



**County of Lincoln
Request for Proposals (RFP)
RFP #24-25-08-R
“Gallinas Communications Tower Construction”**

Due: July 2nd, 2025 @ 3:00 p.m. MDT

Offer Mail/Deliver to: Nick Morerod, Chief Procurement Officer
Lincoln County Purchasing Department
300 Central Avenue – P.O. Box 711
Carrizozo, New Mexico 88301

Procurement Contact Information: Nick Morerod
Phone: (575) 648-2385 x 107
Email: Purchasing@lincolncountynm.gov

This project is funded by the federal government through Grant# EMW-2023-SS-00015 and is subject to compliance with the Code of Federal Regulations and any grant stipulations

IF THERE IS ANY PROBLEM REGARDING THE FOLLOWING SPECIFICATIONS OR CONDITIONS THAT WOULD PREVENT YOU FROM SUBMITTING A PROPOSAL, CONTACT THE PROCUREMENT MANAGER IMMEDIATELY FOR CLARIFICATION AND/OR CONSIDERATION OF AN ADDENDUM.

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DEFINITION OF TERMINOLOGY

This section contains definitions that are used throughout this procurement document, including appropriate abbreviations.

“Board of County Commissioners” (also “BOCC”) means the elected board in whom all powers of the County are vested and who are responsible for the proper and efficient administration of the County government.

“Chief Procurement Officer” means an employee of Lincoln County who is responsible for approving all procurement.

"Contract" or "Agreement" means a written agreement for the procurement of items of tangible personal property or services.

"Contractor" means a successful offeror who enters into a binding contract.

"County" means the County of Lincoln, State of New Mexico.

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

"Desirable" refers to the terms "may", "can", "should", "preferably" or "prefers," which identify a discretionary item or factor. (As opposed to a “mandatory” item or factor.)

"Evaluation Committee" means a body appointed by County management to perform the evaluation of offeror proposals.

"Evaluation Committee Report" means a report prepared by the Procurement Manager and the Evaluation Committee for submission to appropriate approval authorities for contract award that contains all written determinations resulting from the conduct of a procurement requiring the evaluation of competitive sealed proposals.

"Finalist" is defined as an offeror who meets all the mandatory specifications of this Request for Proposal and whose score on evaluation factors is sufficiently high to merit further consideration by the Evaluation Committee.

"Mandatory" refers to the terms "must", "shall", "will", "is required" or "are required," which identify a required item or factor. (As opposed to a “desirable” item or factor.) Failure to meet a mandatory item or factor will result in the rejection of the Offeror's proposal.

"Offeror" is any person, or entity who chooses to submit a proposal.

"Procurement Manager" means the person or designee authorized by the County to manage or administer a procurement requiring the evaluation of competitive sealed proposals.

"Page" means one (1) side of an 8 ½ X 11 inch sheet of paper. One (1) 8 ½ X 11 inch sheet of paper printed on both sides constitutes two (2) pages. (See, however, Section III. C for the one exception to the 8 ½ X 11 inch page size limitation.)

"Procuring agency of the County" means the department or other subdivision of the County of Lincoln that is requesting the procurement of services or items of tangible personal property.

"Purchase Order" or **"PO"** means the document that directs a contractor to deliver items of tangible personal property or services pursuant to an existing, valid contract.

"Purchasing" means the County of Lincoln Purchasing Office, the Lincoln County Purchasing Agent or Chief Procurement Officer.

"Purchasing Agent" or **"PA"** means the Purchasing Agent for the County of Lincoln.

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

"Responsible Offeror" means an offeror who submits a responsive proposal and who has furnished required information and data to prove that their 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 called for in this proposal.

"Responsive Offer" or **"Responsive Proposal"** means an offer or proposal that 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 and delivery requirements.

"Statement of Compliance" and **"Statement of Concurrence"** mean an express, affirmative statement by the offeror in their proposal, which they agree with or agree to the stated requirement(s). Possible examples of acceptable responses include "The [NAME HERE] Company agrees to comply with this requirement.", "The [NAME HERE] Company concurs with this requirement." and "The [NAME HERE] Company agrees to participate as required."

I. INTRODUCTION

A. PURPOSE OF THIS REQUEST FOR PROPOSALS

The County of Lincoln, (hereinafter also referred to as “The County” or “County”), on behalf of the Board of County Commissioners, seeks sealed proposals from qualified a company that can do business in the State of New Mexico to build a new communication tower on Gallinas Peak, NM within Lincoln County. (Map and GPS coordinates included in Appendix H).

B. SPECIFICATIONS AND SCOPE OF WORK

Lincoln County is requesting proposals for the construction of a new communications tower on Gallinas Peak, NM for the Lincoln County Office of Emergency Services Department. The project site is located on Gallinas Peak, within the geographic boundaries of Lincoln County, New Mexico.

1. **Project Information:** The County is requesting construction of a new communication tower site on Gallinas Mountain. The project includes complete site preparation; erection and installation of a 120 ft. self-supporting communications tower; (engineered and designed for 180’ for future expansion.) shelter; generator, propane tank; foundations and all related electrical and communication components as indicated in scope of work on the construction documents.
2. **Construction Schedule:** Work shall commence on or before August 15th, 2025, and be completed on or before Jan 31, 2026, barring any acts of nature or material availability which are against the control of said contractor. Contractor shall notify Brian Samson, Lincoln County Emergency Services Coordinator at 575-336-8602 or 575-740-0894, when the contractor is to begin said project. Access to the site is secure and arrangements will need to be made. Offeror must provide an estimated timeline for the installation of the site preparation; construction of pad sites; order, arrival and installation of the Tower, the prefabricated building, generator and propane tanks, and completion of the tower before and throughout the project.
3. **Insurance Coverage:** The offeror will be required to carry, at minimum, the following insurance coverage ***with “Lincoln County” and “if any others parties, will be identified at the time of contract” listed as co-insureds on all policies:***
 - a. General and professional liability insurance in the amount of \$1,000,000.00 per occurrence and \$2,000,000.00 aggregate.
 - b. Automobile insurance in the amount of \$1,000,000.00.
 - c. Workers’ Compensation insurance as required by state statute.
 - d. The insurance shall be provided by insurance companies authorized to do business in New Mexico and shall cover all operations under the contract

- whether performed by the contractor, their agents or employees, or by subcontractors. All insurance shall remain in full force and effect for the entire term of the contract.
- e. Proof of coverage must be provided either with the proposal or prior to entering into a contract.
4. **Performance and Payment Bonds:** The contractor shall provide Performance and Payment Bonds in an amount equal to 100% of the contract sum. Bonding companies shall be licensed in the State of New Mexico and shall be in good standing with the State Board of Insurance.
5. **Federal and State Licensing and Registration Requirements**
- a. **New Mexico (NM) Contractor's License and registration with NM Workforce Solutions (NMDWS) is required** and proof of such must be submitted with the proposal. Contractor shall ensure compliance with the Department of New Mexico Workforce Solutions requirements. Award will not be made if the offeror is not currently registered and in good standing through the NMDWS.
<http://www.contractor-licensing.com/new-mexico/contractors-licenses.html?gclid=CNDfj7as1roCFdJj7Aod22YAFw>
<http://www.dws.state.nm.us/LaborRelations/LaborInformation/PublicWorks/ContractorRegistration>
- b. **Federal Unique Entity ID required:** Registration and good standing with the federal government is required because federal funding will be utilized for this project. Offerors must therefore have a valid Federal Unique Entity ID in order to be considered for award. A Unique Entity ID may be obtained through www.sam.gov. The unique Entity ID must be included on the appropriate proposal form.
6. **Federal Wage Rates Applicable**
Because federal funding is being utilized on this project, federal wage rates are applicable and must be complied with by the Contractor. The minimum wage rates to be paid have been included with this RFP in Appendix J.

C. PROPOSAL SUBMISSION DEADLINE

All proposals are due and must be received on or before July 2nd, 2025 at 3:00 p.m. MDT

All proposals submitted must be in a sealed package or envelope; clearly marked on the outside front of the package with the RFP Title "Gallinas Tower"; RFP #24-25-08-R; RFP due date; and the words "Sealed Proposal"! Proposals must be addressed to the attention of the Purchasing Agent and delivered by means of:

Physical Delivery to:
Purchasing Department
300 Central Avenue
Carrizozo, NM 88301

By US Mail to:
Purchasing Department
PO Box 711
Carrizozo, NM 88301

NOTE: Faxed or e-mailed delivery will not be accepted. All deliveries via express carrier (INCLUDING PROPOSAL DELIVERY) must be addressed to Nick Morerod, Procurement Officer at the physical delivery address, above. Delivery to any other department or address could cause delays and may result in disqualification.

The Lincoln County Board of Commissioners or its Designee will review and make its final determination during their regular commission meeting scheduled as listed in the schedule of events. The County reserves the right to accept or reject all or any part of any proposal, waive minor technicalities and award the proposal that best serves the interest of the County of Lincoln.

All correspondence regarding this solicitation, including technical questions, contractual terms and conditions, other than the final submittals of the RFP, shall be submitted with sufficient time to respond via U.S. Mail or via email to the following to the Procurement Manager: Nick Morerod, at Purchasing@lincolncountynm.gov with the subject line "Gallinas Tower & YOUR COMPANY NAME" in the subject line.

D. SCOPE OF WORK AND DELIVERABLES

Lincoln County is seeking an appropriate firm to deliver, construct, erect, and install a functioning Communication Tower Site for Lincoln County Emergency Services as per specifications to the following shall be included:

1. (1) Installation of a 120 ft. SS Rev I Freestanding Saber Tower S3TL or equivalent, with concrete foundation/pad. Tower and pad need to be engineered for 180' tower (future expansion).
 - a. The Tower will be designed in accordance with EIA 222H Engineering Standards also to include an ice bridge.5r
 - b. Install nine (9) customer supplied Antennas and (2) microwave dishes
 - * 6ft. microwave dish with supporting ice shield at 50'
 - * 4ft. microwave dish with supporting ice shield at 20'
 - * Seven (7) dipole antennas installed at 110ft.
 - * Two (2) dipole antennas installed at 80ft.
 - c. All Tower Steel will be Hot Dip Galvanized. Engineering Drawings to be sealed by a registered NM Professional Engineer.
 - d. Tower to Include Climbing Ladder, Safety Climb Device, and Waveguide Ladder with both $\frac{3}{4}$ inch and $\frac{3}{8}$ inch holes to support all lines. With nine (9) runs of $\frac{7}{8}$ " heliax cable.
 - e. Grounding of the tower site meets R56 standards.
 - f. Unterminated runs to be weather protected.
 - g. Tower will not be required to have FAA lighting.
2. (1) 12x16 Thermobond or equivalent enclosed shelter made of fire-resistant material with;
 - a. a concrete foundation/slab.
 - b. Shelter to include an integrated HVAC unit and;
 - c. a 200-amp Service Panel;
 - d. A cable tray installed on the inside the building on the ceiling the length of the building.
 - e. Ground buss bar to be installed inside the building

- f. Grounding of the building to meet R56 standards
- 3. Grounding/bonding on tower site and building to meet R56 Standards.
- 4. (1) 20KW Propane Generator, weatherproof or in weatherproof container.
 - a. A. To include an Automatic Transfer Switch wall mounted inside the structure 12 x 16 structure.
 - b. A concrete foundation to support the generator (or combined with one for the propane tank)
 - c. The generator will be grounded to earth and bonded to tower and building
- 5. (1) 500 Gallon Propane Tank
 - a. With concrete pad to support the propane tank (or combined with pad to support tank and generator).
 - b. Including a minimum of 400 gallons of fuel.
- 6. Vendor will be responsible for coordination with Central New Mexico Electric to connect commercial power to the transfer switch.
- 7. Vendor to provide all necessary site prep and Construction/Erecting of Tower to include mounting brackets and misc. equipment for mounting antennas and heliax on the tower to buss bar inside the building.
- 8. Vendor to provide all necessary Inspections.
- 9. Vendor to provide all necessary Permits, insurance, bonds and Fees.
- 10. Vendor to provide all necessary Surveying.
- 11. Vendor to provide all necessary off-site dispose of spoils or debris.
- 12. Vendor to provide all necessary Excavation
- 13. Vendor to provide all necessary Engineering, Design, and geotechnical services.
- 14. Vendor to provide all necessary transport fees and related costs.

II. CONDITIONS GOVERNING THE PROCUREMENT

This section of the RFP contains the general requirements governing 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	Procurement Manager	Jun 11 th , 2025
2. Acknowledgement of Receipt Form	Potential Offerors	June 20 th , 2025
3. Pre-Proposal Meeting **MANDITORY**	Procurement Manager	June 20 th , 2025 *10:00 AM* County Commission Chambers/Zoom **MANDITORY**
4. Deadline to submit Written Questions	Potential Offerors	June 24 th , 2025, by 5:00pm
5. Response to Written Questions	Procurement Officer	June 26 th , 2025
6. Submission of Proposal	Potential Offerors	July 2nd, 2025 by 3:00pm
7. Evaluation	Evaluation Committee	July 3rd -- July 7 th , 2025
8. Negotiations	Procurement Manager/ Offerors	July 8 th -- July 11 th , 2025
9. BOCC Approval/Award	BOCC*	July 15 th , 2025
10. Protest Deadline	Offerors	15 DAYS AFTER AWARD

****Pre-Proposal Meeting is MANDITORY**** and will be held at the Lincoln County Commission Chambers, 300 Central Ave, Carrizozo NM 88301 at 10:00am for those offerors attending in person. Zoom link to meeting for those offerors attending remotely is provided below:

<https://us06web.zoom.us/j/87593131832?pwd=3fO7egmitXhjeL3VNw3X5gvpbbqmkq.1>

*Award is subject to the approval of the Board of County Commissioners and per the schedule of their meetings which is subject to change.

Dates/Times prior to the submission deadline are subject to change and will be done so with the issuance of an addendum.

B. EXPLANATION OF EVENTS

The following paragraphs further detail the activities listed in the sequence of events shown in Section II, Paragraph A.

1. Issue RFP

This RFP is being issued by the Lincoln County Procurement Officer on behalf of the Lincoln County Board of Commissioners.

2. Return of “Acknowledgment of Receipt” Form for Distribution List

Potential Offerors should e-mail the “Acknowledgement of Receipt and Intent to Submit” form that accompanies this RFP (See Appendix A) to have their organization placed on the procurement distribution list. The form should be signed by an authorized representative of the organization, dated and returned by the close of business on the date indicated in the Sequence of Events section of this RFP. Doing so is not mandatory and does not commit the Offeror to mandatory submission. The procurement distribution list will be used to notify those that submitted the form of any written responses to questions and any RFP amendments. Amendments will also be posted on the County’s website. Failure to return this form shall constitute a presumption of non-intention to participate and/or submit and the potential Offeror's organization name shall not appear on the distribution list.

3. Deadline to submit written questions

Potential Offerors may submit written questions as to the intent or clarity of this RFP until 5:00 PM MDT on the date indicated in the Sequence of Events section of this RFP. All written questions must be sent by e-mail to the Procurement Manager identified in this RFP.

4. Response to written questions/RFP Amendments

Written responses to written questions and any RFP amendments will be emailed to potential offerors who have submitted an “Acknowledgement of Receipt and Intent to Submit” form and otherwise will be made available to all interested parties.

5. Submission of Proposal

OFFEROR PROPOSALS MUST BE RECEIVED FOR REVIEW AND EVALUATION BY THE PROCUREMENT MANAGER NO LATER THAN CLOSE OF BUSINESS ON THE DATE INDICATED IN THE SEQUENCE OF EVENTS SECTION OF THIS RFP. PROPOSALS RECEIVED AFTER THIS DEADLINE FOR ANY REASON WILL NOT BE ACCEPTED OR CONSIDERED.

The date and time of receipt will be recorded on each proposal. Proposals must be addressed and delivered to the Procurement Manager at the delivery address listed in this RFP. Proposals must be sealed and labeled on the outside of the package to clearly indicate that they are in response to the “Gallinas Tower” Request For Proposals and shall reference “RFP #24-25-08-R” Proposals submitted by facsimile or other electronic means WILL NOT BE ACCEPTED.

A public log will be kept of the names of all offerors submitting proposals. Pursuant to Section 13-1-116 NMSA 1978, the contents of any proposal shall not be disclosed to competing offerors prior to contract award.

6. Proposal Evaluation

The evaluation of proposals will be performed by an Evaluation Committee appointed by County management and the Procurement Manager. This process will take place during the time period indicated in the Sequence of Events section of this RFP. During this time, the Procurement Manager may choose to initiate discussions with offerors who submit responsive or potentially responsive proposals for the purpose of clarifying aspects of the proposals, but proposals may be accepted and evaluated without such discussion. Discussions SHALL NOT be initiated by the Offerors.

7. Contract Award/ Approval of BOCC Contract

- a) After review of the Evaluation Committee Report and the tentative contract, the Procurement Officer anticipates the Board of County Commissioners will award the contract on the date indicated in the Sequence of Events section of this RFP. Any contract awarded shall be awarded to the offeror(s) whose proposal is most advantageous to the County, taking into consideration the evaluation factors set forth in this RFP.
- b) Lincoln County Board of County Commissioners will consider and vote on award of contract(s) pursuant to this RFP.

8. Notification of Finalists

The Evaluation Committee may select and the Procurement Officer may notify finalist offerors on the date indicated in the Sequence of Events section of this RFP. Only finalists will be invited to participate in the subsequent steps of the procurement. The Evaluation Committee reserves the right not to utilize the finalist process if they deem it in the best interest of the County.

9. Contract Negotiations

If necessary, contract negotiations shall commence with the most advantageous offeror. In the event that the mutually agreeable terms cannot be reached within a reasonable time as determined by the County, the County reserves the right to finalize a contract with the next most advantageous offeror without undertaking a new procurement process.

10. Protest Deadline

Any protest by an offeror must be timely, in conformance with, and will be governed by Sections 13-1-172 through 13-1-176 NMSA 1978. The fifteen (15) day protest period for timely offerors shall begin on the day following the contract award and will end at close of business fifteen calendar days after award. Protests must be written and must include the name and address of the protestor and the Request for Proposals number. It must also contain a statement of grounds for protest

including appropriate supporting exhibits, and it must specify the ruling requested from the Procurement Officer.

The protest must be delivered to the Procurement Officer at or to:

Nick Morerod, Lincoln County CPO

P.O. Box 711 - 300 Central Avenue

Carrizozo, New Mexico 88301

Purchasing@lincolncountynm.gov

Protests received after the deadline specified will not be accepted.

C. GENERAL REQUIREMENTS

This procurement will be conducted in accordance with the New Mexico Procurement Code (13-1-28 NMSA 1978) and the Lincoln County Purchasing Policy, R-14-41.

1. Acceptance of Conditions Governing the Procurement

Offerors must indicate their acceptance of the Conditions Governing the Procurement in the letter of transmittal form (see Appendix D). Submission of a proposal constitutes acceptance of the Evaluation Factors contained in Section V of this RFP.

2. Incurring Cost

Any cost incurred by the offeror in preparation, transmittal, presentation of any proposal or material, or negotiation associated with its response to this RFP shall be borne solely by the offeror.

3. Prime Contractor Responsibility

Any contract that may result from this RFP shall specify that the prime contractor is solely responsible for fulfillment of the contract with the County. The County will only make contract payments to the prime contractor.

4. Subcontractors

Use of subcontractors must be clearly explained in the proposal and each must be identified by name. The prime contractor shall be wholly responsible for contract performance whether or not subcontractors are used. Substitution of subcontractors, after contract award, must receive prior written approval of the County Purchasing Office.

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. County personnel will not merge, collate, or assemble proposal materials.

6. Offerors' 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 signed by the offeror's duly authorized representative addressed to the Procurement Manager. The approval or denial of withdrawal requests received after the deadline for receipt of the proposals is governed by the applicable procurement regulations.

7. Proposal Offer Firm

Responses to this RFP, including proposal prices, will be considered firm for sixty (60) days after the due date for receipt of proposals or) thirty (30) days after the due date for the receipt of a best and final offer, if one is solicited.

8. Disclosure of Proposal Contents

The proposals will be kept confidential until a contract is awarded by the awarding authority. At that time, all proposals and documents pertaining to the proposals will be open to the public, except for material which is proprietary or confidential. The Procurement Officer will not disclose or make public any pages of a proposal on which the offeror has stamped or imprinted "proprietary" or "confidential" subject to the following requirements.

Proprietary or confidential data shall be readily separable from the proposal in order to facilitate eventual public inspection of the remaining portions of the proposal. Confidential data is normally restricted to confidential financial information concerning the Offeror's organization and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, 57-3A-1 to 57-3A-7 NMSA 1978. 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 data for which an offeror has made a written request for confidentiality, the Procurement Officer shall examine the Offeror's request and make a written determination that specifies which portions of the proposal should be disclosed. Unless the offeror takes legal action to prevent the disclosure, the proposal will be so disclosed. The proposal shall be open to public inspection subject to any continued prohibition on the disclosure of confidential data.

9. No Obligation

This procurement in no manner obligates Lincoln County or any of its departments or other subdivisions to the eventual lease, purchase, etc., of any tangible personal property offered or services proposed until a valid written contract is approved by the Procurement Officer and other required approval 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 County determines such action to be in the best interest of the County.

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 termination will be effected by sending written notice to the contractor. The County's decision as to whether sufficient appropriations and authorizations are available will be accepted by the contractor as final. Issuance of a purchase order is confirmation that sufficient appropriations exist in the amount indicated on the purchase order.

12. Legal Review

The County requires that all offerors agree to be bound by the General Requirements contained in this RFP. Any offeror concerns must be promptly brought to the attention of the Procurement Officer.

13. Governing Law

This procurement and any agreement with offerors that may result shall be governed by the laws of the State of New Mexico.

14. Basis for Proposal

Only information supplied by the County in writing through the Procurement Officer or in this RFP should be used as the basis for the preparation of offeror proposals.

15. Contract Terms and Conditions

The contract between the County and the contractor will follow the format specified by the County and contain the terms and conditions set forth in the Sample Contract included in this RFP. However, the County reserves the right to negotiate with a successful offeror provisions in addition to those contained in this RFP. The contents of this RFP, as revised or supplemented, and the successful Offeror's proposal will be incorporated into and become part of the contract.

Should an offeror object to any of the County's terms and conditions, the offeror must propose specific alternative language. The County may or may not accept the alternative language, at the County's sole discretion. General references to the Offeror's terms and conditions or attempts at complete substitutions are not acceptable to the County and could lead to 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 in order for the proposed alternate wording to be considered.

16. Offeror's Terms and Conditions

Offerors must submit with their proposal a complete set of any additional terms and conditions which they request are included in a contract negotiated with the County. The County may or may not accept the additional language, at the County's sole discretion.

17. Contract Deviations

Any additional terms and conditions, which may be the subject of negotiation, will be discussed only between the County and the selected offeror 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 offeror to adhere to the requirements specified within this RFP. The Evaluation Committee will reject the proposal of any offeror who is

not a responsible offeror or fails to submit a responsive offer as defined in Sections 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. 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 or doing 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 County reserves the right to require a change in contractor representatives if the assigned representatives are not, in the opinion of the County, meeting its needs adequately.

21. Notice

The Procurement Code, Sections 13-1-28 through 13-1-199 NMSA 1978, imposes civil and misdemeanor criminal penalties for its violation. The State of New Mexico criminal statutes also impose felony penalties for bribes, gratuities and kick-backs.

22. County Rights

The County reserves the right to accept all or a portion of an Offeror's proposal.

23. Right to Publish

Through the duration of this procurement process and contract term, potential offerors and contractors must secure from the County written approval prior to the release of any information that pertains to the potential work or activities covered by this procurement or the subsequent contract. Failure to adhere to this requirement may result in disqualification of the Offeror's proposal or termination of the contract.

24. Ownership of Proposals

All documents submitted in response to the RFP shall become the property of the County. However, any technical or user documentation submitted with the proposals of non-selected offerors may be returned after the expiration of the protest period, by request, at the expense of the Offeror.

25. Ambiguity, Inconsistency or Errors in RFP

Offerors shall promptly notify the Procurement Manager, in writing, of any ambiguity, inconsistency or error which they discover upon examination of the RFP.

26. Confidentiality

Any confidential information provided to, or developed by, the contractor in the performance of any agreement 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 County of Lincoln.

27. 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.

28. Use of Electronic Versions of this RFP

This RFP is being made available by electronic means. If accepted by such means, the offeror acknowledges and accepts full responsibility to insure that no changes are made to the RFP. In the event of conflict between a version of the RFP in the Offeror's possession and the version maintained by the County, the version maintained by the County shall govern.

D. FEDERAL FUNDING REQUIREMENTS:

This project is being funded in whole or in part through federal Grant# EMW-2023-SS-00015 and the following are requirements pursuant to such.

1. EQUAL OPPORTUNITY CLAUSE.

During the performance of this contract, the contractor agrees as follows:

- a. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- b. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- c. The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- d. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- e. The contractor will comply with all provisions of Executive Order 11246 of

September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

- f. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- g. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- h. The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.
- i. Subcontracts. Each nonexempt prime contractor or subcontractor shall include the equal opportunity clause in each of its nonexempt subcontracts.

2. OFFICIAL REFERENCE TO US DEPARTMENT OF HOMELAND SECURITY

Whenever Homeland Security funds are used, Contractor and any subcontractors shall not use the US Department of Homeland Security (DHS) seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

3. CONTRACT PARTIES

Any contract entered into with Lincoln County is between the County and the awarded Contractor solely. The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to any party under such contract.

4. TERMINATION

- a. **Termination for Convenience.** By signing this Contract, Contractor represents that it is a sophisticated business and enters the Contract voluntarily, has calculated all business risks associated with this Contract, and understands and assumes all risks of being terminated for convenience, whether such risks are known or not known. Contractor agrees that Lincoln County may terminate this Contract at any time for convenience upon written notice to the Contractor. Contractor expressly agrees to and assumes the risk that Lincoln County shall not be liable for any costs or fees if termination for convenience occurs before Contractor begins any work or portion of the work. Contractor further expressly agrees and assumes the risks that Lincoln County shall not be liable for any unperformed work, anticipated profits, overhead, mobilizations costs, set-up, demobilization costs, relocation costs of employees, layoffs or severance costs, administrative costs, productivity costs, losses on disposal of equipment or materials, cost associated with the termination of subcontractors, costs associated with purchase orders or purchases, or any other costs or fees of any kind and nature, if Contractor has started or performed portions of the Contract prior to receiving notice from Lincoln County, and shall be liable only for the portions of work Contractor actually satisfactorily completed up to the point of the issuance of the Notice of Termination for convenience. Upon receipt of notice of termination, the Contractor shall immediately: discontinue all services affected (unless the notice directs otherwise), and deliver to the procuring agency all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this Contract, whether completed or in process.
- b. **Termination for Cause.** The occurrence of any one or more of the following events ("Event of Default") will justify termination for cause:
- 1) Contractor's failure to perform the work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the progress schedule as adjusted from time to time.
 - 2) Contractor's disregard of the laws or regulations of any public body having jurisdiction.
 - 3) Contractor's disregard of the authority of the procuring agency's Project Manager (if applicable).
 - 4) Contractor's violation in any material provision of the Contract Documents.
 - 5) Contractor's failure to make prompt payments to its subcontractors, and suppliers of any tier, or laborers or any person working on the work by, through, or under the Contractor or any of them, any or all their employees, officers, servants, members,

and agents.

- 6) Contractor files a petition commencing a voluntary case under the U.S. Bankruptcy Code, or for liquidation, reorganization, or an arrangement pursuant to any other U.S. or state bankruptcy Laws, or shall be adjudicated a debtor or be declared bankrupt or insolvent under the U.S. Bankruptcy Code, or any other federal or state laws relating to bankruptcy, insolvency, winding-up, or adjustment of debts, or makes a general assignment for the benefit of creditors, or admits in writing its inability to pay its debts generally as they become due, or if a petition commencing an involuntary case under the U.S. Bankruptcy Code or an answer proposing the adjudication of Contractor as a debtor or bankrupt or proposing its liquidation or reorganization pursuant to the Bankruptcy Code or any other U.S. federal or state bankruptcy laws is filed in any court and Contractor consents to or acquiesces in the filing of that pleading or the petition or answer is not discharged or denied within sixty (60) Calendar Days after it is filed.
- 7) A custodian, receiver, trustee, or liquidator of Contractor, all or substantially all of the assets or business of Contractor, or of Contractor's interest in the Work or the Contract, is appointed in any proceeding brought against Contractor and not discharged within sixty (60) Calendar Days after that appointment, or if Contractor shall consent to or acquiesces in that appointment.
- 8) Contractor fails to commence correction of defective work or fails to correct defective work within a reasonable period after written notice. If one or more of the events identified in the previous paragraphs occur, Lincoln County may give the Contractor written notice of the event and direct the event be cured. Any such Notice to Cure will Contractor a minimum of ten (10) calendar days to prepare and submit to the Project Manager or other designee a plan to correct the Event of Default. If such plan to correct the Event of Default is not submitted to the Project Manager or other designee within ten (10) days after the date of the written notice or such plan is unacceptable to Lincoln County they may give Contractor (and the Surety, if any) written notice that Contractor's services are being terminated for cause. Upon delivery of the termination notice, Lincoln County may terminate the services of Contractor in whole or in part, exclude Contractor from the site, and take possession of the work and of all Contractor's tools, appliances, construction equipment, and machinery at the project site, and use the same to the full extent they could be used by Contractor (without liability to Contractor for trespass or conversion), incorporate in the work all materials and equipment stored at the site or for which Lincoln County has paid the Contractor but which are stored elsewhere, and finish the work as the procuring agency may deem expedient. In such case, Contractor shall not be entitled to receive any further payment until Certificate of Completion of the work. In the event Lincoln County terminates this Contract for Cause and the cost of completing the work exceeds the unpaid balance of the Contract price, Contractor shall pay the procuring agency for any costs of completion which exceed the Contract price when combined with all amounts previously paid to Contractor. When exercising any rights or remedies under this paragraph, the procuring agency shall not be required to obtain the lowest price for the work performed. Should the cost of such completion, including all proper charges, be less than the original Contract price, the amount so saved shall accrue to the procuring agency. Neither Lincoln County nor any officer, agent, or employee of any of the County shall be in any way liable or accountable to the Contractor or the Surety for the method by which the completion of the said work, or any portion thereof, may be accomplished or for the price paid. Where Contractor's services have been so terminated by Lincoln County, the termination

will not affect any rights or remedies of the County against Contractor or Surety then existing or which may thereafter accrue. Any retention or payment of moneys due Contractor by Lincoln County will not release Contractor from liability.

- c. **Termination Notice.** Upon receipt of a termination notice, whether for convenience or cause, the Contractor shall immediately: discontinue all services affected (unless the notice directs otherwise), and deliver to the procuring agency all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing the Contract, whether completed or in process.
- d. **Removal of Equipment.** Except as provided otherwise herein, in the case of termination of this Contract before completion from any cause whatever, the Contractor, if notified to do so by the procuring agency, shall promptly remove any part or all of Contractor's equipment and supplies from the property of the procuring agency, failing which the procuring agency shall have the right to remove such equipment and supplies at the expense of the Contractor.

5. PROCUREMENT OF RECOVERED MATERIALS:

Pursuant to section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, awarded contractor shall follow the requirements of Section 6002, include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of an item exceeds \$10,000.

6. RESTRICTIONS: FEDERALLY DEBARRED OR SUSPENDED PARTIES

A contract award will not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

7. LOBBYING CERTIFICATION:

Awarded contractor shall have any tiered subcontractor(s) (if any) certify to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal

contract, grant or any other award covered by 31 U.S.C. 1352.

Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the procuring agency.

8. MAXIMIZED USE OF RECOVERED/RECYCLED MATERIALS

In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA designated items unless the product cannot be acquired:

- a. Competitively within a timeframe providing for compliance with the contract performance schedule.
- b. Meeting contract performance requirements; or
- c. At a reasonable price.

9. ADMINISTRATIVE, CONTRACTUAL OR LEGAL REMEDIES

All administrative and contractual disputes arising from or related to this Contract shall be addressed in the following manner:

- a. If either Party disputes or disagrees with a Contract term or the other Party's interpretation of a Contract term or has any other administrative or contractual dispute, such Party shall promptly give the other Party written notice of said dispute.
- b. The Parties shall hold a meeting as soon as reasonably possible, but in no event later than thirty (30) calendar days from the initial written notice of the dispute, attended by persons with decision-making authority regarding the dispute, to attempt in good faith to negotiate a resolution of the dispute; provided, however, that no such meeting shall be deemed to vitiate or reduce the obligations and liabilities of the Parties or be deemed a waiver by a Party of any remedies to which such Party would otherwise be entitled unless otherwise agreed to by the Parties in writing.
- c. If, within thirty (30) calendar days after such meeting, the Parties have not succeeded in negotiating a resolution of the dispute, they agree to submit the dispute to non-binding mediation and to bear equally the costs of the mediation.
- d. The Parties will jointly appoint a mutually acceptable mediator. If they fail to do so within twenty (20) calendar days from the conclusion of the negotiation period, they shall each select a mediator. The two mediators will then appoint a third mediator who shall conduct mediation for the Parties as the sole mediator.
- e. The Parties agree to participate in good faith in the mediation and negotiations for a period of thirty (30) calendar days. The substantive and procedural law of the State of New Mexico shall apply to the proceedings. If the Parties are not successful in resolving the dispute through mediation, then the Parties shall be free to pursue any other remedy afforded by the laws of the State of New Mexico.

- f. Until final resolution of any dispute hereunder, the Contractor shall diligently proceed with the performance of this Contract as directed by the Procuring agency. For purposes of this Contract, termination for convenience shall not be deemed a dispute. Lincoln County and the Contractor agree to notify each other in a timely manner of any claim, dispute, or cause of action arising from or related to this Contract, and to negotiate in good faith to resolve any such claim, dispute, or cause of action. To the extent that such negotiations fail, Lincoln County and the Contractor agree that any lawsuit or cause of action that arises from or is related to this Contract shall be filed with and litigated only by courts in New Mexico.

10. COMPLIANCE WITH THE CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

- a. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- b. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (V)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to Lincoln County for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (V)(1) of this section, in the sum of \$26 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (V)(1) of this section.
- c. Withholding for unpaid wages and liquidated damages. Lincoln County or the procuring agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under this contract such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (V)(2) of this section.
- d. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (V) (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any

subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (V) (1) through (4) of this section.

11. COMPLIANCE WITH CLEAN AIR AND FEDERAL WATER POLLUTION CONTROL ACTS

Contract shall agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387).

12. COMPLIANCE WITH ENERGY CONSERVATION REQUIREMENTS

Contractor and any subcontractors agree to comply with mandatory standards and policies relating to energy efficiency as contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 USC 6201et seq).

III. RESPONSE FORMAT AND ORGANIZATION

A. NUMBER OF RESPONSES

Offeror's may submit only one (1) response to this Request for Proposals "RFP".

B. NUMBER OF COPIES

Offerors shall deliver four (4) identical hard copies and one identical copy on USB drive of their proposal to the location specified in this RFP on or before the closing date and time for receipt of proposals. The original copy should be clearly marked "ORIGINAL" on the front cover and shall contain original signatures, the three copies marked as "COPY". The USB drive may be included with the original copy and must contain an exact copy of the proposal as submitted by hard copy.

C. PROPOSAL FORMAT

All proposals must be printed on standard 8 1/2 x 11 paper (larger paper is permissible for charts, spreadsheets, etc.) and placed within a binder with tabs delineating each section. Each proposal should be organized and indexed in the following format and must contain, as a minimum, all listed items in the sequence indicated with a tab for each item listed below.

1. Letter of Transmittal Form
2. Table of Contents
3. Proposal Summary (optional)
4. Response to Specifications/Scope of Work, including all items listed under section IV of this RFP
5. All forms in this RFP titled "PROPOSAL FORM", completed and/or signed as indicated
6. Response to Agency Terms and Conditions (if any)
7. Offeror's Additional Terms and Conditions (if any)
8. Other Supporting Material

Within each section of their proposal, offerors should address the items in the order in which they appear in this RFP. Any forms provided in the RFP must be thoroughly completed and included in the appropriate section of the proposal. Unless otherwise specified in this RFP, all discussion of proposed costs, rates or expenses must occur only on the Cost Response Form.

Any proposal that does not adhere to these requirements may be deemed non-responsive and rejected on that basis.

A proposal summary may be included by offerors to provide the Evaluation Committee with an overview of the technical and business features of the proposal; however, this material will not be used in the evaluation process unless specifically referenced from other portions of the Offeror's proposal.

IV. MANDATORY PROPOSAL CONTENTS

I. Letter of Transmittal Form (Pass/Fail Only-0 Points)

Offeror must complete and submit the “Letter of Transmittal Form”, found at Appendix B, with their proposal. The form must be signed and dated by an individual authorized to contractually bind the firm.

II. Insurance (Pass/Fail Only-0 Points)

Offeror must agree to provide standard professional liability insurance.

III. Campaign Contribution Disclosure Form (Pass/Fail Only-0 Points)

Offeror must complete and sign the Appendix E, Campaign Contribution Disclosure Form – whether any applicable contribution has been made or not. This form must be submitted with your proposal whether an applicable contribution has been made or not.

IV. Capability and Response to Specifications/Scope of Work (30 Points)

Offer must respond to the Specifications/Scope of Work in paragraph form explaining their ability and to provide services and proposed approach to those services for Lincoln County. Offeror shall also provide an estimated time timeline for the installation of the construction, including site preparation; construction of pad sites; order, arrival and installation of the tower, the prefabricated building, generator and propane tanks, and completion of the tower. Offeror shall provide sufficient information which demonstrates that they are capable and qualified to provide the products and services required.

V. Previous Experience (20 Points)

Offeror must explain their experience in the field applicable to the work being performed and that of any sub-contractors or consultants that will be used on this project. This section shall also include a minimum of three references citing similar work previously completed. Reference information must have a brief description of the work done, a date or timeframe the work was performed, and a contact name, phone number and email address for the reference. Past record of performance on contracts with government agencies or private industry with respect to such factors as control of costs, quality of work and ability to meet schedules.

VI. Proximity to or Familiarity with Lincoln County (5 Points)

Offerors must explain their familiarity with Lincoln County, both geographically and professionally.

VII. Litigation History (5 Points)

Offeror must detail their litigation history (including dates) over the past five (5) years. At a minimum this must include (A) the total number of lawsuits they filed, (B) the total number of lawsuits filed against them, (C) how many judgments they

have against them and (D) how many lawsuits they have settled. For lawsuits they filed, offeror must explain who they were filed against, why, and the outcome of each.

VIII. Agreement with Contractual Terms and Conditions (10 Points)

Proposal must include either a written statement of concurrence that the offeror is in agreement with all terms and conditions set forth in this RFP and the “Sample Contract” included in the Appendix section of this RFP, or a statement declaring that exception is being taken to any term(s) or condition(s). If any exceptions are taken, the offeror must state exactly what is not acceptable and provide proposed alternative terms and/or conditions. The County may accept, deny or negotiate anything proposed under an exception.

IX. Total Cost of the Project (30 Points)

Offeror must complete and submit the Cost Response Form, at Appendix C, providing proposed cost for accomplishing the services called for herein. State gross receipts and local option taxes (if any) shall **not** be included in the proposed cost. Taxes may be billed if applicable at the current rate at the time of billing.

V. EVALUATION

A. EVALUATION POINT SUMMARY

The following is a summary of evaluation factors/criteria with the point value assigned to each or a Pass/Fail evaluation. These, along with the general requirements, will be used in the evaluation of individual offeror proposals.

CRITERIA	Total Points Possible
Letter of Transmittal Form	0 – Pass/Fail
Insurance	0 – Pass/Fail
Campaign Contribution Disclosure Form	0 – Pass/Fail
Capability and Response to Specifications/Scope of Work	30
Previous Experience	20
Proximity to or Familiarity with Lincoln County	5
Litigation History	5
Agreement with Contractual Terms and Conditions	10
Total Cost of the Project	30
Total	100

B. EVALUATION FACTORS

Points will be awarded based on the evaluation factors above.

1. Initial Review

All offeror proposals will be reviewed for compliance with the mandatory requirements stated within the RFP. Proposals deemed non-responsive to any mandatory requirement will be eliminated from further consideration.

2. Clarifications

The Procurement Manager may contact the offeror for clarification of the response.

3. Resident & Veteran Preferences

New Mexico Resident Business Preferences will not be considered under this RFP, as funding for this project includes federal funds which prohibit the of the NM Business Preference.

4. Scoring and Contract Award Recommendation

Responsive proposals will be evaluated and assigned a point value based on the factors set forth in this RFP. Finalist offerors may be invited to submit revised proposals for the purpose of obtaining best and final offers. Offerors who choose to submit a best and final offer may have their points recalculated accordingly. It is anticipated that the responsible offeror whose proposal is most advantageous to the County, taking into consideration the evaluation factors in this RFP will be recommended for contract award . Please note, however, that a serious deficiency in the response to any one factor may be grounds for rejection regardless of overall score.

APPENDIX A - ACKNOWLEDGEMENT OF RECEIPT FORM

LINCOLN COUNTY REQUEST FOR PROPOSALS RFP: 24-25-08-R

Gallinas Communications Tower Construction

In acknowledgment of receipt of this Request for Proposals, the undersigned acknowledges the receipt of RFP 24-25-08-R and intends to submit a proposal. The acknowledgment of receipt should be signed and returned (by fax, e-mail and courier or hand delivery) to the Procurement Manager designated in this RFP by the deadline date set forth in the Sequence of Events section of the RFP.

The firm listed below **does** intend to respond to this Request for Proposals. (Note that submission of this form does not obligate submission).

FIRM:

REPRESENTED BY: _____ TITLE: _____

E-MAIL ADDRESS:

PHONE NO.: _____ FAX NO.: _____

ADDRESS:

CITY: _____ STATE: _____ ZIPCODE: _____

SIGNATURE: _____ DATE: _____

The information provided above will be used for all correspondence related to the Request for Proposals.

Please return to: Nick Morerod, Lincoln County Procurement Officer
PO Box 711
Carrizozo, NM 88301
Phone: 575-648-2385 x 107
E-mail: Purchasing@lincolncountynm.gov

PROPOSAL FORM

APPENDIX B - LETTER OF TRANSMITTAL FORM LINCOLN COUNTY REQUEST FOR PROPOSALS RFP: 24-25-08-R Gallinas Communications Tower Construction

Items #1 to 4 MUST EACH BE RESPONDED TO. Failure to respond to all four items WILL RESULT IN THE DISQUALIFICATION OF THE PROPOSAL!

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

2. For the person authorized by the organization to contractually obligate the organization

Name: _____

Title: _____

3. For the person authorized to negotiate the contract on behalf of the organization:

Name: _____

Title: _____

E-Mail Address: _____

Telephone Number: _____

4. For the person to be contacted for clarifications:

Name: _____

Title: _____

E-Mail Address: _____

Telephone Number: _____

On behalf of the organization named in item #1, above, I accept the Conditions Governing the Procurement as required in this RFP. Further, I concur that submission of our proposal constitutes acceptance of the Evaluation Factors contained in this RFP.

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

PROPOSAL FORM

APPENDIX C - COST RESPONSE FORM AND VENDOR CERTIFICATIONS

LINCOLN COUNTY
REQUEST FOR PROPOSALS
RFP: 24-25-08-R
Gallinas Communications Tower Construction

OFFEROR NAME:

TOTAL COST PROPOSED TO PERFORM SCOPE OF WORK:

\$_____

Do not include tax in the cost above.

Any tax applicable may be charged at the time of billing but shall not be included in the cost proposal.

NM Contractors License #: _____

Federal Unique Entity Identifier (UEI): _____

ADDENDA ACKNOWLEDGEMENT

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

Addendum #_____ Dated _____

Addendum #_____ Dated _____

Addendum #_____ Dated _____

Addendum #_____ Dated _____

Comments:

PROPOSAL FORM

APPENDIX D - CLEAN WATER AND AIR CERTIFICATION

LINCOLN COUNTY

REQUEST FOR PROPOSALS

RFP: 24-25-08-R

Gallinas Communications Tower Construction

Applicable if the contract exceeds \$100,000 or the Contracting Officer has determined that the orders under an indefinite quantity contract in any one year will exceed \$100,000 or a facility to be used has been the subject of a conviction under the Clean Air Act (41 U.S.C. 1857c-8(c)(1) or the Federal Water Pollution Control Act 33 1319(d) and is listed by EPA or the contract is not otherwise exempt.

Company Name: _____

THE COMPANY SO NAMED ABOVE AGREES AS FOLLOWS:

A. To comply with all the requirements of Section 114 of the Clean Air Act, as amended (41 U.S.C. 1857, et seq., as amended by Public Law 91-604) and Section 308 of the Federal Water Pollution Control Act (33 U.S.C. 1251, et seq., as amended by Public Law 92-500), respectively, relating to inspection, monitoring, entry, reports and information as well as other requirements specified in Section 114 and Section 308 of the Air Act and the Water Act, respectively, and all regulations and guidelines issued thereunder before the award of this contract.

B. That no portion of the work required by this prime contract will be performed in a facility listed on the Environmental Protection Agency List of Violating Facilities on the date when this contract was awarded unless and until the EPA eliminates the name of such facility or facilities from such listing.

C. To use his/her best efforts to comply with clean air standards and clean water standards at the facilities in which the contract is being performed.

D. To insert the substance of the provisions of this clause in any nonexempt subcontract, including this paragraph.

THE TERMS IN THIS CLAUSE HAVE THE FOLLOWING MEANINGS:

A. The term "Air Act" means the Clean Air Act, as amended (41 U.S.C. 1957 et seq., as amended by Public Law 91-604).

PROPOSAL FORM

B. The term "Water Act" means Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq., as amended by Public Law 92-500).

C. The term "Clean Air Standards" means any enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, or other requirements which are contained in, issued under, or otherwise adopted pursuant to the Air Act or Executive Order 11738, an applicable implementation plan as described in section 110(d) of the Clean Air Act (42 U.S.C. 1957c-5(d)), an approved implementation procedure or plan under Section 111(c) or Section 111(d), respectively, of the Air Act (42 U.S.C. 1857c-6(c) or (d)), or approved implementation procedure under Section 112(d) of the Air Act (42 U.S.C. 1857c-7(d)).

D. The term "Clean Air Standards" means any enforceable limitation, control, condition, prohibition, standard, or other requirement which is promulgated pursuant to the Water Act or contained in a permit issued to a discharger by the Environmental Protection Agency or by a State under an approved program, as authorized by Section 402 of the Water Act (33 U.S.C. 1342) or by local government to ensure compliance with pretreatment regulations as required by Section 307 of the Water Act (33 U.S.C. 1317).

E. The term "Compliance" means compliance with clean air or water standards. Compliance shall also mean compliance with a schedule or plan ordered or approved by a court of competent jurisdiction, the Environmental Protection Agency or an Air or Water Pollution Control Agency in accordance with the requirements of the Air Act or Water Act and regulations issued pursuant thereto.

F. The term "facility" means any building, plant, installation, structure, mine, vessel, or other floating craft, location or sites of operations, owned, leased or supervised by the Company.

SIGNATURE/TITLE OF AUTHORIZED REPRESENTATIVE

DATE

PROPOSAL FORM

APPENDIX E - AFFIDAVIT OF NON-COLLUSION

The undersigned, duly authorized to represent the persons, firms and corporations joining and participating in the submission of the foregoing proposal, being duly sworn, on his/her oath, states that to the best of his/her belief and knowledge, no person, firm or corporation, nor any person duly representing the same joining and participating in the submission of the foregoing proposal, has directly or indirectly entered into any agreement or arrangement with any other Contractors, or with any official of Lincoln County, or any employee thereof, or any person, firm or corporation under contract with Lincoln County, whereby the Contractor, in order to induce the acceptance of the foregoing proposal by Lincoln County, has paid or is to pay to any other Contractor or to any of the aforementioned persons anything of value whatever, and that the Contractor has not, directly or indirectly, entered into any arrangement or agreement with any other Contractor or Contractors which tends to or does lessen or destroy free competition in the letting of this contract.

This is to certify that the Contractor, or any person on its behalf, has not agreed, connived, or colluded to produce a deceptive show of competition in the manner of the responding or award of the referenced contract.

This is to certify that neither I, nor to the best of my knowledge, information and belief, the Contractor, nor any officer, director, partner, member or associate of the Contractor, nor any of its employees directly involved in obtaining contracts with the State of New Mexico, Lincoln County, or any subdivision of the State has been convicted of false pretenses, attempted false pretenses, or conspiracy to commit false pretenses, bribery, attempted bribery or conspiracy to bribe under the laws of any state or federal government for acts or omissions after January 1, 1985.

This is to certify that the Contractor or any person on its behalf has examined and understands the terms, conditions, scope of work and specifications and other documents of this solicitation.

This is to certify that, if awarded a contract, the Contractor will provide the equipment, commodities, and/or services to Lincoln County in accordance with the terms, conditions, scope of work, specifications, and other documents of this solicitation along with provisions as set forth and accepted on this proposal.

Authorized Representative (Please print or type)

Position (Please print or type)

Mailing Address

City, State, Zip

By: Signature of Authorized Representative

Email Address

PROPOSAL FORM

APPENDIX F - DEBARMENT/SUSPENSION/LITIGATION CERTIFICATION FORM

DEBARMENT/SUSPENSION STATUS

The Offeror certifies that it is not suspended, debarred or ineligible from entering into contracts with the State or Federal Government, or in receipt of a notice or proposed debarment from any public entity. The Offeror agrees to provide immediate notice to Lincoln County in the event of being suspended, debarred or declared ineligible by any State or federal agency or public entity, or upon receipt of a notice of proposed debarment that is received after the submission of the RFP or offer but prior to the award of the purchase order or contract.

CERTIFICATION

The undersigned hereby certifies that he/she has read the above DEBARMENT/SUSPENSION Status requirements and that he/she understands and will comply with these requirements. The undersigned further certifies that they have the authority to certify compliance for the Offeror named **and that the information contained in this document is true and accurate to the best of their knowledge.**

LITIGATION

Disclosure of any significant prior or ongoing contract failures, contract breaches, civil or criminal litigation in which the vendor has been alleged to be liable or held liable in a matter involving a contract with any governmental entity. Any pending claim or litigation occurring within the past six (6) years which may adversely affect the vendor's ability to perform or fulfill its obligations if a contract is awarded as a result of this RFP must also be disclosed.

Does any of the above apply to your

Yes		No	
-----	--	----	--

company?

If "Yes", please provide the following information. Table can be duplicated for each issue being identified. If not applicable may cross through and state "N/A".

Question	Response	
Date of alleged contract failure or breach:		
Parties involved:		
Description of the contract failure, contract breach, or litigation, including the ens or services involved:		
Amount in controversy:		
Resolution or current status of the dispute:		
If the matter has resulted in a court case:	Court	Case Number
Status of the litigation:		

Signature: _____ Title: _____

Date: _____

Name (Printed): _____

PROPOSAL FORM

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

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

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.

PROPOSAL FORM

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

“Family member” means 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 or is not required to submit a competitive sealed proposal because that person or business qualifies for a sole source or a small purchase contract.

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

Name(s) of Applicable Public Official(s) if any: Commissioner Kendal Wilson; Commissioner Samantha Serna; Commissioner MP Chavez; Commissioner Timothy Prather; Commissioner Mark Fischer; Leeroy Zamora Jr., Assessor; Shannan Hemphill, Clerk; Sherrie Huddleston, County Treasurer; Michael Wood, Sheriff

DISCLOSURE OF CONTRIBUTIONS BY PROSPECTIVE CONTRACTOR:

Contribution Made By: _____

Relation to Prospective Contractor: _____

Name of Applicable Public Official: _____

Date Contribution(s) Made: _____

Amount(s) of Contribution(s) _____

Nature of Contribution(s) _____

Purpose of Contribution(s) _____

(Attach extra pages if necessary)

Signature Title/Position Date

--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 Title/Position Date

APPENDIX H: SAMPLE CONTRACT

County of Lincoln CONTRACT NUMBER: # _____

THIS AGREEMENT is made and entered into by and between the County of Lincoln, _____, hereinafter referred to as the "County" and NAME OF CONTRACTOR, hereinafter referred to as the "Contractor", and is effective as of the date set forth below upon which it is executed by the Purchasing Agent and the Board of County Commissioners.

IT IS AGREED BETWEEN THE PARTIES:

1. Scope of Work/Deliverables

The shall deliver and perform the work outlined in the Scope of Work/Deliverables as incorporated herein;

- A. (1) Installation of a 120 ft. SS Rev I Freestanding Saber Tower S3TL or equivalent, with concrete foundation/pad. Tower and pad need to be engineered for 180' tower (future expansion).
 - 1. The Tower will be designed in accordance with EIA 222H Engineering Standards also to include an ice bridge.5r
 - 2. Install nine (9) customer supplied Antennas and (2) microwave dishes
 - * 6ft. microwave dish with supporting ice shield at 50'
 - * 4ft. microwave dish with supporting ice shield at 20'
 - * Seven (7) dipole antennas installed at 110ft.
 - * Two (2) dipole antennas installed at 80ft.
 - 3. All Tower Steel will be Hot Dip Galvanized. Engineering Drawings to be sealed by a registered NM Professional Engineer.
 - 4. Tower to Include Climbing Ladder, Safety Climb Device, and Waveguide Ladder with both $\frac{3}{4}$ inch and $\frac{3}{8}$ inch holes to support all lines. With nine (9) runs of $\frac{7}{8}$ " heliax cable.
 - 5. Grounding of the tower site meets R56 standards.
 - 6. Unterminated runs to be weather protected.
 - 7. Tower will not be required to have FAA lighting.
 - 8.
- B. (1) 12x16 Thermobond or equivalent enclosed shelter made of fire-resistant material with;
 - 1. a concrete foundation/slab.
 - 2. Shelter to include an integrated HVAC unit and;
 - 3. a 200-amp Service Panel;
 - 4. A cable tray installed on the inside the building on the ceiling the length of the building.
 - 5. Ground buss bar to be installed inside the building
 - 6. Grounding of the building to meet R56 standards
- C. Grounding/bonding on tower site and building to meet R56 Standards.

- D. (1) 20KW Propane Generator, weatherproof or in weatherproof container.
 - 1. A. To include an Automatic Transfer Switch wall mounted inside the structure 12 x 16 structure.
 - 2. A concrete foundation to support the generator (or combined with one for the propane tank)
 - 3. The generator will be grounded to earth and bonded to tower and building
- E. (1) 500 Gallon Propane Tank
 - 1. With concrete pad to support the propane tank (or combined with pad to support tank and generator).
 - 2. Including a minimum of 400 gallons of fuel.
- F. Vendor will be responsible for coordination with Central New Mexico Electric to connect commercial power to the transfer switch.
- G. Vendor to provide all necessary site prep and Construction/Erecting of Tower to include mounting brackets and misc. equipment for mounting antennas and heliax on the tower to buss bar inside the building.
- H. Vendor to provide all necessary Inspections.
- I. Vendor to provide all necessary Permits, insurance, bonds and Fees.
- J. Vendor to provide all necessary Surveying.
- K. Vendor to provide all necessary off-site dispose of spoils or debris.
- L. Vendor to provide all necessary Excavation
- M. Vendor to provide all necessary Engineering, Design, and geotechnical services.
- N. Vendor to provide all necessary transport fees and related costs.

2. Compensation.

- A. The County shall pay to the Contractor in full payment for services satisfactorily performed [at the rate of] _____ dollars (\$_____) [per hour (OR BASED UPON DELIVERABLES, MILESTONES, BUDGET, ETC.)], such compensation not to exceed _____(AMOUNT), excluding gross receipts tax. The New Mexico gross receipts tax levied on the amounts payable under this Agreement totaling (AMOUNT) shall be paid by the County to the Contractor. The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed (AMOUNT). This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated

herein. The parties do not intend for the Contractor to continue to provide services without compensation when the total compensation amount is reached. Contractor is responsible for notifying the County when the services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for services provided in excess of the total compensation amount without this Agreement being amended in writing prior to 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 the 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. If the County finds that the services are not acceptable, within thirty days after the date of receipt of written notice from the Contractor that payment is requested, it shall provide the Contractor a letter of exception explaining the defect or objection to the services, and outlining steps the Contractor may take to provide remedial action. Upon certification by the County that the services have been received and accepted, payment shall be tendered to the Contractor within thirty days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. However, the 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 the Contractor's sole responsibility and shall be reported under the Contractor's Federal and State tax identification number(s). The County of Lincoln is a Government agency and is to be taxed on labor only. A New Mexico Non Taxable Certificate (NTTC) will be provided to the contractor and any sub-contractors.

3. Term.

This Agreement shall terminate on completion of the project, unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with Section 13-1-150 NMSA 1978, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

4. Termination.

This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. Except as otherwise allowed or provided under this Agreement, the County's sole liability upon such termination shall be to pay for acceptable work performed prior to the Contractor's receipt of the notice of termination, if the County is the terminating party, or the Contractor's sending of 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. The 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 the Contractor if the Contractor becomes unable to perform the services contracted for, as determined by the County or if, during the term of this Agreement, the 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 THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.

5. Termination Management.

Immediately upon receipt by either the County or the Contractor of notice of termination of this Agreement, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of the County; 2) comply with all directives issued by the County in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the County shall direct for the protection, preservation, retention or transfer of all property titled to the County and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by the Contractor with contract funds shall become property of the County upon termination and shall be submitted to the 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 being given by the County to the Contractor. The County's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the County proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

7. Status of Contractor.

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

Contractor has expressed written authority to do so, and then only within the strict limits of that authority.

8. Assignment.

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

9. Performance and Payment Bonds

The contractor shall provide Performance and Payment Bonds in an amount equal to 100% of the contract sum. Bonding companies shall be licensed in the State of New Mexico and shall be in good standing with the State Board of Insurance.

10. Insurance Coverage

The offeror will be required to carry, at minimum, the following insurance coverage with Lincoln County” and “if any others parties, they will be identified at the time of contract” listed as co-insureds on all policies:

- A. General and professional liability insurance in the amount of \$1,000,000.00 per occurrence and \$2,000,000.00 aggregate.
- B. Automobile insurance in the amount of \$1,000,000.00.
- C. Workers’ Compensation insurance as required by state statute.
- D. The insurance shall be provided by insurance companies authorized to do business in New Mexico and shall cover all operations under the contract whether performed
- E. by the contractor, their agents or employees, or by subcontractors. All insurance shall remain in full force and effect for the entire term of the contract.

Proof of coverage must be provided prior to entering into a contract.

11. Subcontracting.

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the County. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the County. In all cases, the contractor is solely responsible for fulfillment of this Agreement. A list of all sub-contractors is to be provided to the County Purchasing Agent and the “Contractor” is to report all subcontractors on the NM Workforce Solutions and notice to the Procurement Manger.

12. 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.

13. Confidentiality.

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the County.

14. Product of Service - Copyright.

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

15. Conflict of Interest; Governmental Conduct Act.

- A. The Contractor represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement.
- B. The Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10 and Article 16 NMSA 1978. Without in anyway limiting the generality of the foregoing, the Contractor specifically represents and warrants that:
 - 1) in accordance with Section 10-16-4.3 NMSA 1978, the 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 the County and participating directly or indirectly in the County's contracting process;
 - 2) this Agreement complies with Section 10-16-7(B) NMSA 1978 because: (i) the Contractor is not a public officer or employee of the County; (ii) the Contractor is not a member of the family of a public officer or employee of the County; (iii) the Contractor is not a business in which a public officer or employee or the family of a public officer or employee has a substantial interest; or (iv) if the Contractor is a public officer or employee of the County, a member of the family of a public officer or employee of the County, or a business in which a public officer or employee of the County or the family of a public officer or employee of the County has a substantial interest, public notice was given as required by Section 10-16-7(B) NMSA 1978 and this Agreement was awarded pursuant to a competitive process;
 - 3) in accordance with Section 10-16-8(C) NMSA 1978, (i) the Contractor is not, and has not been represented by, a person who has been a public officer or employee of the County within the preceding year and whose official act directly resulted in this Agreement and (ii) the Contractor is not, and has not been assisted in any way regarding this transaction by, a former public officer or employee of the County whose official act, while in County employment, directly resulted in the County's making this Agreement;

- 4) in accordance with Section 10-16-13 NMSA 1978, the Contractor has not directly participated in the preparation of specifications, qualifications or evaluation criteria for this Agreement or any procurement related to this Agreement; and
 - 5) in accordance with Section 10-16-3 and Section 10-16-13.3 NMSA 1978, the Contractor has not contributed, and during the term of this Agreement shall not contribute, anything of value to a public officer or employee of the County.
- C. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which the County relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the 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 this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the County and notwithstanding anything in the Agreement to the contrary, the County may immediately terminate the Agreement.
- D. All terms defined in the Governmental Conduct Act have the same meaning in Article 12(B).

16. Amendment.

- A. This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.
- B. If the County proposes an amendment to the Agreement to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Agreement, pursuant to the termination provisions as set forth in Article 4 herein, or to agree to the reduced funding.

17. Merger.

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

18. Penalties for violation of law.

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

19. Equal Opportunity Compliance.

The 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, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

20. Applicable Law.

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

21. Worker's Compensation.

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

22. Records and Financial Audit.

The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the County, the Department of Finance and Administration, and the State Auditor. The 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

23. Disclaimer and Hold Harmless.

Lincoln County shall not be liable to the Contractor, or the 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 Lincoln County harmless from all loss, damage, and injury, including court costs and attorney fees, incurred by Lincoln County in connection with the performance by Contractor of Contractor's duties according to this Agreement.

24. Indemnification.

The Contractor shall defend, indemnify and hold harmless the County of Lincoln from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the

performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of the County of Lincoln and the New Mexico Association of Counties by certified mail.

25. 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.

26. 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.

27. Authority.

Individual(s) signing this Agreement on behalf of Contractor represents and warrants that he or 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 contract.

28. Approval of Contractor Personnel.

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

29. Site Clean up

Due to the site location, we must adhere to the Pack it in- Pack it out Rule. During the course of the work, Contractor and their subs shall keep all debris that can be blown by the wind or appears to be "trash" picked up and removed and disposed of in a proper disposal site on a daily basis. Upon completion of work, Contractor shall leave the sites clean and orderly, removing all waste, scrap, unused material, tools and supplies etc...

An inspection of such will be performed and payment will not be made until the site is cleared.

30. Limit of Liability.

The contractor's liability to the County for any cause whatsoever shall be limited to the purchase price paid to the contractor for the products and services that are the subject of County's claim. The foregoing limitation does not apply to the paragraphs entitled "Indemnification" and "Patent, Copyright, Trademark and Trade Secret Indemnification" of this agreement or to damages resulting from personal injury caused by the contractor's negligence. In no event will the contractor be liable for any damages resulting from loss of data or use, lost profits or any incidental or consequential damages.

31. Survival.

The agreement paragraphs titled "Patent, Copyright, Trademark, and Trade Secret Indemnification"; "Indemnification"; and "Limit of Liability" 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.

32. Succession.

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

33. 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.

34. Mediation.

In the event a dispute arises as to the rights and obligations among the parties hereto, the parties agree to attempt to resolve the dispute through mediation as a condition precedent to seeking legal and equitable remedies. The parties agree to evenly split the costs of any such mediation services. The parties shall mutually agree upon the choice of mediator. In the event the parties have not agreed upon a mediator within twenty (20) days of written notice to the other regarding the dispute, then a list of seven potential mediators will be obtained from the New Mexico Association of Counties and the parties shall utilize a striking process until a mediator is agreed upon.

35. Notice to Proceed.

It is expressly understood that this Agreement is not binding upon the County until it is executed by the Board of County Commissioners after voting on the contract at a public meeting or unless it is executed by the Lincoln County Manager, if the amount of the contract is \$5,000.00 or less. The Contractor is not to proceed with its obligations

under the Agreement until the Contractor has received a fully signed copy of the Agreement.

36. Attorney's Fees.

In the event this Agreement results in dispute, mediation, litigation, or settlement between the parties to this Agreement, the prevailing party of such action shall NOT be entitled to an award of attorneys' fees and court costs.

37. 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.

38. Incorporation and Order of Precedence.

Request for Proposal No. 24-25-08-R and the 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 contract amendment(s), in reverse chronological order; then
- B. this contract itself; then
- C. the Request for Proposals; then
- D. the Contractors Best and Final Offer(s), in reverse chronological order; then
- E. the contractor's proposal; then
- F. the contractor's standard agreement terms and conditions (which may or may not have been submitted as part of the contractor's proposal).

39. Patent, Copyright, Trademark and Trade Secret Indemnification.

- A. The contractor shall defend, at its own expense, the County of Lincoln 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 attorneys' fees that a court finally awards as a result of any such claim. In addition, if any third party obtains a judgment against the County of Lincoln based upon the contractor's trade secret infringement relating to any product or service provided under this agreement, the contractor agrees to reimburse the County of Lincoln for all costs, attorneys' fees and the amount of the judgment. To qualify for such defense and/or payment, the County of Lincoln shall:
 - 1) give the contractor prompt written notice of any claim;
 - 2) allow the contractor to control the defense or settlement of the claim; and
 - 3) cooperate with the contractor in a reasonable way to facilitate the defense or settlement of the claim.
- B. If any product or service becomes, or in the contractor's opinion is likely to become the subject of a claim of infringement, the contractor shall at its option and expense:
 - 1) provide a procuring agency of the 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 the contractor. The contractor's obligation will be void as to any product or service modified by the procuring agency of the County to the extent such modification is the cause of the claim.

40. Future Reference (Post Review)

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

41. Notices.

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

To the County of Lincoln:
Jason Burns County Manager,
PO Box 711, Carrizozo, NM 88301

To the Contractor: [insert name and
address]:_____

FEDERAL FUNDING CLAUSES

Language under this section is being included due to funding for projects under this Agreement being provided by the Federal government. If any conflict arises or exists between the subsequent sections and proceeding sections, the language under the subsequent sections shall supersede and govern.

1. ADMINISTRATIVE, CONTRACTUAL OR LEGAL REMEDIES - All administrative and contractual disputes arising from or related to this Contract shall be addressed in the following manner:

- 1.1. If either Party disputes or disagrees with a Contract term or the other Party's interpretation of a Contract term or has any other administrative or contractual dispute, such Party shall promptly give the other Party written notice of said dispute.
- 1.2. The Parties shall hold a meeting as soon as reasonably possible, but in no event later than thirty (30) calendar days from the initial written notice of the dispute, attended by persons with decision-making authority regarding the dispute, to attempt in good faith to negotiate a resolution of the dispute; provided, however, that no such meeting shall be deemed to vitiate or reduce the obligations and liabilities of the Parties or be deemed a waiver by a Party of any remedies to which such Party would otherwise be entitled unless otherwise agreed to by the Parties in writing.
- 1.3. If, within thirty (30) calendar days after such meeting, the Parties have not succeeded in negotiating a resolution of the dispute, they agree to submit the dispute to non-binding mediation and to bear equally the costs of the mediation.
- 1.4. The Parties will jointly appoint a mutually acceptable mediator. If they fail to do so within twenty (20) calendar days from the conclusion of the negotiation period, they shall each select a mediator. The two mediators will then appoint a third mediator who shall conduct mediation for the Parties as the sole mediator.
- 1.5. The Parties agree to participate in good faith in the mediation and negotiations for a period of thirty (30) calendar days. The substantive and procedural law of the State of New Mexico shall apply to the proceedings. If the Parties are not successful in resolving the dispute through mediation, then the Parties shall be free to pursue any other remedy afforded by the laws of the State of New Mexico.
- 1.6. Until final resolution of any dispute hereunder, the Contractor shall diligently proceed with the performance of this Contract as directed by the County. For purposes of this Contract, termination for convenience shall not be deemed a dispute. Lincoln County and the Contractor agree to notify each other in a timely manner of any claim, dispute, or cause of action arising from or related to this

Contract, and to negotiate in good faith to resolve any such claim, dispute, or cause of action. To the extent that such negotiations fail, the County and the Contractor agree that any lawsuit or cause of action that arises from or is related to this Contract shall be filed with and litigated only by the District Court for Lincoln County, New Mexico.

2. TERMINATION

2.1. Termination for Convenience. By signing this Contract, Contractor represents that it is a sophisticated business and enters into the Contract voluntarily, has calculated all business risks associated with this Contract, and understands and assumes all risks of being terminated for convenience, whether such risks are known or not known. Contractor agrees that the County may terminate this Contract at any time for convenience of the County, upon written notice to the Contractor. Contractor expressly agrees to and assumes the risk that the County shall not be liable for any costs or fees of whatsoever kind and nature if termination for convenience occurs before Contractor begins any work or portion of the work. Contractor further expressly agrees and assumes the risks that the County shall not be liable for any unperformed work, anticipated profits, overhead, mobilizations costs, set-up, demobilization costs, relocation costs of employees, layoffs or severance costs, administrative costs, productivity costs, losses on disposal of equipment or materials, cost associated with the termination of subcontractors, costs associated with purchase orders or purchases, or any other costs or fees of any kind and nature, if Contractor has started or performed portions of the Contract prior to receiving notice from the County. The County shall be liable only for the portions of work Contractor actually satisfactorily completed up to the point of the issuance of the Notice of Termination for convenience. Upon receipt of this notice the Contractor shall immediately: discontinue all services affected (unless the notice directs otherwise), and deliver to the County all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this Contract, whether completed or in process.

2.2. Termination for Cause: The occurrence of any one or more of the following events ("Event of Default") will justify termination for cause:

2.2.1. Contractor's failure to perform the work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the progress schedule as adjusted from time to time.

2.2.2. Contractor's disregard of the laws or regulations of any public body having

jurisdiction.

- 2.2.3.** Contractor's disregard of the authority of Project Manager.
- 2.2.4.** Contractor's violation in any material provision of the Contract Documents.
- 2.2.5.** Contractor's failure to make prompt payments to its subcontractors, and suppliers of any tier, or laborers or any person working on the work by, through, or under the Contractor or any of them, any all of their employees, officers, servants, members, and agents.
- 2.2.6.** Contractor files a petition commencing a voluntary case under the U.S. Bankruptcy Code, or for liquidation, reorganization, or an arrangement pursuant to any other U.S. or state bankruptcy Laws, or shall be adjudicated a debtor or be declared bankrupt or insolvent under the U.S. Bankruptcy Code, or any other federal or state laws relating to bankruptcy, insolvency, winding-up, or adjustment of debts, or makes a general assignment for the benefit of creditors, or admits in writing its inability to pay its debts generally as they become due, or if a petition commencing an involuntary case under the U.S. Bankruptcy Code or an answer proposing the adjudication of Contractor as a debtor or bankrupt or proposing its liquidation or reorganization pursuant to the Bankruptcy Code or any other U.S. federal or state bankruptcy laws is filed in any court and Contractor consents to or acquiesces in the filing of that pleading or the petition or answer is not discharged or denied within sixty (60) Calendar Days after it is filed.
- 2.2.7.** A custodian, receiver, trustee or liquidator of Contractor, all or substantially all of the assets or business of Contractor, or of Contractor's interest in the Work or the Contract, is appointed in any proceeding brought against Contractor and not discharged within sixty (60) Calendar Days after that appointment, or if Contractor shall consent to or acquiesces in that appointment.
- 2.2.8.** Contractor fails to commence correction of defective work or fails to correct defective work within a reasonable period of time after written notice. If one or more of the events identified in Paragraphs i-viii above occur, County may give Contractor written notice of the event and direct the event be cured. Any such Notice to Cure will Contractor a minimum of ten (10) calendar days to prepare and submit to the Project Manager a plan to correct the Event of Default. If such plan to correct the Event of Default is not submitted to the Project Manager within ten (10) days after the date of the written notice or such plan is unacceptable to the County, the County may, give Contractor (and the Surety, if any) written notice that Contractor's services are being terminated for cause. Upon delivery of the termination notice, County may terminate the services of Contractor in whole or in part, exclude Contractor from the site, and take possession of the work and of all Contractor's tools, appliances, construction equipment, and machinery at

the project site, and use the same to the full extent they could be used by Contractor (without liability to Contractor for trespass or conversion), incorporate in the work all materials and equipment stored at the site or for which County has paid Contractor but which are stored elsewhere, and finish the work as County may deem expedient. In such case, Contractor shall not be entitled to receive any further payment until Certificate of Completion of the work. In the event County terminates this Contract for Cause and the cost of completing the work exceeds the unpaid balance of the Contract price, Contractor shall pay County for any costs of completion which exceed the Contract price when combined with all amounts previously paid to Contractor. When exercising any rights or remedies under this paragraph County shall not be required to obtain the lowest price for the work performed. Should the cost of such completion, including all proper charges, be less than the original Contract price, the amount so saved shall accrue to the County. Neither the County nor any officer, agent or employee of the County shall be in any way liable or accountable to the Contractor or the Surety for the method by which the completion of the said work, or any portion thereof, may be accomplished or for the price paid. Where Contractor's services have been so terminated by County, the termination will not affect any rights or remedies of County against Contractor or Surety then existing or which may thereafter accrue. Any retention or payment of moneys due Contractor by County will not release Contractor from liability.

2.3. Termination Notice. Upon receipt of a termination notice, whether for convenience or cause, the Contractor shall immediately: discontinue all services affected (unless the notice directs otherwise), and deliver to the County all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this Contract, whether completed or in process.

2.4. Removal of Equipment. Except as provided above, in the case of termination of this Contract before completion from any cause whatever, the Contractor, if notified to do so by the County, shall promptly remove any part or all of Contractor's equipment and supplies from the property of the County, failing which the County shall have the right to remove such equipment and supplies at the expense of the Contractor.

3. EQUAL OPPORTUNITY CLAUSE. During the performance of this contract, the contractor agrees as follows:

3.1. The contractor will not discriminate against any employee or applicant for

employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

- 3.1.1.** Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- 3.2.** The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- 3.3.** The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- 3.4.** The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 3.5.** The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- 3.6.** The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of

the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

- 3.7.** In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- 3.8.** The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:
- 3.9.** Subcontracts. Each nonexempt prime contractor or subcontractor shall include the equal opportunity clause in each of its nonexempt subcontracts.

4. COMPLIANCE WITH THE COPELAND "ANTI-KICKBACK" ACT

- 4.1.** The Contractor must comply with the requirements of the Copeland "Anti-Kickback" Act (18 USC 874 and 40 USC 3145), as supplemented by Department of Labor regulation 29 CFR part 3. Contractor and subcontractors are prohibited from inducing, by any means, any person employed on the project to give up any part of the compensation to which the employee is entitled. The Contractor and each Subcontractor must submit to the Owner, a weekly statement on the wages paid to each employee performing on covered work during the prior week. The owner must report any violations of the Act.
- 4.2.** The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

- 4.3.** Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

5. COMPLIANCE WITH THE CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

- 5.1.** Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- 5.2.** Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (V)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to Lincoln County for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (V)(1) of this section, in the sum of \$26 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (V)(1) of this section.
- 5.3.** Withholding for unpaid wages and liquidated damages. Lincoln County shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under this contract such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (V)(2) of this section.
- 5.4.** Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (V) (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (V) (1) through (4) of this section.

6. COMPLIANCE WITH CLEAN AIR AND FEDERAL WATER POLLUTION CONTROL ACTS

- 6.1. Contract shall agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387).

7. COMPLIANCE WITH ENERGY CONSERVATION REQUIREMENTS

- 7.1. Contractor and any Subcontractors agree to comply with mandatory standards and policies relating to energy efficiency as contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 USC 6201et seq).

8. OFFICIAL REFERENCE TO US DEPARTMENT OF HOMELAND SECURITY

- 8.1. Contractor and any subcontractors shall not use the US Department of Homeland Security (DHS) seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

9. CONTRACT PARTIES

- 9.1. This contract is between Lincoln County and the awarded Contractor solely. The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to any party under this contract.

10. ADMINISTRATIVE REMEDIES FOR FALSE CLAIMS AND STATEMENTS

- 10.1. Contractor hereby acknowledges that 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims and Statements, incorporated herein by reference) applies to the Contractor's actions for all work done pertaining to this contract.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date AND signature below.

Accepted by: _____ Date: _____

Contractor signature _____

Printed Name: _____

Address: _____

By: _____ Date: _____

Jason Burns, County Manager

APPENDIX I: SITE MAP

Gallinas Tower Site-Lincoln County



Lot #8
34.24568, -105.78875

APPENDIX J: WAGE RATE

"General Decision Number: NM20250012 04/18/2025

Superseded General Decision Number: NM20240012

State: New Mexico

Construction Type: Heavy

Counties: De Baca, Eddy, Grant, Hidalgo, Lea, Lincoln, Luna,
Roosevelt, Sierra and Socorro Counties in New Mexico.

HEAVY CONSTRUCTION PROJECTS

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658.

Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(1).

If the contract is entered |. Executive Order 14026 |
|into on or after January 30, | generally applies to the |
|2022, or the contract is | contract. |

renewed or extended (e.g., an	. The contractor must pay
option is exercised) on or	all covered workers at
after January 30, 2022:	least \$17.75 per hour (or
	the applicable wage rate
	listed on this wage
	determination, if it is
	higher) for all hours
	spent performing on the
	contract in 2025.
_____	_____

If the contract was awarded on	. Executive Order 13658
or between January 1, 2015 and	generally applies to the
January 29, 2022, and the	contract.
contract is not renewed or	. The contractor must pay all
extended on or after January	covered workers at least
30, 2022:	\$13.30 per hour (or the
	applicable wage rate listed
	on this wage determination,
	if it is higher) for all
	hours spent performing on
	that contract in 2025.
_____	_____

The applicable Executive Order minimum wage rate will be
adjusted annually. If this contract is covered by one of the
Executive Orders and a classification considered necessary for
performance of work on the contract does not appear on this
wage determination, the contractor must still submit a
conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <http://www.dol.gov/whd/govcontracts>.

Modification Number Publication Date

0	01/03/2025
1	02/14/2025
2	04/18/2025

ELEC0583-006 01/01/2025

HIDALGO AND LUNA COUNTIES

	Rates	Fringes
--	-------	---------

ELECTRICIAN.....	\$ 38.00	5%+7.92
------------------	----------	---------

* ELEC0611-002 01/01/2025

DE BACA, GRANT, LINCOLN, ROOSEVELT, SIERRA & SOCORRO COUNTIES

	Rates	Fringes
--	-------	---------

ELECTRICIAN

ZONE 1.....	\$ 40.30	13.41
-------------	----------	-------

ZONE 1: Mileage calculated from the main post office in the

following towns: Albuquerque-40 miles, Artesia-12 miles, Belen-12 miles, Carlsbad-12 miles, Carrizozo-12 miles, Clovis-12 miles, Espanola-14 miles, Farmington-6 miles, Gallup-10 miles, Hobbs-12 miles, Las Vegas-8 miles, Los Lunas-12 miles, Lovington-12 miles, Portales-12 miles, Raton-6 miles, Roswell-12 miles, Ruidoso-12 miles, Santa Fe-10 miles, Tucumcari-6 miles.

ZONE 2: Extending up to 20 miles beyond Zone 1, EXCEPT ALBURQUERQUE, shall receive 9% above Zone 1 rate.

ZONE 3: Extending up to 30 miles beyond Zone 1, EXCEPT ALBURQUERQUE, shall receive 15% above Zone 1 rate.

ZONE 4: Extending more than 30 miles beyond Zone 1, EXCEPT ALBURQUERQUE, shall receive 26% above Zone 1 rate.

 * ELEC0611-006 01/01/2025

EDDY & LEA COUNTIES

	Rates	Fringes
ELECTRICIAN		
Zone 1.....	\$ 40.30	13.41

ZONE 1: Mileage calculated from the main post office in the following towns: Albuquerque-40 miles, Artesia-12 miles,

Belen-12 miles, Carlsbad-12 miles, Carrizozo-12 miles,
Clovis-12 miles, Espanola-14 miles, Farmington-6 miles,
Gallup-10 miles, Hobbs-12 miles, Las Vegas-8 miles, Los
Lunas-12 miles, Lovington-12 miles, Portales-12 miles,
Raton-6 miles, Roswell-12 miles, Ruidoso-12 miles, Santa
Fe-10 miles, Tucumcari-6 miles.

ZONE 2: Extending up to 20 miles beyond Zone 1, EXCEPT
ALBURQUERQUE, shall receive 9% above Zone 1 rate.

ZONE 3: Extending up to 30 miles beyond Zone 1, EXCEPT
ALBURQUERQUE, shall receive 15% above Zone 1 rate.

ZONE 4: Extending more than 30 miles beyond Zone 1, EXCEPT
ALBURQUERQUE, shall receive 26% above Zone 1 rate.

IRON0495-004 01/01/2023

	Rates	Fringes
--	-------	---------

IRONWORKER

Structural.....	\$ 28.05	18.11
-----------------	----------	-------

* SUNM2009-006 09/14/2010

	Rates	Fringes
--	-------	---------

CARPENTER.....	\$ 22.26	6.20
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IRONWORKER, REINFORCING.....\$ 22.75	9.60
--------------------------------------	------

LABORER: Common or General.....\$ 12.37 **	0.00
--	------

LABORER: Flagger.....\$ 10.90 **	0.00
----------------------------------	------

OPERATOR: Backhoe.....\$ 14.03 **	0.00
-----------------------------------	------

OPERATOR: Grader/Blade.....\$ 18.79	2.35
-------------------------------------	------

OPERATOR: Loader (Front End)....\$ 22.07	5.05
--	------

OPERATOR: Scraper.....\$ 14.03 **	0.00
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PIPEFITTER.....\$ 25.64	11.31
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PLUMBER.....\$ 26.27	7.69
----------------------	------

TRUCK DRIVER: Dump Truck.....\$ 11.90 **	0.00
--	------

TRUCK DRIVER: Water Truck.....\$ 13.72 **	5.25
---	------

WELDERS - Receive rate prescribed for craft performing
operation to which welding is incidental.

=====

** Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 (\$17.75) or 13658 (\$13.30). Please see the Note at the top of the wage determination for more information. Please also note that the minimum wage requirements of Executive Order 14026 are not currently being enforced as to any contract or subcontract to which the states of Texas, Louisiana, or Mississippi, including their agencies, are a party.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Unlisted classifications needed for work not included within

the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (iii)).

The body of each wage determination lists the classifications and wage rates that have been found to be prevailing for the type(s) of construction and geographic area covered by the wage determination. The classifications are listed in alphabetical order under rate identifiers indicating whether the particular rate is a union rate (current union negotiated rate), a survey rate, a weighted union average rate, a state adopted rate, or a supplemental classification rate.

Union Rate Identifiers

A four-letter identifier beginning with characters other than ""SU"", ""UAVG"", ?SA?, or ?SC? denotes that a union rate was prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2024. PLUM is an identifier of the union whose collectively bargained rate prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. The date, 07/01/2024 in the example, is the effective date of the most current negotiated

rate.

Union prevailing wage rates are updated to reflect all changes over time that are reported to WHD in the rates in the collective bargaining agreement (CBA) governing the classification.

Union Average Rate Identifiers

The UAVG identifier indicates that no single rate prevailed for those classifications, but that 100% of the data reported for the classifications reflected union rates. EXAMPLE:

UAVG-OH-0010 01/01/2024. UAVG indicates that the rate is a weighted union average rate. OH indicates the State of Ohio.

The next number, 0010 in the example, is an internal number used in producing the wage determination. The date, 01/01/2024 in the example, indicates the date the wage determination was updated to reflect the most current union average rate.

A UAVG rate will be updated once a year, usually in January, to reflect a weighted average of the current rates in the collective bargaining agreements on which the rate is based.

Survey Rate Identifiers

The ""SU"" identifier indicates that either a single non-union rate prevailed (as defined in 29 CFR 1.2) for this classification in the survey or that the rate was derived by computing a weighted average rate based on all the rates

reported in the survey for that classification. As a weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SUFL2022-007 6/27/2024. SU indicates the rate is a single non-union prevailing rate or a weighted average of survey data for that classification. FL indicates the State of Florida. 2022 is the year of the survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. The date, 6/27/2024 in the example, indicates the survey completion date for the classifications and rates under that identifier.

?SU? wage rates typically remain in effect until a new survey is conducted. However, the Wage and Hour Division (WHD) has the discretion to update such rates under 29 CFR 1.6(c)(1).

State Adopted Rate Identifiers

The ""SA"" identifier indicates that the classifications and prevailing wage rates set by a state (or local) government were adopted under 29 C.F.R 1.3(g)-(h). Example: SAME2023-007 01/03/2024. SA reflects that the rates are state adopted. ME refers to the State of Maine. 2023 is the year during which the state completed the survey on which the listed classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. The date, 01/03/2024 in the example, reflects the date on which the classifications and rates under the ?SA? identifier took effect under state law in the state from which the rates were

adopted.

WAGE DETERMINATION APPEALS PROCESS

1) Has there been an initial decision in the matter? This can be:

- a) a survey underlying a wage determination
- b) an existing published wage determination
- c) an initial WHD letter setting forth a position on a wage determination matter
- d) an initial conformance (additional classification and rate) determination

On survey related matters, initial contact, including requests for summaries of surveys, should be directed to the WHD Branch of Wage Surveys. Requests can be submitted via email to davisbaconinfo@dol.gov or by mail to:

Branch of Wage Surveys
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

Regarding any other wage determination matter such as conformance decisions, requests for initial decisions should be

directed to the WHD Branch of Construction Wage Determinations. Requests can be submitted via email to BCWD-Office@dol.gov or by mail to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2) If an initial decision has been issued, then any interested party (those affected by the action) that disagrees with the decision can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Requests for review and reconsideration can be submitted via email to dba.reconsideration@dol.gov or by mail to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative

Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board

U.S. Department of Labor

200 Constitution Avenue, N.W.

Washington, DC 20210.

=====

END OF GENERAL DECISION"

APPENDIX K: SOIL TEST



Geotechnical Engineering • Environmental Consulting • Construction Testing & Inspection

February 14, 2012

Project 21338

Mr. Chris Dunn
General Manager DSW MW
OPTIMA NETWORK SERVICES
264 South Hamilton Place
Gilbert, Arizona 85233

**RE: GEOTECHNICAL INVESTIGATION REPORT
GALLINAS
A PROPOSED COMMUNICATIONS FACILITY
180 FEET TALL 3-LEG SELF-SUPPORT LATTICE TOWER
AND EQUIPMENT SHELTER
34°14'45.3"N, 105°47'19.3"W
NEW MEXICO**

Mr. Dunn:

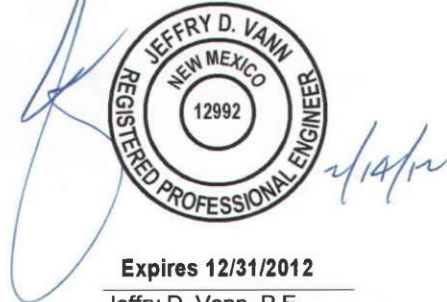
Transmitted herewith is a copy of the final report of the geotechnical investigation on the above-mentioned project. The services performed provide an evaluation at selected locations of the subsurface soil conditions throughout the zone of significant foundation influence. As an additional service, Foree & Vann, Inc. would be pleased to review the project plans and structural notes for conformance to the intent of this report. We trust that this report will assist you in the design and construction of the proposed project. Foree & Vann, Inc. appreciates the opportunity to provide our services on this project and looks forward to working with you during construction and on future projects. This firm possesses the capability of performing testing and inspection services during the course of construction. Such services include, but are not limited to, compaction testing as related to fill control, foundation inspections and concrete sampling. Should any questions arise concerning the content of this report, please feel free to contact this office directly.

Respectfully submitted,

FOREE & VANN, INC.

Mark E. Smelser, B.S.
Project Geologist

cc: (2) Addressee and via email cdunn@optimanet.net



Expires 12/31/2012

Jeffry D. Vann, P.E.
Principal Engineer

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SECTION I

1.0 INTRODUCTION

This document presents the results of a Geotechnical Investigation Report conducted by Foree & Vann, Inc. for:

**GALLINAS
A PROPOSED COMMUNICATIONS FACILITY
180 FEET TALL 3-LEG SELF-SUPPORT LATTICE TOWER
AND EQUIPMENT SHELTER
34°14'45.3"N, 105°47'19.3"W
NEW MEXICO**

The services performed provide an evaluation at selected locations of the subsurface soil conditions throughout the zone of significant foundation influence.

1.1 Purpose

Refer to the Site Plan included in Section II of this report for the exact location of the subject site with respect to surrounding roadways and landmarks. The object of the investigation is to determine the physical characteristics of the subsurface soils underlying the site and to provide recommendations for safe and economical foundation design and slab support. The proposed development may consist of one 180 feet tall 3-leg lattice tower and one equipment shelter. The anticipated base reactions for the proposed 180 feet tall 3-leg lattice tower are expected to be on the order of:

Horizontal Shear Per Leg (kips)	25-35
Compression Per Leg (kips)	300-350
Uplift Per Leg (kips)	250-300

Anticipated structural loads in excess of those stated above will need to be addressed in an addendum, since they are not covered by the scope of services involved with this effort.

1.2 Scope of Services

The scope of services for this project includes the following:

- Description of the site at the time of the field investigation
- Surface and subsurface site investigation
- Description of all major soil layers
- Site Plan indicating the locations of all points of investigation
- Explanation of applicable geologic hazards
- Laboratory testing of all samples obtained during the field investigation
- Geotechnical engineering analysis for the proposed project based on all data obtained from the site (e.g. laboratory test results and the subsurface investigation)
- Recommendations for conventional spread foundations; allowable soil bearing capacity based on a settlement analysis of ½ inch total settlement and ¼ inch differential settlement



- Recommendations for drilled shaft foundations
- Recommendations for individual spread foundations for the tower
- Recommendations for a mat-type foundation for the tower
- Recommendations for rock anchors used in conjunction with individual spread foundations
- General excavation conditions
- Lateral stability analysis including active pressure, passive pressure and base friction
- Recommendations for site grading
- Recommendations for drainage and slab support
- 2006 IBC / 2009 IBC Site Classification

Note: This report does not include, either specifically or by implication, any environmental assessment of the site or identification of contamination or hazardous materials or conditions. If the owner is concerned about the potential for such contamination, other studies should be undertaken. We are available to discuss the scope of work of such studies with you. Recommendations for basement-level facilities have not been included in our scope of services.

1.3 Authorization

Retrieval of data from the subject site and preparation of this Geotechnical Investigation Report have been carried out according to this firm's proposal, authorized by Mr. Chris Dunn with Optima Network Services, to proceed with the work.

1.4 Standard of Care

Since our investigation is based upon review of background data, observation of site materials, and engineering analysis, the conclusions and recommendations are professional opinions. Our professional services have been performed using that degree and skill ordinarily exercised, under similar circumstances, by reputable geotechnical engineers practicing in this or similar localities. These opinions have been derived in accordance with current standards of practice and no other warranty, express or implied, is made. The limitations of this report and geotechnical issues which further explain the limitations of the information contained in this report are listed at 7.0.

2.0 PROJECT DESCRIPTION

2.1 Proposed Development

It is the understanding of this firm that the proposed communications facility will consist of a 180 feet tall 3-leg self-support lattice tower and equipment shelter.

2.2 Site Description

The communications facility is to be constructed on mountaintop terrain that slopes downward to the east. An existing State communications facility is located to the west and southwest of the proposed tower location. Heavy vegetation (brush) covers the site surface at the location of the proposed tower. Note: At the eastern edge of the proposed tower location is the beginning of a talus slope that was most likely pushed to its present location during the excavation and



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NEW MEXICO

construction process of the existing tower. In addition, a snow bank was present just south of the existing tower location. The following photographs depict the character of the site during our investigation.



3.0 SUBSURFACE INVESTIGATION AND LABORATORY TESTING

3.1 Subsurface Investigation

Due to the shallow depth to rock, the site's subsurface was explored through the utilization of four (4) refraction seismic survey lines, denoted on the Site Plan in Section II of this report. Each seismic survey line involved the retrieval of data in two separate directions (*forward and reverse*). As such, eight (8) refraction seismic surveys were conducted at the site. The length of each seismic survey was 60 feet, thereby allowing an examination of the subsurface to a depth of 20.0 feet below the existing site grade.

Special note: Generally, the depth of a seismic survey investigation is approximately equal to one-third the length of the survey. For example, if it is desired to examine the substrata to a depth of 20.0 feet, the survey should extend a distance of 60.0 feet. However, seismic survey exploration depths, as mentioned above and depicted on the Cross Sections in Section II of this report, are calculated by using a computer program (SipLOT) that generates cross sections of the subsurface geology at each seismic survey location. Further, total exploration depths, as stated above, of the seismic survey study may vary from one survey line to the next. Furthermore, the calculated depths are dependent on the program's ability to interpret the subsurface layering, and are based primarily on the penetration and refraction of the seismic wave into and through the subsurface stratum. Thus, the actual seismic survey exploration depth was 20.0 feet below the existing grade, regardless of the length of the survey line.

The materials encountered on the site are believed to be representative of the total area; however, soil and rock materials do vary in character between points of investigation. The recommendations contained in this report are based on the assumption that the soil conditions do not deviate appreciably from those disclosed by the investigation. Should unusual materials or conditions be encountered during construction, the soil engineer must be notified so that supplemental recommendations can be generated if they should be required.

3.2 Laboratory Testing

Laboratory analyses were performed on a representative soil sample to aid in material classification and to estimate pertinent engineering properties of the on-site soils in preparation of this report. Testing was performed in general accordance with applicable test methods. A representative sample obtained during the field investigation was subjected to the following laboratory analyses:

Test	Sample(s)	Purpose
Sieve Analysis	Native subgrade soils (1)	Soil classification
Atterberg Limits	Native subgrade soils (1)	Soil classification

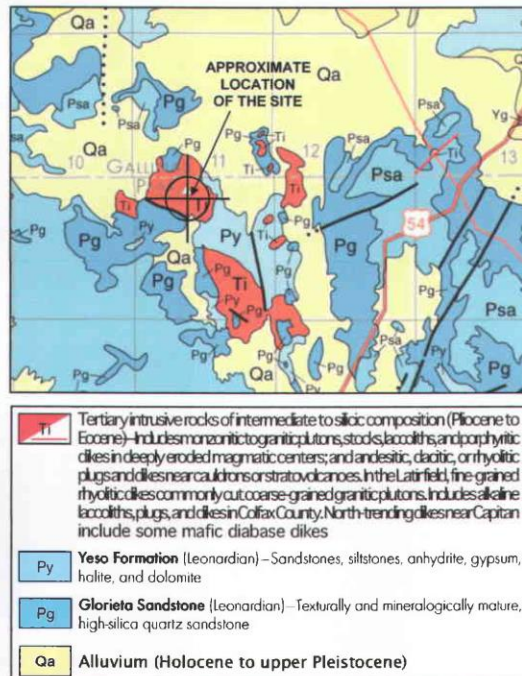


Refer to Section III of this report for the complete results of the laboratory testing. The samples will be stored for 30 days from the date of issue of this report, and then disposed of unless otherwise instructed in writing by the client.

4.0 SUBSURFACE CONDITIONS

4.1 Site Geology

The site is situated on flat topography. The local geology indicates that the thin layer of overburden soil is comprised of alluvial/colluvial deposits overlying a rock mass comprised of rhyolite/andesite (Ti - Tertiary intrusive rocks). Refer to the following Geologic Map which shows the geologic units, the site specific composition and the proximity to the site.



Portion of the Geologic Map and explanation presented above were referenced from: New Mexico Bureau of Geology and Mineral Resources, 2003, Geologic Map of New Mexico, 1:500,000: New Mexico Bureau of Geology and Mineral Resources.

4.2 Site Stratigraphy

The following list represents a general summary of the on-site soil and rock characteristics based on information obtained during this firm's subsurface investigation. The soil sample



along with seismic refraction and test boring data obtained from the site was subjected to laboratory testing and computer aided analyses, respectively, relative to engineering applications. The following are the analyses of the laboratory test results and seismic refraction as they apply to the physical and mechanical properties of the subsurface soil and rock:

Layer 1 – Surficial Soil comprised of alluvial/colluvial deposits: Unified soil classification of the surface soil encountered during our field effort is SM (*gravelly silty sand*), which consists of approximately 25% gravel, 46% sand, and 29% fines. The soil layer is slightly damp to damp, moderately dense, non-plastic, and is non-cemented.

Vp = 1613 to 1699 feet per second

Average velocity equals 1742 feet per second

Layer 1 exists from the current ground surface to depths ranging from 0.8 to 2.7 feet at the locations of the seismic surveys.

Layer 1 exists to an average calculated depth of 1.6 feet below the existing site surface at the locations of the seismic surveys.

Layer 2 – Rock mass comprised of highly weathered and fractured, very poor to poor, weak, Tertiary intrusive igneous rocks (Ti – rhyolite/andesite):

Vp = 3030 to 3846 feet per second

Average velocity equals 3388 feet per second

Layer 2 exists below depths ranging from 0.8 to 2.7 feet, and extends to depths ranging from 4.0 to 6.5 feet at the locations of the seismic surveys.

Layer 2 exists below an average calculated depth of 1.6 feet, and extends to an average calculated depth of 5.2 feet below the existing site surface, at the locations of the seismic surveys.

Layer 3 – Rock mass comprised of moderately weathered and fractured, good, strong, Tertiary intrusive igneous rocks (Ti – rhyolite/andesite):

Vp = 7076 to 7641 feet per second

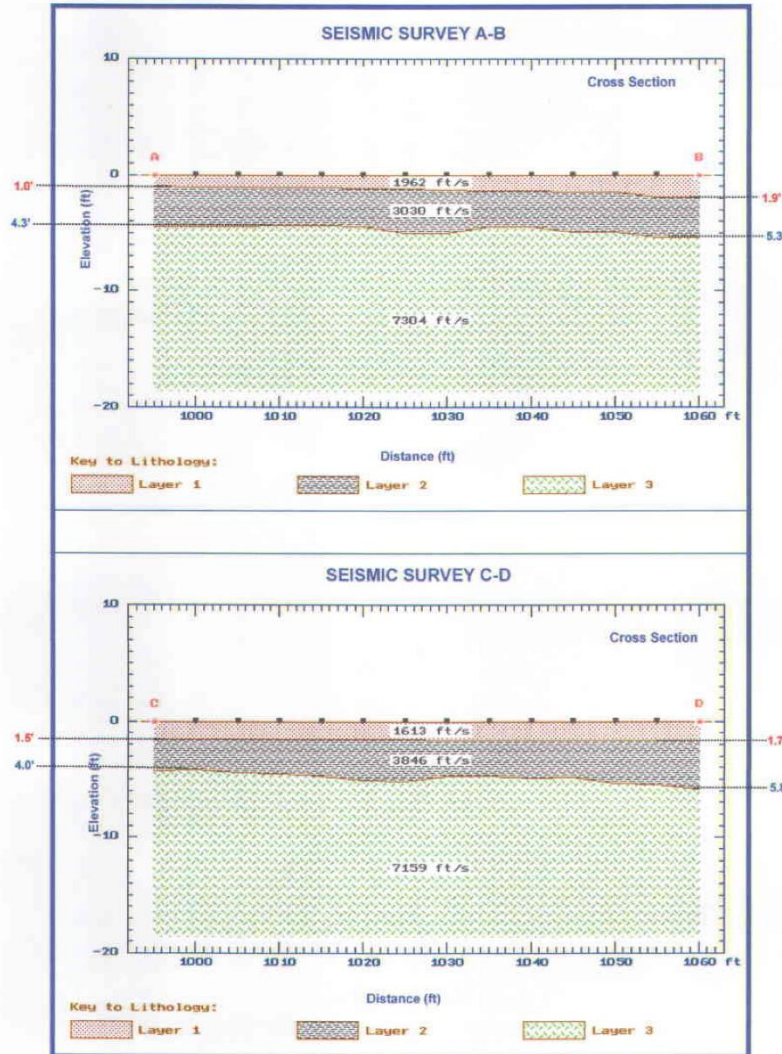
Average velocity equals 7295 feet per second

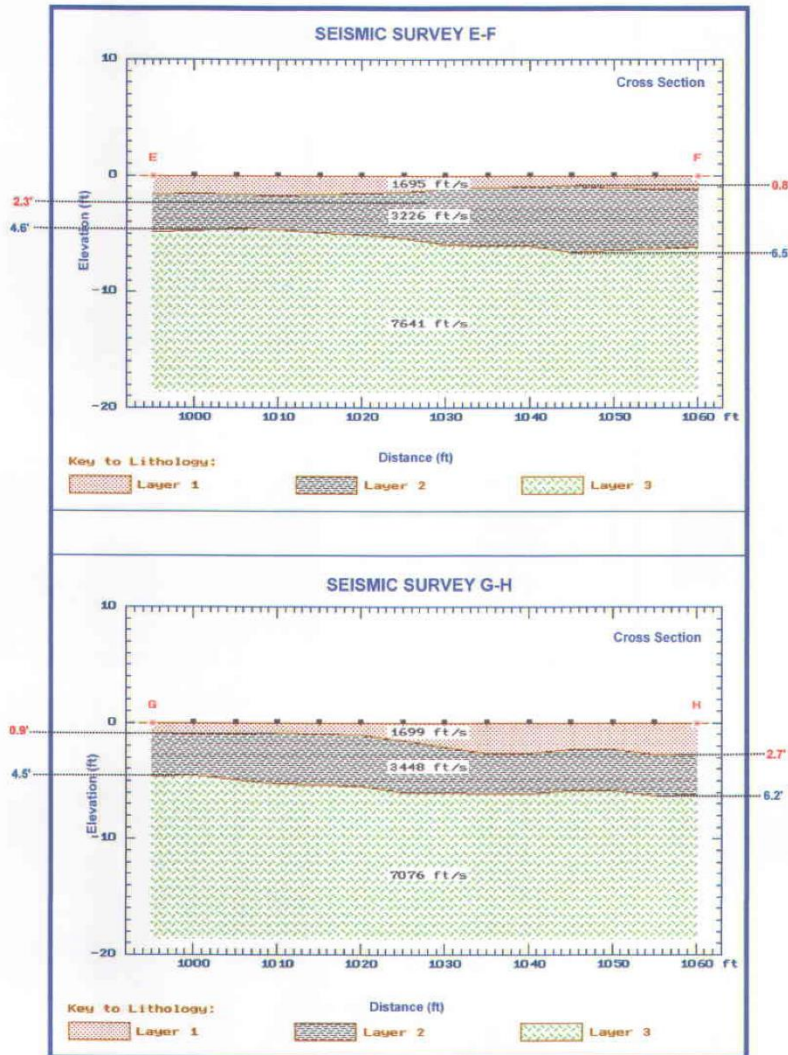
Layer 3 exists below depths ranging from 4.0 to 6.5 feet at the locations of the seismic surveys.

Layer 3 exists below an average calculated depth of 5.2 feet below the existing site surface at the locations of the seismic surveys.



Variations on the order of 1.5 feet may be encountered in the layer depth calculations due to the variability of the materials, degrees of weathering, and orientation of the structures. Refer to the following Cross Sections for the subsurface layering determined by analysis of seismic refraction survey data. The locations of the seismic surveys are depicted on the Site Plan in Section II.





4.3 Engineering Properties of the Site Soils

Expansive soils are soils that expand or swell and are typically known to have a shrink/swell potential. Cohesive soils, or clay soils, tend to shrink as they are dried, and swell as they become wetted. The clay content of the soil determines the extent of the shrink/swell potential.



Cohesionless soils were encountered at the site and are considered to have a low expansion potential based on the laboratory testing.

Collapsible soils are typically comprised of silt and sand size grains with small amounts of clay. The collapse potential of a soil depends on the in-situ density, depth of the deposit and the extent of a porous structure. When loading is applied to collapsible soils, originating from the weight of the structure, along with wetting, settlement occurs. Wetting sources are most commonly associated with landscape irrigation, inadequate surface drainage, utility line leakage, proximity of retention basins and water features to a structure, and long-term ponding next to the structure. Based on seismic refraction and test boring data, the existing fill soils encountered at the site are considered to have a low potential for collapse and excessive differential soil movement.

4.4 Groundwater

No groundwater was encountered during the course of this firm's site investigation.

4.5 Frost Depth

2.25 feet indicating a minimum surface-level foundation embedment on Layer 2 (site elevation 8610 feet).

5.0 RECOMMENDATIONS

The recommendations contained herein are based upon the properties of the surface and subsurface soils and rocks as described by the field evaluation, the results of which are presented and discussed in this report. Alternate recommendations may be possible and will be considered upon request.

5.1 Excavating Conditions

Excavations greater than 4.0 feet should be sloped or braced as required to provide personnel safety and satisfy local safety code regulations. The following table summarizes the seismic wave velocity and possible rippability conditions for the various layers.

The rippability conditions are based on the seismic P-wave velocities and data utilized by Caterpillar Inc. included in their "Handbook of Ripping."

Layer	Depth Interval (feet)	Seismic Wave Velocity (feet per second)	Remarks Relative to Rippability
1	Exists to an average calculated depth of 1.6 feet below the existing site surface at the locations of the seismic surveys	Vp = 1613 to 1699	Conventional, Case 580 Trencher



Table continued

Layer	Depth Interval (feet)	Seismic Wave Velocity (feet per second)	Remarks Relative to Rippability
2	Extends below an approximate depth of 1.6 feet, and reaches to an approximate depth of 5.2 feet, at the locations of the seismic surveys	Vp = 3030 to 3846	D9N, Case 580 Trencher/John Deere 710. For drilled shafts, drill rigs capable of high torque and heavier drilling equipment (i.e. capable of extracting rock) will be required below an average depth of 1.6 feet due to the presence of highly weathered and fractured rhyolite/andesite rock.
3	Exists below an average calculated depth of 5.2 feet below the existing site surface, at the locations of the seismic surveys	Vp = 7076 to 7641	D10N, Caterpillar 235 with an appropriately sized hydraulic hoe ram attachment to accomplish effective material removal (with longer time than above). For drilled shafts, drill rigs capable of extremely high torque and heavier drilling equipment (i.e. capable of extracting rock) will be required below an average depth of 5.2 feet due to the presence of moderately weathered and fractured rhyolite/andesite rock.

As previously stated, variations on the order of 1.5 feet may be encountered in the layer depth calculations due to the variability of the materials, degrees of weathering, and orientation of the structures.

Temporary construction slopes should be designed and excavated in strict compliance with the rules and regulations of the Federal Register, Volume 54, No. 209 (October 1989), the United States Department of Labor, Occupational Safety and Health Administration (OSHA), 29 CFR, Part 1926. This document was prepared to better insure the safety of workers entering trenches or excavations, and requires that all excavations conform to new OSHA guidelines. The contractor is solely responsible for protecting excavations by shoring, sloping, benching or other means as required to maintain stability of both the excavation sides and bottom. Foree & Vann, Inc. does not assume any responsibility for construction site safety or the activities of the contractor.

5.2 Site Preparation

The following recommendations are presented as a guide in the compilation of construction specifications. These recommendations are not comprehensive contract documents and should not be utilized as such. As part of the development, it is recommended that all



vegetation and all other deleterious matter be removed from proposed building areas at the commencement of site grading activities.

Following removal of the above mentioned, a minimum of 8.0 inches of the native soil should be scarified, moisture processed and compacted as specified below. The scarification and compaction requirement applies to cut situations as well as fill situations. Any site cut material may be reused as structural supporting fill provided the maximum particle size is 6 inches and a suitable amount of fines will be generated to ensure a stable mixture.

A building area is defined as that area with the building footprint plus 5 feet beyond the perimeter of the footprint. All exposed surfaces should be free of mounds and depressions that could prevent uniform compaction.

Complete removal and cleaning of any undesirable materials and proper backfilling of depressions will be necessary to develop support for the proposed facilities.

Widen all depressions as necessary to accommodate compaction equipment and provide a level base for placing any fill.

All subbase fill required to bring the structure areas up to subgrade elevation should be placed in horizontal lifts not exceeding six inches compacted thickness or in horizontal lifts with thicknesses compatible with the compaction equipment utilized.

It is the understanding of this firm that various utility trenches may traverse the completed pad. The backfill of all utility trenches, if not in conformance with this report, may adversely impact the integrity of the completed pad. This firm recommends that all utility trench backfill crossing the pad be inspected and tested to ensure full conformance with this report. Untested utility trench backfill will nullify any as-built grading report regarding the existence of controlled compacted fill beneath the proposed building foundations and place the owner at greater risk in terms of potential unwanted foundation and floor slab movement.

Compaction of backfill, subgrade soil, subbase fill, and base course materials should be accomplished to the following density criteria:

Material	Degree of Compaction (ASTM D698)
On-site native soils used as subbase fill or backfill for structural support (cohesionless, PI < 12):	
Building areas below foundation level	95 min.
Building areas above foundation level	95 min.
Imported subbase fill or backfill for structural support:	
Building areas below foundation level	95 min.
Building areas above foundation level	95 min.
Base course:	
Below interior concrete slabs	95 min.



During construction and prior to concrete placement, moisture contents should be controlled as follows:

Material	Compaction Moisture Content Range
On-site native soils (cohesionless, PI < 12):	
Below foundation level	optimum -2 to optimum +2%
Above foundation level	optimum -2 to optimum +2%
Imported fill material:	
Below foundation level	optimum -2 to optimum +2%
Above foundation level	optimum -2 to optimum +2%

Note: "Above Foundation Level" recommendations also apply to the subgrade in exterior slab, sidewalk, curb, and gutter areas.

Any soil disturbed during construction shall be compacted to the applicable percent compaction as specified herein. Increase the required degree of compaction to a minimum of 98 percent for fill materials greater than 5 feet below final grade.

Natural undisturbed soils or compacted soils subsequently disturbed or removed by construction operations should be replaced with materials compacted as specified above.

All imported fill material to be used as structural supporting fill should be free of vegetation, debris and other deleterious material and meet the following requirements:

Maximum Plasticity Index	14
Maximum Particle Size	6 inches
Percentage Passing 4-inch Sieve	70 - 100 percent
Acceptable Passing #4 Sieve	50 - 100 percent
Maximum Passing #200 Sieve	60 percent
Maximum Expansion Potential (%)	1.5 %*
Maximum Soluble Sulfates (%)	0.15

*Performed on a sample remolded to 95 percent of the maximum ASTM D698 density at 2 percent below optimum moisture content, under 100 PSF surcharge.

Water settling and/or slurry shall not, in any case, be used to compact or settle surface soils, fill material, or trench backfill within 10 feet of a structure area or within an area which is to be paved.

When trench backfill consists of permeable materials that would allow percolation of water into a structure or pavement area, water settling shall not be used to settle such materials in any part of the trench.

5.3 Fill Slope Stability

Maximum fill slopes may conform to a 1.75:1 (horizontal:vertical) ratio if fill is placed in accordance with the recommendations contained herein.



5.4 Shrinkage

Assuming that the average degree of compaction will approximate 97 percent of the standard maximum density, the approximate shrinkage of the reworked native soils should be 10-15 percent. This may result in a vertical elevation change of approximately 0.10 to 0.15 feet following the pre-compaction effort.

5.5 Seismicity

This project is not located over any known active faults or fault associated disturbed zones. The following 2006 IBC / 2009 IBC Site Classification may be utilized in the earthquake design of the proposed structures.

2006 IBC / 2009 IBC Site Classification - B

5.6 Spread Foundations for the Equipment Shelter or CMU Walls

It is recommended that all surface level perimeter foundations, isolated exterior and interior foundations bear on Layer 2 (rhyolite/andesite rock).

A specific foundation depth is not applicable. For all construction, 2.0 feet and 1.33 feet are recommended as the minimum width of spread and continuous footings, respectively. The following table may be used in the design of shallow spread (*column*) and continuous (*wall*) foundations for the proposed structures.

The column labeled Bearing Stratum refers to the soil layer that the footing pad rests on, and does not mean to imply that the foundation be fully embedded into that particular stratum.

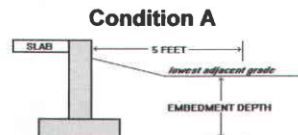
Surface Level Foundations Bearing on Layer 2 – Rhyolite/Andesite Rock (CMU Walls and any Equipment Shelters)

Foundation Depth (ft)	Bearing Stratum	Allowable Soil Bearing Capacity
Depth required to reach Layer 2	Layer 2 (rhyolite/andesite rock)	3000 PSF

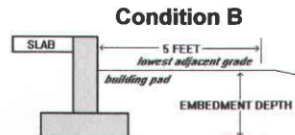
The above-listed bearing is based on a total settlement of 1/2 inch.

Explanation:

- A) The depth below the lowest adjacent exterior pad grade within 5 feet of proposed exterior walls;



- B) The depth below finish compacted pad grade provided that a sufficient pad blow-up (the lateral extent to which the building pad is constructed beyond the limits of the exterior walls or other structural elements, inclusive of exterior column foundations) has been incorporated into the grading and drainage design (5 feet or greater);



- C) The depth below finish floor level for interior foundations.

The weight of the foundation below grade may be neglected in dead load computations. The above recommended bearing capacities should be considered allowable maximums for dead plus design live loads, and may be increased by one-third when considering total loads including wind or seismic forces.

Shallow foundations that are adjacent to lower foundation areas must be stepped down so that their base is below the lower backfill materials, and below a line projected upward from the nearest lower foundation edge at a 45 degree angle.

The maximum estimated footing settlements (in situ) should be within tolerable limits of ½ inch if constructed in accordance with the recommendations contained in this report and a reasonable effort is made to balance loads on the footings.

It is anticipated that differential settlement will be limited to ¼ inch. We recommend that continuous footings and stem walls are reinforced, and bearing walls be constructed with frequent joints to better distribute stresses in the event of localized settlements. Similarly, all masonry walls should be provided with both vertical and horizontal reinforcement.

It is recommended that the footing excavations be inspected to ensure that they are free of loose soil which may have blown or sloughed into the excavations and that all of the footings for the equipment shelter or CMU walls will bear on Layer 2 (rhyolite/andesite rock) for an allowable soil bearing capacity of 3000 PSF.

A minimum of 3000 psi concrete with Type V cement and air entrainment should be used for the foundations. A maximum 4-inch slump should be used for the footings.

5.7 Drilled Shaft Foundations

The following table presents soil parameters to be used to analyze the stability of drilled shaft foundations:



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Depth (ft)	K Soil Modulus (pci)	RQD	E rock mass (psi)	Uniaxial Compressive Strength (psi)	Internal Friction Angle (degrees)	Soil or Rock Unit Weight (PCF)	Allowable Side/Skin Friction (ksf)	N-Value	ϵ_{so}	k_a	k_p
4.0 to 6.0 feet Highly weathered and fractured rhyolite/andesite	Default value "Reese Weak Rock"	30	150,000	300	38	130	0.75	30	0.0005 to 0.0005 (k_m)	0.2379	4.2037
Below 6.0 feet Moderately weathered and fractured rhyolite/andesite	Default value "Reese Strong Rock"	70	350,000	700	42	150	1.75	70+	0.0005 to 0.0005 (k_m)	0.1982	5.0477

Lateral stability may be evaluated with a computer program known as LPILE plus Version 5.0 or higher, assuming the length to diameter ratio (L/D) is at least 4.0. If the L/D is less than 4.0, a Brom's analysis should be performed to analyze lateral stability. The following graphs present the allowable axial capacity, lateral load, and uplift versus depth for various shaft diameters ranging from 2.5 to 6.0 feet. The allowable end bearing capacity table below was utilized in the axial graph to follow:

Allowable End-Bearing Capacity (KSF)								
Drilled Shaft Depth (feet)	2.5 feet diameter shaft	3.0 feet diameter shaft	3.5 feet diameter shaft	4.0 feet diameter shaft	4.5 feet diameter shaft	5.0 feet diameter shaft	5.5 feet diameter shaft	6.0 feet diameter shaft
5	2.4	2	1.72	1.5	1.34	1.2	1.1	1
6	6.72	5.6	4.8	4.2	3.74	3.36	3.06	2.8
7	7.84	6.54	5.6	4.9	4.36	3.92	3.57	3.27
8	8.96	7.47	6.4	5.6	4.98	4.48	4.08	3.74
9	10.08	8.4	7.2	6.3	5.6	5.04	4.59	4.2
10	11.2	9.34	8	7	6.23	5.6	5.1	4.67
11	12.32	10.27	8.8	7.7	6.85	6.16	5.6	5.14
12	13.44	11.2	9.6	8.4	7.47	6.72	6.11	5.6
13	14.56	12.14	10.4	9.1	8.09	7.28	6.62	6.07
14	15.68	13.07	11.2	9.8	8.72	7.84	7.13	6.54
15	16.8	14	12	10.5	9.34	8.4	7.64	7
16	17.92	14.94	12.8	11.2	9.96	8.96	8.15	7.47
17	19.04	15.87	13.6	11.9	10.58	9.52	8.66	7.94
18	20.16	16.8	14.4	12.6	11.2	10.08	9.17	8.4
19	21.28	17.74	15.2	13.3	11.83	10.64	9.68	8.87
20	22.4	18.67	16	14	12.45	11.2	10.19	9.34



Table continued

Drilled Shaft Depth (feet)	Allowable End-Bearing Capacity (KSF)							
	2.5 feet diameter shaft	3.0 feet diameter shaft	3.5 feet diameter shaft	4.0 feet diameter shaft	4.5 feet diameter shaft	5.0 feet diameter shaft	5.5 feet diameter shaft	6.0 feet diameter shaft
21	23.52	19.6	16.8	14.7	13.07	11.76	10.7	9.8
22	24.64	20.54	17.6	15.4	13.69	12.32	11.2	10.27
23	25.76	21.47	18.4	16.1	14.32	12.88	11.71	10.74
24	26.88	22.4	19.2	16.8	14.94	13.44	12.22	11.2
25	28	23.34	20	17.5	15.56	14	12.73	11.67
26	29.12	24.27	20.8	18.2	16.18	14.56	13.24	12.14
27	30.24	25.2	21.6	18.9	16.8	15.12	13.75	12.6
28	31.36	26.14	22.4	19.6	17.43	15.68	14.26	13.07
29	32.48	27.07	23.2	20.3	18.05	16.24	14.77	13.54
30	33.6	28	24	21	18.67	16.8	15.28	14

Vertical settlement of the drilled shaft due to axial loading is anticipated to be less than 0.25 inches. In addition to neglecting the surface 4.0 feet of soil, the weight of the foundation below grade was not considered in the design of the drilled shaft. The embedment depth refers to the depth below the existing site elevation. Prior to the placement of reinforcing steel or concrete, all drilled shaft excavations should be examined by the project geotechnical engineer or a representative thereof.

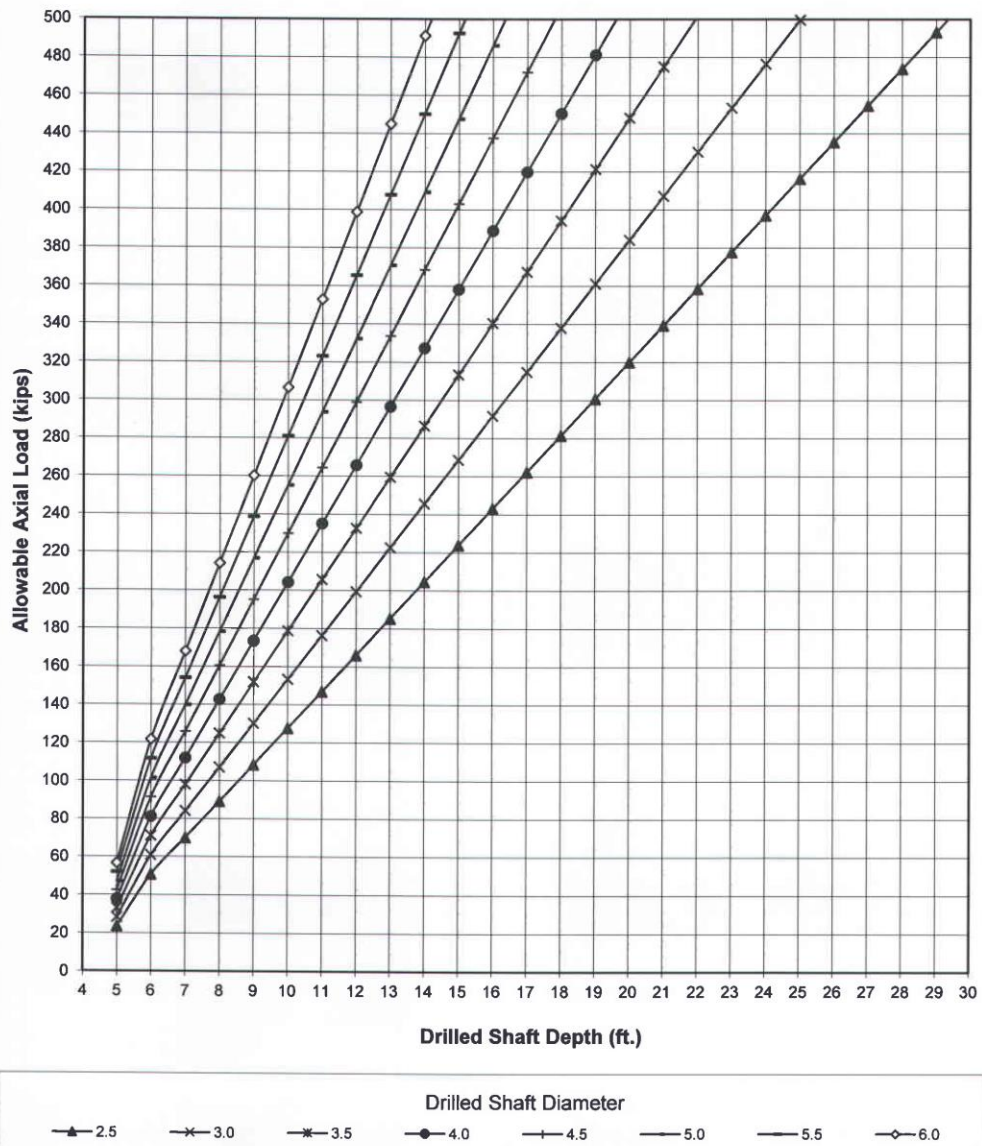
Drill rigs capable of high torque (capable of extracting rock) will be required for drilled shaft foundation excavations, below an average calculated depth of 1.6 feet, due to the presence of highly weathered and fractured rhyolite/andesite rock (Layer 2). Drill rigs capable of extremely high torque (capable of extracting rock) will be required for drilled shaft foundation excavations, below an average calculated depth of 5.2 feet, due to the presence of moderately weathered and fractured rhyolite/andesite rock (Layer 3).

The excavations should be inspected for location, plumbness, amount of loose and/or compressible material in the bottom of the excavation, and the depth and diameter of the shaft. Formal permission to proceed with construction should subsequently be given in a timely manner. Unless otherwise specified in the project specifications, the excavation for a drilled shaft should be made so that the axis of the shaft at the top of the shaft is no more than 2 inches from its plan location.

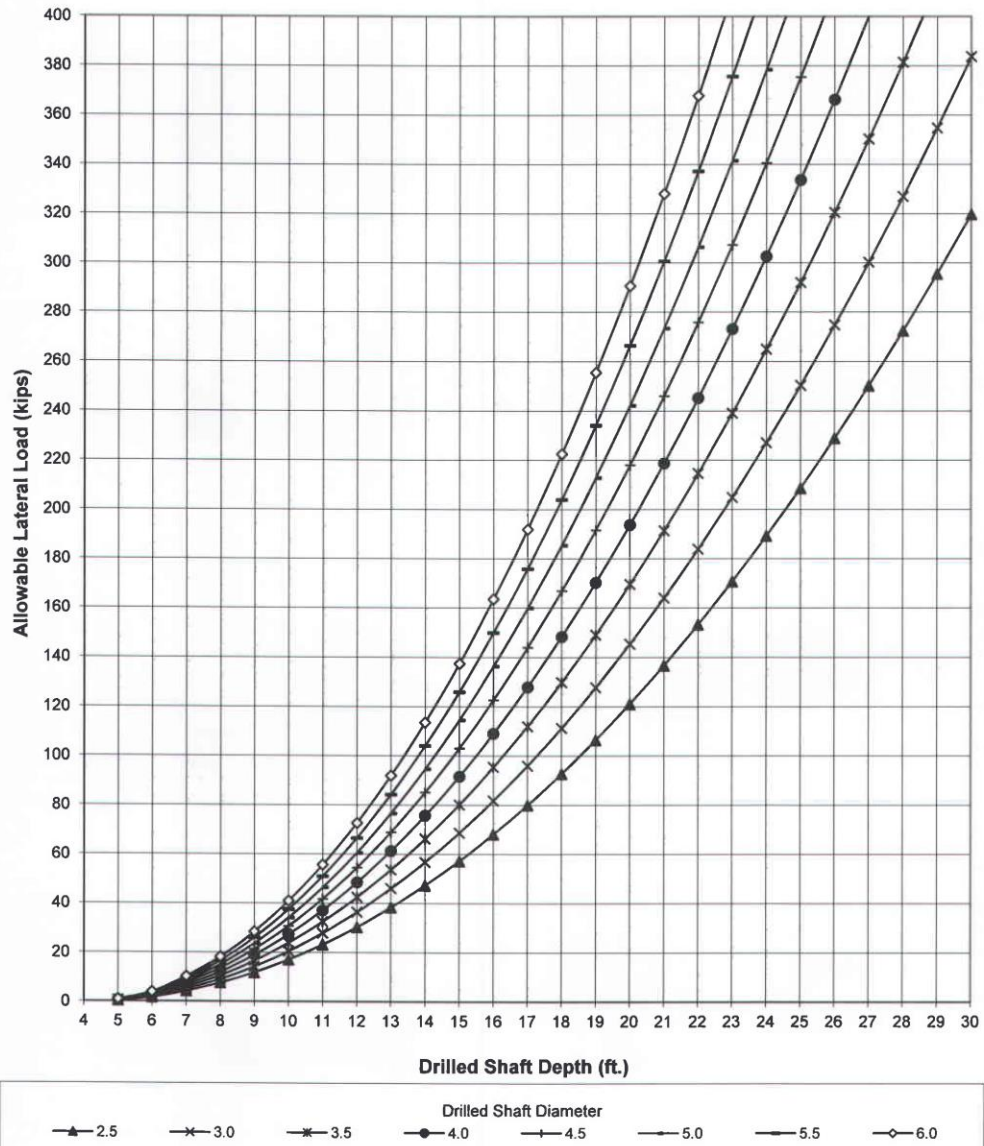
In addition, the drilled shaft should be within 2 percent of plumb for the total length of the shaft, with plumbness measured from the as-constructed position of the top of the excavation, provided the excavation meets the first tolerance noted above. The top elevation of the shaft should be no more than 1 inch above or 3 inches below the plan elevation and the diameter of the drilled shaft should be no less than the plan dimension.



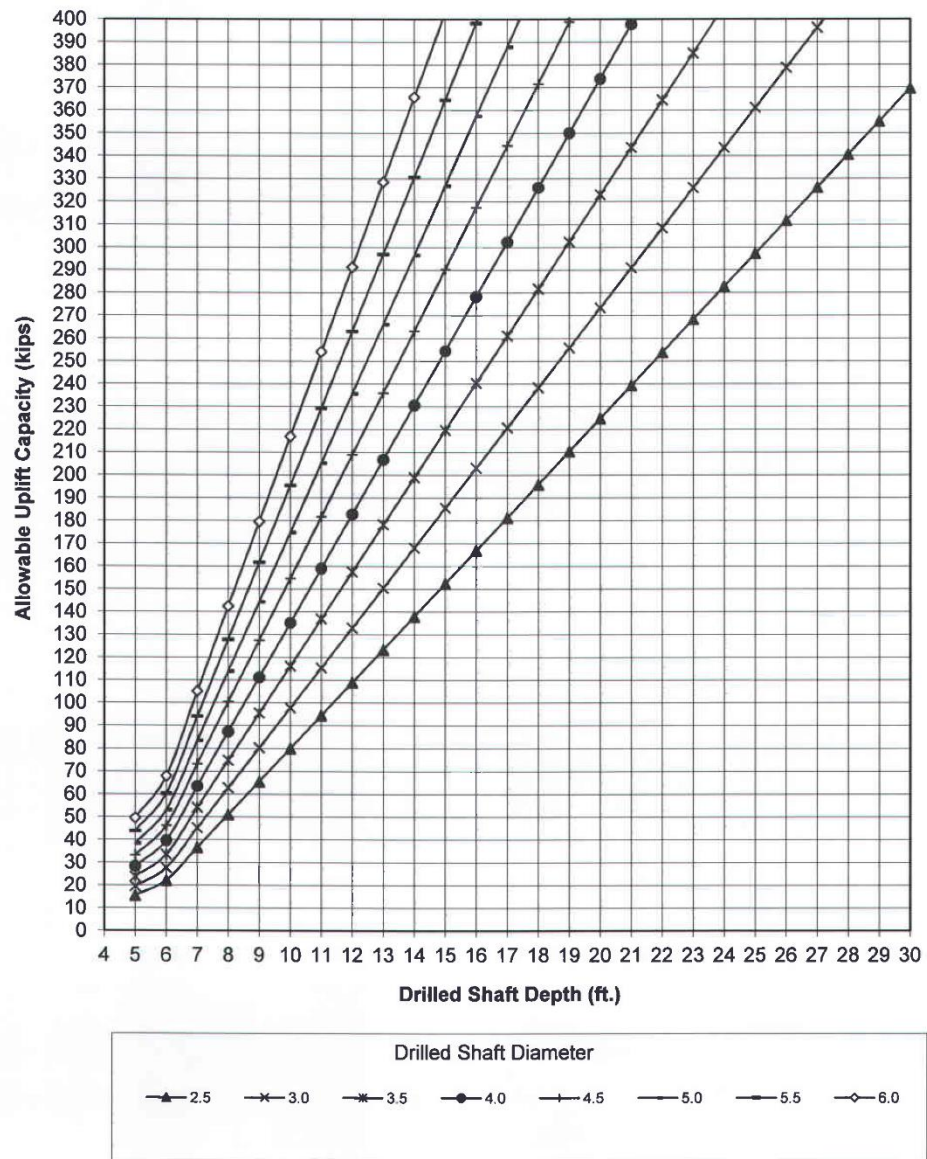
Allowable Axial Load (Per Leg) vs. Shaft Depth



Allowable Lateral Load (Per Leg) vs. Shaft Depth



Allowable Uplift Capacity (Per Leg) vs. Shaft Depth



In order to minimize problems with the sides of the excavation becoming unstable, the excavation should be completed in a continuous operation and the concrete should be placed without undue delay. As such, the concrete should be placed the same day the excavation is completed. Where possible, reinforcing steel should extend the full length of the drilled shaft. The clear spacing between bars of the rebar cage shall be at least three times the size of the maximum coarse aggregate. Heavy coatings of rust, chemicals, or other surface contaminants (including soil) must be removed before placement.

The concrete should be designed, from a strength standpoint, so that the slump during placement is in the range of 4 to 6 inches. Admixtures and retarders are not recommended for use in the concrete for the drilled shafts. Steps should be taken to prevent an appreciable loss of concrete slump during placement and excessive concrete shrinkage subsequent to placement. Concrete should be placed through a hopper or other device approved by the project geotechnical engineer so that it is channeled in such a manner to free fall and clears the walls of the excavation and reinforcing steel until it strikes the bottom. Adequate compaction will be achieved by free fall of the concrete up to the top 5.0 feet. The top 5.0 feet of concrete should be vibrated internally in order to achieve proper compaction.

As mentioned previously, continuous observation of the construction of drilled shafts should be carried out by the geotechnical engineer or a representative thereof. He should also verify proper diameter, depth, and cleaning, and should verify the nature of materials encountered in the shaft excavations. Concrete placement should be continuously observed to ensure that it meets requirements. A quality control report should be submitted on each shaft, stating, in writing, that all details have been observed and requirements were met.

A minimum of 3000 psi concrete with Type V cement and air entrainment should be used for the drilled shaft foundations for the proposed tower. A maximum 4-inch slump should be used for the drilled shaft footings.

5.8 Lateral Stability Analyses for Surface-Level Foundations

The following table presents parameters for lateral stability for native undisturbed soil (Layer 1):

^a Foundation Toe Pressures..... 1.33 x max. allowable

	Native Undisturbed Soil (Layer 1)
^b Lateral Backfill Pressures:	
Unrestrained walls	34 psf/ft.
Restrained wall ^c	52 psf/ft.
Lateral Passive Pressures For Surficial Soils:	
Continuous walls/footings	240 psf/ft.
Spread columns/footings	358 psf/ft.
Coefficient of Base Friction For Surficial Soils:	
Independent of passive resistance	0.62
In conjunction with passive resistance	0.42



The following are lateral stability parameters for Layer 2, based on a friction angle of 38° and a unit weight of 130 pcf:

^a Foundation Toe Pressures..... 1.33 x max. allowable

	Layer 2
^b Lateral Backfill Pressures:	
Unrestrained walls	34 psf/ft. (backfill soils)
Restrained wall ^c	52 psf/ft. (backfill soils)
Lateral Passive Pressures For Surficial Soils:	
Continuous walls/footings	366 psf/ft.
Spread columns/footings	546 psf/ft.
Coefficient of Base Friction For Surficial Soils:	
Independent of passive resistance	0.78
In conjunction with passive resistance	0.52

Superscript Explanations

^aIncrease in allowable foundation bearing pressure (previously stated) for foundation toe pressures due to eccentric or lateral loading.

^bEquivalent fluid pressures for vertical walls and horizontal backfill surfaces (maximum 12 feet in height). Pressures do not include temporary forces during compaction of the backfill, expansion pressures developed by over-compacted clayey backfill, hydrostatic pressures from inundation of backfill, or surcharge loads. Walls should be suitably braced during backfilling to prevent damage and excessive deflection.

^cThe backfill pressure can be reduced to the unrestrained lateral pressure if the backfill zone between the wall and cut slope is a narrow wedge (width less than ½ the height).

The equivalent fluid pressures presented herein do not include the lateral pressures arising from the presence of:

- Hydrostatic conditions, submergence or partial submergence
- Sloping backfill, positively or negatively
- Surcharge loading, permanent or temporary
- Seismic or dynamic conditions

Fill placement against footings and stem walls should be compacted to the densities specified herein. High plasticity clay soils should not be used as backfill against walls.

Compaction of each lift adjacent to walls should be accomplished with hand-operated tampers or other lightweight compactors. Overcompaction may cause excessive lateral earth pressures that could result in wall movements.



5.9 Mat-Type Foundation for the 3-Leg Self-Support Lattice Tower

A foundation system comprised of a mat-type footing may also be used to support the proposed tower. Please refer to the following table, which presents the allowable soil bearing capacity versus embedment depth for ½ inch total settlement, with ¼ inch differential settlement; and 1 inch total settlement, with ½ inch differential settlement.

Mat Type Foundations Bearing on Layer 2 (Rhyolite/Andesite Rock) at a Minimum Depth of 3.0 Feet below Finish Grade

Foundation Depth (ft)	Bearing Stratum	Allowable Soil Bearing Capacity	
		½ inch Total Settlement, ¼ inch Differential Settlement	1 inch Total Settlement, ½ inch Differential Settlement
3.0	Layer 2 (Rhyolite/Andesite Rock)	3000 PSF	6000 PSF
3.5	Layer 2 (Rhyolite/Andesite Rock)	3250 PSF	6500 PSF
4.0	Layer 2 (Rhyolite/Andesite Rock)	3500 PSF	7000 PSF
4.5	Layer 2 (Rhyolite/Andesite Rock)	3750 PSF	7500 PSF
5.0	Layer 2 (Rhyolite/Andesite Rock)	4000 PSF	8000 PSF
5.5	Layer 2 (Rhyolite/Andesite Rock)	4250 PSF	8500 PSF
6.0	Layer 2 (Rhyolite/Andesite Rock)	4500 PSF	9000 PSF

The mat foundation should be covered with enough backfill so that the concrete and the overburden soil weight are adequate to resist the design uplift forces. An approximate unit weight of 110 PCF may be utilized to represent the backfill soils above the foundation.

A minimum of 3000 psi concrete with Type V cement and air entrainment should be used for the mat-type foundation for the proposed tower. A maximum 4-inch slump should be used for the mat-type footing.

5.10 Individual Spread Foundations for the 3-Leg Self-Support Lattice Tower

A foundation system comprised of individual spread-type footings may also be used to support the proposed tower. Please refer to the following table, which presents the allowable soil bearing capacity versus embedment depth for ½ inch total settlement, with ¼ inch differential settlement; and 1 inch total settlement, with ½ inch differential settlement. **Each individual spread foundation must have a minimum foundation embedment of 6.0 feet.**

The following may be used in the design of individual spread foundations for the proposed tower.



Individual Spread Foundations Bearing on or Into Layer 3 (Rhyolite/Andesite Rock) with a Minimum Foundation Embedment of 6.0 Feet

Foundation Depth (ft)	Bearing Stratum	Allowable Soil Bearing Capacity	
		½ inch Total Settlement, ¼ inch Differential Settlement	1 inch Total Settlement, ½ inch Differential Settlement
6.0	Layer 3 (Rhyolite/Andesite Rock)	7000 PSF	14000 PSF
6.5	Layer 3 (Rhyolite/Andesite Rock)	7250 PSF	14500 PSF
7.0	Layer 3 (Rhyolite/Andesite Rock)	7500 PSF	15000 PSF
7.5	Layer 3 (Rhyolite/Andesite Rock)	7750 PSF	15500 PSF
8.0	Layer 3 (Rhyolite/Andesite Rock)	8000 PSF	16000 PSF
8.5	Layer 3 (Rhyolite/Andesite Rock)	8250 PSF	16500 PSF
9.0	Layer 3 (Rhyolite/Andesite Rock)	8500 PSF	17000 PSF
9.5	Layer 3 (Rhyolite/Andesite Rock)	8750 PSF	17500 PSF
10.0	Layer 3 (Rhyolite/Andesite Rock)	9000 PSF	18000 PSF

The weight of the foundation below grade may be neglected in dead load computations. The above recommended bearing capacity should be considered allowable maximums for dead plus design live loads, and may be increased by one-third when considering total loads including wind or seismic forces or for other transient conditions. This firm recommends that all foundation excavations be inspected by a representative of the project geotechnical engineer to ensure that they are free of loose soil which may have blown or sloughed into the excavations and that all foundations will bear on or into Layer 3 (rhyolite/andesite rock).

A minimum of 3000 psi concrete with Type V cement and air entrainment should be used for the individual spread foundations for the proposed tower. A maximum 4-inch slump should be used for the footings.

5.11 Rock Anchored Foundation – Used in Conjunction with Individual Spread Foundations Bearing on or into Layer 3

The following recommendations have been generated for the use of gravity base spread foundations utilizing rock anchors. To resist the maximum anticipated uplift and base shear, the spread foundations may need to incorporate rock anchors tied to the reinforcing steel for the spread foundations.

This firm has evaluated the existing rock mass characteristics relative to utilizing rock anchors to provide resistance to uplift and base shear. The following presents recommendations for rock anchors that may be used in the design of individual spread foundations for the proposed tower.



Rock Anchors

Parameter	Requirement	
Bar Size	Grade 90, #11 bars minimum	
Hole Diameter	3.5" Typical	
Depth of hole below the spread foundation	10.0' minimum; (uppermost 2.0' is neglected)	
Bonding Material	Structural Epoxy or Rapid-Set Non-Shrink Grout	
Base shearing resistance	Layer 3	175 PSI applied to the length and width of the rebar
Bonding stress	Layer 3	125 PSI between the epoxy or non-shrink grout and the rock

The embedment depths of rock anchors are based on the anticipated bonding strength between the rock and the epoxy resin or non-shrink grout around the anchor. Additional parameters for the design of rock anchors are listed in the following table.

Vp (FPS)	E ROCK MASS	UNIAXIAL COMPRESSIVE STRENGTH FOR DRILLED SHAFTS (PSI)	UNIT WEIGHT (PCF)	Ø ROCK MASS (DEG)	ALLOWABLE END BEARING CAPACITY (PSF)	ROCK ANCHOR BONDING STRENGTH (PSI)	ROCK MASS COHESION (PSI)	SIDE FRICTION FOR SPREAD FOUNDATIONS (KSF)	RQD	BASE SHEARING RESISTANCE (PSI)
7000 (Layer 3 - below 6 feet)	350,000	700	150	42	7000	125	250	1.75	70	175

The installation of the rock anchors should also be inspected to verify proper preparation and use of suitable bonding epoxy or non-shrink grout.

5.12 Slab Support for Equipment Shelters

Site grading within the building areas should be accomplished as recommended herein. Four inches of aggregate base course (ABC) floor fill should immediately underlie interior grade floor slabs with a typical thickness of 5.0 inches (full). The 5-inch slab must contain #3 rebar spaced 30 inches on center each way. A turndown should be incorporated into the slab and contact Layer 2 rock.

5.13 Slab Support for Equipment Cabinet Slabs

Based on the expected equipment loads, a 6-inch slab should be utilized that is reinforced with #4 rebar spaced at 24 inches on center each way. A minimum of 2 inches of concrete slab must be exposed above the final site grade. A contact stress of 425 psf is expected by the equipment on the slab, which should easily be handled by the final subgrade conditions.



5.14 Drainage

The major cause of soil problems in this locality is moisture increase in soils below structures. Therefore, it is extremely important that positive drainage be provided during construction and maintained throughout the life of any proposed development. **In no case should long-term ponding be allowed near structures.** Infiltration of water into utility or foundation excavations must be prevented during construction. Planters or other surface features that could retain water adjacent to buildings should not be constructed.

In areas where sidewalks or paving do not immediately adjoin structures, protective slopes should be provided with an outfall of about 2 percent for at least 10 feet from perimeter walls. Backfill against footings, exterior walls, retaining walls, and in utility or sprinkler line trenches should be well compacted and free of all construction debris to minimize the possibility of moisture infiltration through loose soil. Roof drainage systems, such as gutters or rain dispenser devices, are recommended all around the roof-line. Rain runoff from roofs should be discharged at least 5 feet from any perimeter wall or column footing. If a roof drainage system is not installed, rain-water will drip over the eaves and fall next to the foundations resulting in sub-grade soil erosion, creating depressions in the soil mass, which may allow water to seep directly under the foundations and slabs.

5.15 Landscaping Considerations

The potential for unwanted foundation and slab movements can often times be reduced or minimized by following certain landscape practices. The main goal for proper landscape design should be to minimize fluctuations in the moisture content of the soils surrounding the structure. In addition to maintaining positive drainage away from the structure, appropriate plant/tree selections and sprinkler/irrigation practices are extremely important to the long-term performance of the foundations and slabs. The conventional practice of planting near foundations is not recommended. Do not plant flowers and shrubs within 10 feet of any perimeter wall or column foundation. Ground cover plants with low water requirements may be acceptable for landscaping near foundations. Ground cover vegetation helps to reduce fluctuations in the soil moisture content. Limit the watering to the minimum needed to maintain the ground cover vegetation near foundations. For greater moisture control, water these areas by hand. For planters and general landscaping, we recommend the following:

- Planters should be sealed.
- Grades should slope away from the structures.
- Only shallow rooted landscaping material should be used.
- Watering should be kept to a minimum.

Trees should be planted a minimum distance of 10 feet away from the foundation of the structure. Some trees may have extensive shallow root systems which may grow under and displace shallow foundations. In addition, tree roots draw moisture from the surrounding soils, which may exacerbate shrink/swell cycles of the surface soils. The amount of moisture drawn out of the soil will depend on the tree species, size, and location. If trees are planted well away from foundations in irrigated areas, the chances of foundation damage is greatly reduced. If irrigation/sprinkler systems are to be used, we recommended installing the system all around the structure to provide uniform moisture throughout the year. The irrigation/sprinkler systems



should spray no closer than 5 feet from the foundation. The sprinkler system should be checked for leakages once per month. Significant foundation movements can occur if the soils under the foundations are exposed to a source of free water.

5.16 Foundations and Risks

The factors that aid in the design and construction of lightly loaded foundations include economics, risk, soil type, foundation shape and structural loading. Most of the time, foundation systems are selected by the owner/builder, which as a result of economic considerations, accept higher risks in foundation design. It should be noted that some levels of risk are associated with all foundation systems and there is no such thing as a "zero-risk" foundation. It also should be noted that the foundation recommendations presented herein are not designed to resist soil movements as a result of sewer/plumbing leaks, excessive irrigation, poor drainage, and water ponding near the foundation system. It is recommended that the owner implement a foundation maintenance program to help reduce potential future unwanted foundation/slab movements throughout the useful life of the structure. The owner should conduct yearly observation of foundations and slabs and perform any maintenance necessary to improve drainage and minimize infiltrations of water from precipitation and/or irrigation. Irrigation/sprinkler systems should be periodically monitored for leaks and malfunctioning sprinkler heads, which should be repaired immediately. Post-construction landscaping should be carefully designed to preserve initial site grading.

6.0 ADDITIONAL SERVICES

As an additional service, this firm would be pleased to review the project plans and structural notes for conformance to the intent of this report. Foree & Vann, Inc. should be retained to provide documentation that the recommendations set forth are met. These include but are not limited to documentation of site clearing activities, verification of fill suitability and compaction, and inspection of footing excavations. Relative to field density testing, a minimum of 1 field density test should be taken for every 2500 square feet of building area, per 6.0-inch layer of compacted fill. This firm possesses the capability of performing testing and inspection services during the course of construction. Such services include, but are not limited to, compaction testing as related to fill control, foundation inspections and concrete sampling. Please notify this firm if a proposal for these services is desired.

7.0 LIMITATIONS

This report is not intended as a bidding document, and any contractor reviewing this report must draw his own conclusions regarding specific construction techniques to be used on this project. The scope of services carried out by this firm does not include an evaluation pertaining to environmental issues. If these services are required by the lender, we would be most pleased to discuss the varying degrees of environmental site assessments.

This report is issued with the understanding that it is the responsibility of the owner to see that its provisions are carried out or brought to the attention of those concerned. In the event that any changes of the proposed project are planned, the conclusions and recommendations contained in this report shall be reviewed and the report shall be modified or supplemented as necessary. Prior to construction, we recommend the following:



1. Consultation with the design team in all areas that concern soils and rocks to ensure a clear understanding of all key elements contained within this report.
2. Review of the General Structural Notes to confirm compliance to this report and determination of which allowable soil bearing capacity has been selected by the project structural engineer (this directly affects the extent of earthwork and foundation preparation at the site).
3. This firm be notified of all specific areas to be treated as special inspection items (designated by the architect, structural engineer or governmental agency).

Relative to this firm's involvement with the project during the course of construction, we offer the following recommendations:

1. The site or development owner should be directly responsible for the selection of the geotechnical consultant to provide testing and observation services during the course of construction.
2. This firm should be contracted by the owner to provide the course of construction testing and observation services for this project, as we are most familiar with the interpretation of the methodology followed herein.
3. All parties concerned should understand that there exists a priority surrounding the testing and observation services completed at the site.

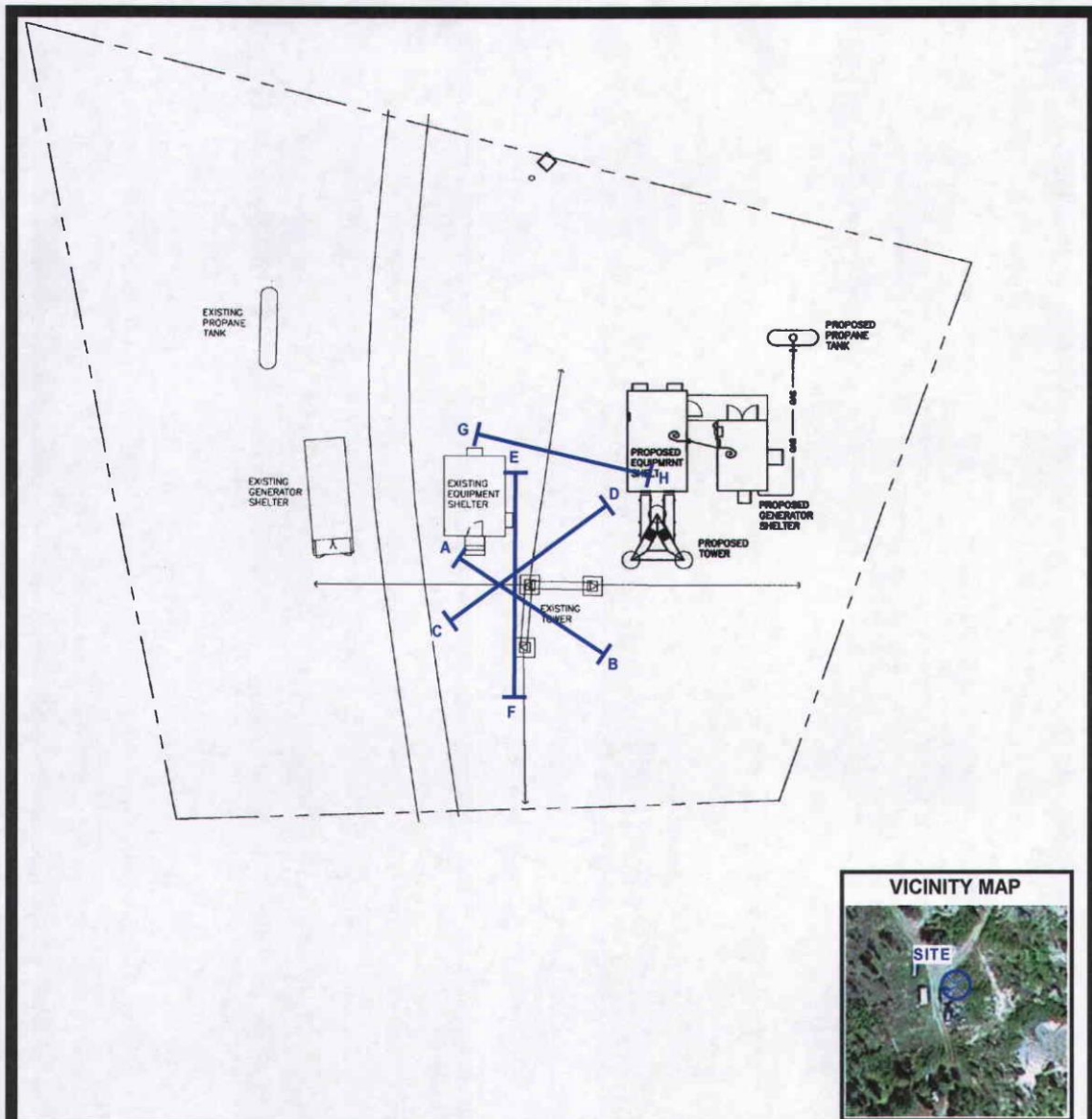


DEFINITION OF TERMINOLOGY

Allowable Soil Bearing Capacity Allowable Foundation Pressure	The recommended maximum contact stress developed at the interface of the foundation element and the supporting material.
Aggregate Base Course (ABC)	A sand and gravel mixture of specified gradation, used for slab and pavement support.
Backfill	A specified material placed and compacted in a confined area.
Base Course	A layer of specified material placed on a subgrade or subbase.
Base Course Grade	Top of base course.
Bench	A horizontal surface in a sloped deposit.
Caisson	A concrete foundation element cased in a circular excavation which may have an enlarged base. Sometimes referred to as a cast-in-place pier.
Concrete Slabs-on-Grade	A concrete surface layer cast directly upon a base, subbase, or subgrade.
Controlled Compacted Fill	Engineered Fill. Specific material placed and compacted to specified density and/or moisture conditions under observation of a representative of a soil engineer.
Differential Settlement	Unequal settlement between or within foundation elements of a structure.
Existing Fill	Materials deposited through the action of man prior to exploration of the site.
Expansive Potential	The potential of a soil to increase in volume due to the absorption of moisture.
Fill	Materials deposited by the action of man.
Finish Grade	The final grade created as a part of the project.
Heave	Upward movement due to expansion or frost action.
Native Grade	The naturally occurring ground surface.
Native Soil	Naturally occurring on-site soil.
Overexcavate	Lateral extent of subexcavation.
Rock	A natural aggregate of mineral grains connected by strong and permanent cohesive forces. Usually requires drilling, wedging, blasting, or other methods of extraordinary force for excavation.
Scarify	To mechanically loosen soil or break down the existing soil structure.
Settlement	Downward movement of the soil mass and structure due to vertical loading.
Soil	Any unconsolidated material composed of disintegrated vegetable or mineral matter which can be separated by gently mechanical means, such as agitation in water.
Strip	To remove from present location.
Subbase	A layer of specified material between the subgrade and base course.
Subexcavate	Vertical zone of soil removal and re-compaction required for adequate foundation or slab support.
Subgrade	Prepared native soil surface.



SECTION II



LEGEND:



SEISMIC SURVEY LOCATIONS



SITE PLAN

SCALE: N.T.S.

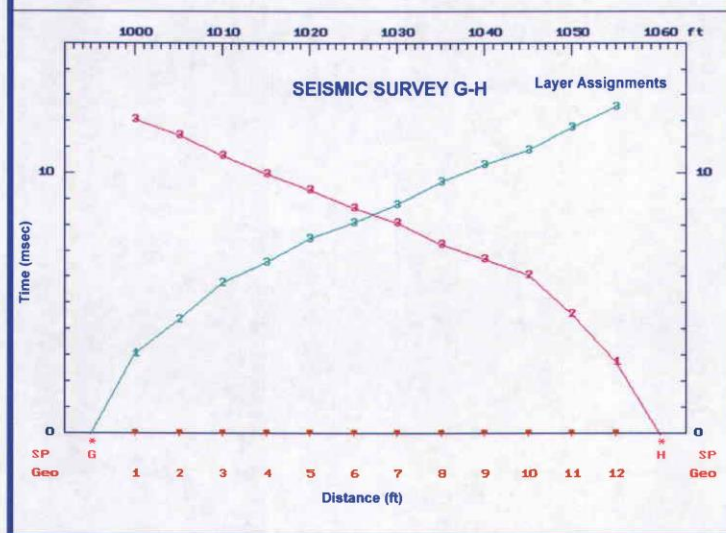
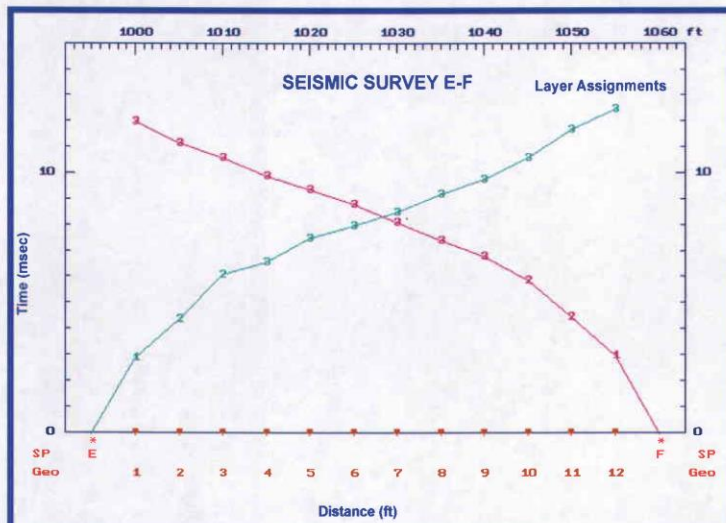
DATE: 2/13/12

PREPARED BY: YD

GALLINAS
A PROPOSED COMMUNICATIONS FACILITY
180 FEET TALL 3-LEG SELF-SUPPORT LATTICE TOWER
AND EQUIPMENT SHELTER
34 14'48.3"N, 105 47'19.36"W
NEW MEXICO

PROJECT 21338

Foree & Vann, Inc.



SCALE: N.T.S.

DATE: 2-3-12

SEISMIC LAYER ASSIGNMENTS

PREPARED BY: MES

GALLINAS
A PROPOSED COMMUNICATIONS FACILITY
180 FEET TALL 3-LEG SELF-SUPPORT LATTICE TOWER
AND EQUIPMENT SHELTER
34°14'45.3"N, 105°47'19.3"W
NEW MEXICO

PROJECT 21338

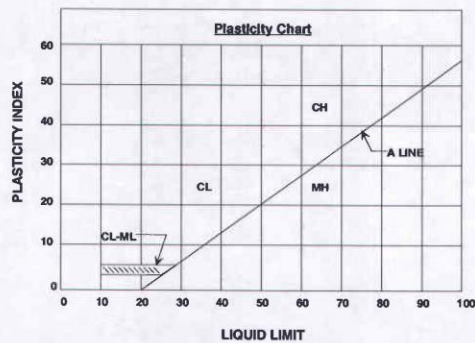
LAYER ASSIGNMENTS


Foree & Vann, Inc.

LEGEND

Major Divisions				Group Symbol	Typical Names
Coarse-Grained Soils (Less than 50% passes No. 200 sieve)	Gravels (50% or less or coarse fraction passes No. 4 sieve)	Clean Gravels (Less than 5% passes No. 200 sieve)		GW	Well graded gravels, gravel-sand mixtures, or sand-gravel-cobble mixtures.
				GP	Poorly graded gravels, gravel-sand mixtures, or sand-gravel-cobble mixtures.
		Gravels with Fines (More than 12% passes No. 200 sieve)	Limits plot below "A" line & hatched zone on Plasticity Chart.	GM	Silty gravels, gravel-sand-silt mixtures.
			Limits plots above "A" line & hatched zone on Plasticity Chart.	GC	Clayey gravels, gravel-sand-clay mixtures.
	Sands (More than 50% of coarse fraction passes No. 4 sieve)	Clean Sands (Less than 5% passes No. 200 sieve)		SW	Well graded sands, gravelly sands.
				SP	Poorly graded sands, gravelly sands.
		Sands with Fines (More than 12% passes No. 200 sieve)	Limits plots below "A" line & hatched zone on Plasticity Chart.	SM	Silty sands, sand-silt mixtures.
			Limits plots above "A" line & hatched zone on Plasticity Chart.	SC	Clayey sands, sand-clay mixtures.
Fine-Grained Soils (50% or more passes No. 200 sieve)	Silt-Plot below "A" line & hatched zone on Plasticity Chart	Silts of Low Plasticity (Liquid Limit Less Than 50)		ML	Inorganic silts, clayey silts with slight plasticity.
		Silts of High Plasticity (Liquid Limit More Than 50)		MH	Inorganic silts, micaceous or diatomaceous silty soils, elastic silts.
	Clays-Plot above "A" line & hatched zone on Plasticity Chart	Clays of Low Plasticity (Liquid Limit Less Than 50)		CL	Inorganic clays of low to medium plasticity, gravelly clays, sandy clays, silty clays, lean clays.
		Clays of High Plasticity (Liquid Limit More Than 50)		CH	Inorganic clays of high plasticity, fat clays, sandy clays of high plasticity.

Note: Coarse grained soils with between 5% & 12% passing the No. 200 sieve and fine grained soils with limits plotting in the hatched zone on the Plasticity Chart to have double symbol.



DEFINITIONS OF SOIL FRACTIONS

SOIL COMPONENT	PARTICLE SIZE RANGE
Cobbles	Above 3 in.
Gravel	3 in. to No. 4 sieve
Coarse gravel	3 in. to 3/4 in.
Fine gravel	3/4 in. to No. 4 sieve
Sand	No. 4 to No. 200
Coarse	No. 4 to No. 10
Medium	No. 10 to No. 40
Fine	No. 40 to No. 200
Fines (silt or clay)	Below No. 200 sieve

INTRODUCTION TO SEISMIC REFRACTION PRINCIPLES

Any disturbance to a soil or rock mass creates seismic waves which are merely the propagation of energy into that mass, manifested by distinct wave-forms. There are two basic types of seismic waves; body waves and surface waves.

Body waves are either compressional or shear in nature, they penetrate deep into the substrata, and reflect from or refract through the various geologic layers. Any emission of an energy source into a medium exhibits both a compression wave (P Wave) and a shear wave (S-Wave). P-Waves propagate in the form of oscillating pulses, traveling forward and backward, parallel to the direction of the wave front. S-Waves propagate in the form of distortional pulses, oscillating perpendicular to the wave front.

P-Waves travel at the highest velocities. Recording instruments which detect an energy transmission will generally observe the arrival of the P-Wave, followed by the S-Wave and surface waves.

All geologic materials exhibit P-Wave velocities in certain ranges which relate to the density, specific gravity, elastic modulus, and moisture content of the specific material. As a material's density and specific gravity increase so does its P-Wave velocity. Similarly, an increase in moisture content will cause an increase in P-Wave velocity. Generally, materials exhibiting higher P-Wave velocities will display higher elastic moduli.

In keeping with this relationship, determining the P-Wave velocities for the various subsurface layers, may yield very important and useful data relative to the engineering properties of the individual layers. In order to accomplish this task, methods of investigation, or surveys, were developed to establish the P-Wave velocity for subsurface layers. The method adopted by the **FOREE & VANN, INC.** Geophysical team examines the layer velocities, through refraction theory. Assuming that a P-Wave will refract through the various layers, according to the angle of incidence of the propagating wave form and the medium it is traveling through, it is then possible to detect a contrasting subsurface stratum by changes in the velocity of an induced seismic wave.

The procedure is outlined as follows:

A geophone is inserted into the ground or on a rock surface. Attached to it is a recording device. At predetermined intervals away from the geophone, in a linear array, a stable plate or rock surface is struck by a heavy sledge hammer. Typically, the intervals of successive hammer impacts range from five to twenty feet. A timing device attached to the hammer, trips a measured recording sweep time, at the moment of impact. The arrival time of the induced P-Wave is measured and recorded at each interval. The length of a survey is closely related to the depth of investigation. Generally, the depth of investigation is approximately equal to one-third the length of the survey. For example, if it is desired to examine the substrata to a depth of twenty feet, the survey should extend a distance of at least sixty feet. Changes in the calculated velocity indicate strata breaks or distinct changes within the same stratum. The important concept to remember with this method is that it is predominantly effective where velocities increase from layer to layer, moving downward from the surface. Analytical methods are also available for determining the depth to the various layers, even in the most complex multi-layer situations.

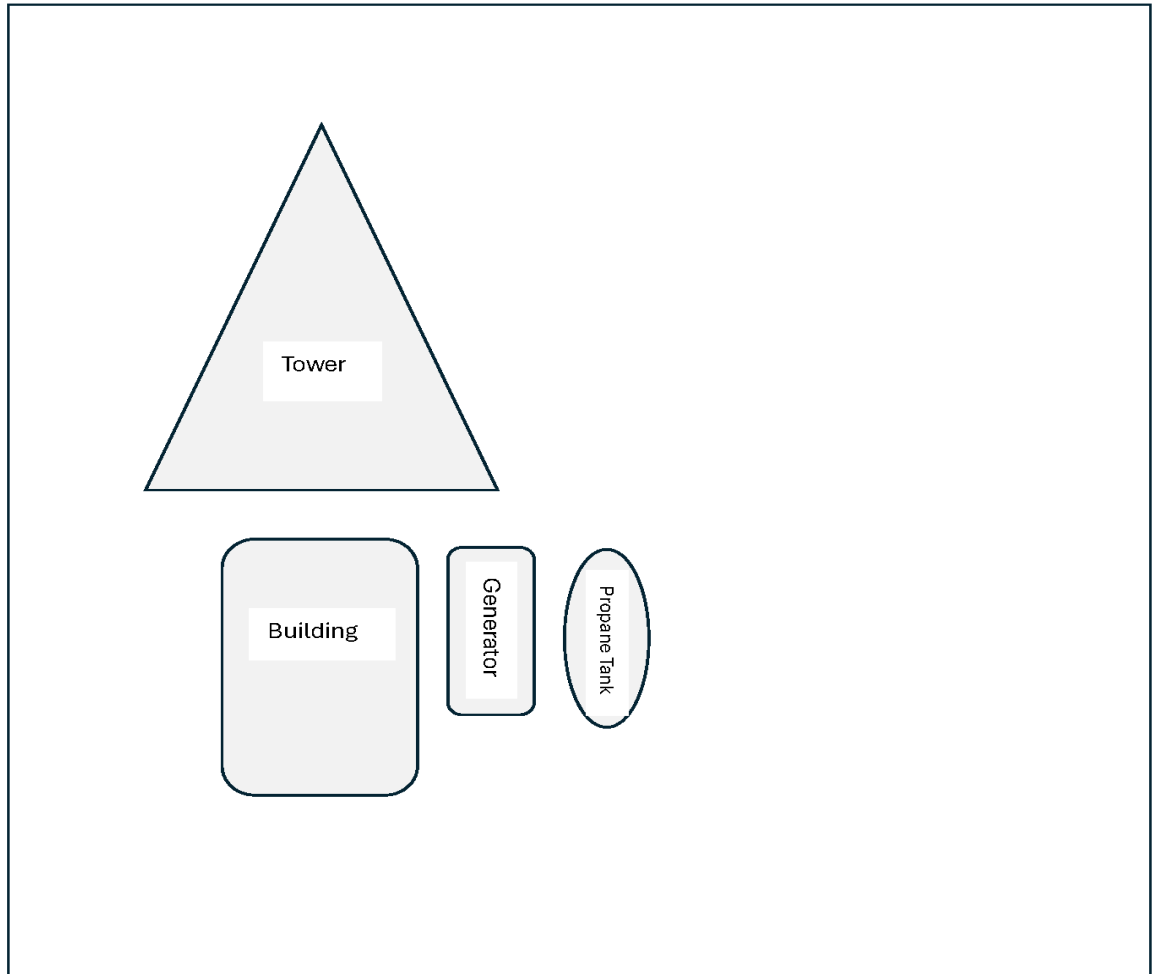
SECTION III

CLASSIFICATION TEST DATA

GALLINAS
A PROPOSED COMMUNICATIONS FACILITY
180 FEET TALL 3-LEG SELF-SUPPORT LATTICE TOWER
AND EQUIPMENT SHELTER
34°14'45.3"N, 105°47'19.3"W
NEW MEXICO

Sample Location	Sieve Analysis (% Passing Sieve Size)								Atterberg Limits		
	1 1/4"	1"	1/2"	#4	#10	#40	#100	#200	LL	PI	USCS
SG-A (0.0-1.0')	-	-	-	75	52	39	-	29	-	NP	SM

APPENDIX L: SITE LAYOUT



Service Rd.

50'x50' Lot



APPENDIX M: ADDENDUM ACKNOWLEDGEMENT OF RECEIPT FORM (RFP) 24-25-8R Gallinas Communications Tower Construction

(Name of Respondent)

We hereby acknowledge receipt of RFP 24-25-8R Gallinas Communications Tower Construction 6-23-25, subsequent amendments and responses to questions issued by the Lincoln County Procurement Office, and all other information about the Project uploaded to the Lincoln County Website.

Addendum No.

Date Issued

Response to Questions No.

Date Issued

(Signed)

(Date)

(Printed or Typed Name)

(Title)