and their respective counsel, accountant, and agents in connection with any steps required to be taken under this Agreement.

32. Incorporation and Order of Precedence

Request for Proposals Number 20-21-003 and Contractor's proposal are incorporated by reference into this Agreement and are made a part of this Agreement. In the event of any conflict among these documents, the following order of precedence shall apply:

- A. Any Agreement amendment(s), in reverse chronological order; then
- B. This Agreement itself; then
- C. Request for Proposals Number 20-21-003; then
- D. Contractor's best and final offer(s), in reverse chronological order; then
- E. Contractor's proposal; then
- F. Contractor's standard agreement terms and conditions (which may or may not have been submitted as part of Contractor's proposal)

33. Patent, Copyright, Trademark and Trade Secret Indemnification

A. Contractor shall defend, at its own expense, County against any claim that any product or service provided under this Agreement infringes any patent, copyright or trademark in the United States or Puerto Rico, and shall pay all costs, damages and attorney's fees that a court finally awards as a result of any such claim. In addition, if any third party obtains a judgment against

County based upon Contractor's trade secret infringement relating to any product or service provided under this Agreement, Contractor agrees to reimburse County for all costs, attorney's fees and the amount of the judgment. To qualify for such defense and/or payment, County shall:

1. give Contractor prompt written notice of any claim;
2. allow Contractor to control the defense or settlement of the claim; and
3. cooperate with Contractor in a reasonable way to facilitate the defense or settlement of the claim.

B. If any product or service becomes, or in Contractor's opinion is likely to become the subject of a claim of infringement, Contractor shall at its option and expense:

1. provide a procuring agency of County the right to continue using the product or service;
2. replace or modify the product or service so that it becomes non-infringing; or
3. accept the return of the product or service and refund an amount equal to the depreciated value of the returned product or service, less the unpaid portion of the purchase price and any other amounts which are due to Contractor. Contractor's obligation will be void as to any product or service modified by the procuring agency of County to the extent such modification is the cause of the claim.

34. Future Reference (Post Review)

Upon completion of all work and the Agreement is over, there will be a review of all work done by Contractor and/or any sub-contractors to be kept on file at County for future use to help ensure County chooses the best potential Offerors and Awardees.

35. Construction

This Agreement is jointly created and shall not be construed against either party for having drafted it or for having this Agreement drafted by such party's counsel.

36. Modification

This Agreement may be modified only by a writing duly executed by the parties.

37. Further Documents

The parties shall, in good faith, execute such additional documents as may be necessary or appropriate to fully carry out the intent and purpose of this Agreement.

38. Notices

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

County

Lincoln County Manager
P.O. Box 711
Carrizozo, New Mexico 88301

Contractor

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and signatures below.

COUNTY OF LINCOLN:

CONTRACTOR:

By:

Its: Manager

Date: _____

By:

Its:

Date: _____

ATTEST:

Shannan Hemphill, Lincoln County Clerk

Date: _____

APPENDIX D

RFP 23-24-6

COST RESPONSE FORM

Cost Response Form Guidance:

- All costs provided by the Offeror must include the square foot price if items are combined and the individual cost/rate of charges that are outside the per square foot charge, including all equipment costs; traffic control; labor rates mobilization/demobilization rates; other .
- The Agency will not pay any additional charges outside of the hourly rate provided by the Offeror.”
- The Offeror may add to the other category that may not have been considered. Otherwise, the Cost Response shall be completed “as-is.”

Vendor is to supply On-Call Spray Injection Asphalt & Asphalt Maintenance Services on a County wide basis in accordance with the specifications as set forth in the Scope of Work.

(Amount shall be exclusive of gross receipts tax. Any applicable gross receipts tax may be charged at the time of billing and shall be listed as a separate line item on the invoice.)

Items Priced Per Sq. Ft.	Per Sq Ft
Materials	
Materials Application	
Clean Up Rates	
If Combined Total per sq ft =	
Items to Price at Cost Rate	Rate/Cost
Equipment Costs	
Traffic Control rate	
Labor Rates	
Mobilization & Demobilization rates	
OTHER:	

Remember! If the goods or services are not included in the Offeror’s proposal, they cannot be added later!

APPENDIX E

RFP # 23-24-6

LETTER OF TRANSMITTAL FORM

Bidder 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 BID!**

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

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

Name: _____

Title: _____

E-Mail Address: _____ Telephone Number: _____

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

Name: _____

Title: _____

E-Mail Address: _____ Telephone Number: _____

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

Name: _____

Title: _____

E-Mail Address: _____ Telephone Number: _____

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

___ I hereby acknowledge receipt of the following addenda to this RFP (if applicable):

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

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

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

Date