# COUNTY OF LINCOLN
# Carrizozo, NM 88301

**Invitation to Bid 16-17-008**

**"Operation Of The Lincoln County Detention Center"**

**Due: May 9, 2017**
**2:00 p.m. MST or MDT**

**Whichever is in effect on the date given**

**COUNTY OF LINCOLN**
**P.O. Box 711**
**CARRIZOZO, NM 88301**
**575 648-2385**
**575 648-2381 (FAX)**

# REQUEST FOR PROPOSALS FOR THE OPERATION OF THE LINCOLN COUNTY DETENTION CENTER

**RFP NO. 16-17-008**

**PROPOSAL DEADLINE: May 9, 2017**

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# COUNTY OF LINCOLN

## NOTICE OF REQUEST FOR PROPOSAL

The County of Lincoln is issuing a Request for Proposal for the operation of a 144 maximum bed Adult Detention Facility within the town limits of Carrizozo, New Mexico and immediately adjacent to the municipal airport. The Town of Carrizozo is a small community of about 1,000 and is located about 40 miles away from other population centers. The County is interested in selecting a firm that can operate the detention center commencing June 1, 2017 at a reasonable cost to the County. The firm may propose additional construction at no cost to the County and seek innovative ways of reducing costs.

All proposals submitted must be clearly marked on the outside of the sealed package or envelope with the RFP Title, RFP Number, and Due Date. If the RFP is sent by mail, the sealed package or envelope shall have the notation "Sealed Proposal" along with the RFP Number. Proposals should be sent or hand-delivered to County of Lincoln, PO Box 711 (300 Central Ave.), Carrizozo, NM 88301 by 2:00 PM Local Time, May 9, 2017. Proposals received after that date and time will be returned unopened. Faxed proposals cannot be accepted.

(Note: Hand delivery recommended; overnight mail to Carrizozo is unreliable)

Lincoln County reserves the right to accept or reject any or all proposals and to waive all formalities.

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

All costs incurred by the proposer in the preparation, transmittal or presentation, of any proposal or material submitted in response to this request for proposals will be borne solely by the proposer.

DATED this 13th Day of April, 2017

COUNTY OF LINCOLN

BY: _____
Orlando Samora
Lincoln County Purchasing Agent

PUBLISHED:

Wednesday, April 19, 2017: The Ruidoso News, Albuquerque Journal, Las Cruces Sun News, Santa Fe New Mexican.

PROPOSAL REVIEW SCHEDULE

| | |
|---|---|
| Issuance of Proposal Packet ..... | April 13, 2017 |
| Advertisement ..... | April 19, 2017 |
| Proposal Submittal Deadline ..... | May 9, 2017 |
| Evaluation of Proposals ..... | May 9 – May 12, 2017 |
| Presentation to Commissioners..... | May 16, 2017 |
| Recommendation of Award ..... | May 16, 2017 |
| Contract submitted to State Department of Finance & Administration..... | May 16, 2017 – May 31, 2017 |
| Execution of Agreement ..... | June 1, 2017 |
| Commence Operations ..... | June 2, 2017 |

DATES AFTER PROPOSAL DEADLINE ARE TENTATIVE AND ARE SUBJECT TO CHANGE WITHOUT NOTICE SUBJECT TO REQUIRED COORDINATION FOR THE TRANSITION.

## PART 1 GENERAL INFORMATION

## GENERAL INFORMATION/PROJECT DESCRIPTION

The County of Lincoln is issuing a Request for Proposal for the operation of a 144 maximum bed Adult Detention Facility within the town limits of Carrizozo, New Mexico and immediately adjacent to the municipal airport. The County inmates generally comprise a population of about 108 with the remaining beds generally used for revenue generation to offset costs. The successful proposer will have a reputation for outstanding detention center administration, innovative cost reduction strategies, success in managing other facilities, ability to incorporate current detention center employees in the proposal, and in the final analysis, to operate the facility in a safe manner at a reasonable cost to the County.

The contract is subject to the approval of Risk Management Division of the General Services Department, as set forth in 33-3-27 (E), NMSA 1978.

## PART 2 GENERAL SCOPE OF WORK

The Adult Detention Center operational proposal shall include, but is not limited to:

1. An annual cost of operations to the County and sources of other funding to include contracting beds.

2. A transition plan to include the proposer assuming operations at the current facility as of June 2, 2017.

3. A plan which may incorporate accepting currently serving contract employees into the proposer's company.

4. An explanation of beneficial programs for inmates.

**Scope of Service - Facility & Systems Maintenance**

All replacement and maintenance of furnishing, fixtures, and installed equipment (FF&E) currently installed or located in the detention facility will be maintained at County's expense. In the proposal, perspective contractors will propose any additional equipment considered appropriate to operate the facility in a more cost effective and efficient manner. Contractors may recommend installation of any such items or systems as a County or Contractor provided item(s), and any estimated costs to the County will be clearly identified in the offering.

Contractor will, during the term of this Contract, have the sole and exclusive right, in its sole discretion and at its own expense, to install items of movable machinery and equipment into or upon the detention facility.

No FF&E will be removed by Contractor from the detention facility without the prior approval and consent of the County; with appropriate and adequate replacement thereof by the Contractor.

Pursuant to Contractor's obligations under Section 7 of Operations, Contractor must manage and maintain the detention facility at its sole cost and expense; and in connection with all of Contractor's obligations pursuant to this Contract.

Nothing in this Contract will prevent Contractor from purchasing or leasing items to be installed pursuant to the specifications.

See General Terms and Conditions for more details.

**Scope of Service - Supplies**

Vendor must maintain adequate inventory of supplies in stock. The contract will include all costs associated with maintaining these supplies in stock and readily available at all times.

See Standard Terms and Conditions for details.

**Other Requirements**

Each Contractor must submit documentation to substantiate their ability to perform the required services. This includes, but is not limited to, the following:

1. Qualifications of and number of personnel directly employed by bidder to perform the services, including the identification of mandatory posts and the process to ensure staffing requirements are met.

2. Standards followed or Accreditations earned by Contractor. I.e., (New Mexico Association of Counties (NMAC), American Correctional Association (ACA), National Commission on Correctional Health Care (NCCHC), including plans to obtain accreditation. If no accreditations are held, Contractor shall commence NMAC Accreditation Process within one calendar year of the execution of this contract.

3. Provision of three (3) current customers, to include name, address, phone number, and email address with whom your company has provided identical or similar services. **Provide accurate contact information.**

4. Proof of liability and other insurance coverage as required by this RFP (see specifications).

Due to the sensitive nature of this RFP, the award of this proposal will be evaluated on the vendor's ability to perform, and other related factors as indicated above and that represents the best value to Lincoln County.

**Liquidated Damages**

The parties agree that the following specific liquidated damages are to be incorporated as adjustment to Contractor's compensation. Such liquidated damages will be dictated by response times, verified by the County. The parties further agree that liquidated damages are proper, due to the difficulty of ascertaining actual damages in the event of a described occurrence, and that the acceptance of liquidated damages by the County will not be an exclusive remedy and will not in any way be construed as a waiver of the right of the County to declare the contract in default and terminate the contract, or to pursue any other legal remedy.

Contractor will be provided notice of any breach or deficiency that will subject the Contractor to liquidated damages prior to implementation and contractor will have thirty days after notice of any breach in terms or conditions to correct such breach prior to liquidated damages being assessed.

A. As liquidated damages, and not as penalty, the Contractor agrees to pay the County as follows:

1. If the Contractor fails to meet any proposed or required standard, liquidated damages will be in an amount to be agreed between the parties prior to commencement of service. The intent of this provision is to resolve minor performance deficiencies in a pro-active manner.

2. If Contractor fails to provide, in a timely manner any service, supply, treatment, or other requirement of this contract, without valid reason that is acceptable to the County, Contractor will pay as liquidated damages two thousand five hundred dollars ($2,500) per occurrence per Inmate Day.

## SPECIFIC TERMS & CONDITIONS

### ARTICLE I
### DEFINITIONS

**Section 1.1: Addendum** means a written or graphic instrument issued prior to the opening of Proposals which clarifies, corrects, or changes the Request for Proposals. Plural: addenda.

**Section 1.2: Contract Monitor** means the Lincoln County Manager who will be the official monitor and liaison between the County and Contractor on all matters pertaining to the operation and management of the detention facility and this Contract.

**Section 1.3: County Inmate** means all prisoners assigned and transferred to the Detention facility other than those prisoners received and incarcerated at the detention facility pursuant to agreements between the County and Prisoner Transfer Sources.

**Section 1.4: Determination** means the written documentation of a decision of the procurement officer including findings of fact required to support a decision. A determination becomes part of the procurement file to which it pertains (13-1-52 NMSA 1978).

**Section 1.5: Detention facility** means the County's existing Detention Center for the detention of male and female inmates consisting of one-hundred and forty-four (144) adult beds.

**Section 1.6: For Cause** means failure by either party to meet provisions of this Contract when such failure materially affects the operation of the detention facility, including but not limited to, failure of Contractor to meet minimum standards of incarceration as specified herein.

**Section 1.7: Force Majeure** means the failure of performance of any of the terms and conditions of this Contract resulting from acts of God, acts of public enemies, orders of any kind of the government of the United States of America or the State or any of their departments, agencies or officials, or any civil or military authority.

**Section 1.8: Inmate** means any person arrested by any law enforcement agency or formally charged with a criminal violation of municipal, county, state or federal law or ordinance; any person committed to the detention facility by any court or committing magistrate, whether under criminal or civil authority; all other persons required to be committed by the County pursuant to applicable laws, rules and regulations; and all persons presented to the detention facility by other governmental agencies for incarceration therein pursuant to an agreement for such incarceration.

**Section 1.9: Inmate Day** means each calendar day or portion of such day during which an Inmate is incarcerated at the detention facility, provided however, for purposes of this Contract, Contractor will include in its determination of Inmate Days for any day only those Inmates that Contractor, through a daily census of Inmate population of the detention facility, confirms are incarcerated in the Detention facility at 12:01 a.m. of such day.

**Section 1.10 Performance Schedule** means the final and executed Agreement between the parties.

**Section 1.11: Prisoner Transfer Source** means a governmental entity which contracts to send Inmates to the County to be incarcerated in the Detention facility.

**Section 1.12: Procurement Manager** means a person or designee authorized by the County of Lincoln to manage or administer a procurement requiring the evaluation of proposals.

**Section 1.13: Quality Assurance** means an inspection and auditing process maintained by the County Manager and the Board of County Commissioners to monitor the quality, and quantity of services provided by the Contractor. The Quality Assurance (QA) process is carried out by a professional team appointed by the County Manager, and performs announced and unannounced inspections of Contractor operations, facilities, and records, and thereafter reports to the County Manager, Commissioners, and Contractor, regarding performance quality and quantity with an emphasis on identifying opportunities for improvement. QA operations are in addition to any other financial audits performed by the Contractor, County Manager, or County.

**Section 1.14: Renewal Option Termination Date** means the date on which the Contractor will cease to operate and manage the detention facility pursuant to this Contract if extended pursuant to Section 4.2, which will be 12:00 Midnight **on June 1, 2027.**

**Section 1.15: Request for Proposals [RFP]** means all documents, including those attached, or incorporated by reference, used for soliciting proposals (13-1-81 NMSA 1978).

**Section 1.16: Responsible Offeror or Proposer** means an offeror or proposer who submits a responsive proposal and who has furnished, when required, information and data to prove that his financial resources, production or service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the services described in the proposal (13-1-83 NMSA 1978).

**Section 1.17: Responsive Offer or Proposal** means an offer or proposal which conforms in all material aspects to the requirements set forth in the request for proposals. Material respects of a request for proposals include, but are not limited to, price, quality, quantity, or delivery requirements (13-1-85 NMSA 1978). Offeror: any person, corporation, or partnership legally licensed to provide professional services in this state which chooses to submit a proposal in response to this Request for Proposal.

**Section 1.18: Terms** means those items and standards that must, shall, will, is required, or are required, identify a mandatory item or factor. Failure to comply with a mandatory item or factor will result in the rejection of the offeror's proposal.

**Section 1.19: Service Commencement Date** means the date on which Contractor will begin operation, management, and maintenance services at the Detention facility pursuant to this Contract, which will be 12:01 am, June 2, 2017.

**Section 1.20: Service Termination Date** means the date on which Contractor will cease to operate and manage the Detention facility pursuant to this Contract which will be

12:00 Midnight June 1, 2027, unless extended pursuant to the Renewal Option in Section 4.2.

**Section 1.21: Standards** means all applicable laws or regulations of the State of New Mexico, the State and US Constitutions, and the Contractor's Policies & Procedures.

## ARTICLE II
## SCOPE OF WORK

**Section 2.1: Purpose.** The purpose of this Contract is to establish the terms and conditions, under which Contractor will operate, manage and maintain the detention facility.

## ARTICLE III
## REPRESENTATIONS, COVENANTS AND WARRANTIES

**Section 3.1: Representations, Covenants, and Warranties of the County**. The County represents covenants and warrants as follows:

(a) The County is a duly formed and validly existing political subdivision of the State of New Mexico, and is governed by the laws of the State of New Mexico.

(b) To the best of its knowledge, the laws of the State of New Mexico authorize the County to establish, acquire, construct, operate, and maintain detention facility within the County; to enter into this Contract and the transactions contemplated hereby; and to carry out its obligations under this Contract.

(c) The officers of the County executing this Contract have been duly authorized to execute and deliver this Contract under the terms and provisions of a resolution of the County's governing body or by other appropriate official.

(d) To the best of its knowledge, the County has complied with *open meeting laws,* all public contract laws, and other state and federal laws applicable to this Contract.

(e) The detention facility is required to be used by the County solely for a public purpose and public use to house Inmates detained or incarcerated by the County, a political subdivisions thereof, a State, or other governmental entities.

(f) The County will reasonably assist Contractor to diligently process and enter into lawful and necessary agreements with such Prisoner Transfer Sources as may be necessary to facilitate the receipt and incarceration of eligible Inmates in the detention facility in support of Performance Standards.

(g) No member of the governing body of the County is now or will be an owner, employee, officer, representative, or director of Contractor.

**Section 3.2: Representations, Covenants, and Warranties of Contractor.** Contractor represents covenants and warrants as follows:

(a) Contractor is a corporation, duly organized, validly existing, and in good standing under the laws of the State of New Mexico; is duly qualified to transact business and hold property in the State of New Mexico; and in every jurisdiction in which the nature of its activities requires it to be so qualified; has full and complete power to enter into this Contract and to enter into and carry out the transactions contemplated hereby, and to carry out its obligations under this agreement; and has duly authorized the execution and delivery of this Contract.

(b) Neither the execution and delivery of this Contract nor the fulfillment of or compliance with the terms and conditions hereof nor the consummation of the transactions contemplated hereby conflict with or result in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which Contractor is now a party or by which Contractor or its property is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance.

(c) No officer or member of the Board of Directors (or governing body) of Contractor is now or will be an employee or member of the governing body of the County. Nor will the Contractor pay, compensate, hire, or retain any member of the governing body of the County or County Manager's Office, without the prior written concurrence of the County Manager and County Commissioners.

(d) If Contractor desires to amend or modify the terms of this Contract pursuant to Section 17.13 hereof, or if upon the expiration of this Contract, Contractor desires to enter into a new contract with the County for the operation, management and maintenance of the Detention facility under the terms of any resulting agreement the terms of this Contract as modified or amended, and of any such new management contract, will comply with the conditions set forth in Revenue Procedure 97-13 promulgated by the Internal Revenue Service, as such Revenue Procedure may be modified or superseded (RP 97-13).

(e) The Detention facility now in existence or to be constructed by Contractor is required to be used solely for a public purpose and public use to house Inmates detained or incarcerated by the County, State, the political subdivisions thereof, Federal Government, or any other governmental entity.

(f) In response to Performance Schedule Contractor will use its best efforts to secure agreements with authorized government entities to house their inmates to the reasonable extent possible, given capacity, staffing, and other considerations of the Contractor and County.

## ARTICLE IV
## TERM OF THE CONTRACT

**Section 4.1: Initial Term.** The Initial Term of this Contract will be for a period of five years commencing on the Service Commencement Date and terminating on the Service Termination Date one year later.

**Section 4.2: Renewal Options**. Upon the expiration of this Contract's Initial Term (as defined in Section 4.1 above), this Contract will be automatically extended for five (5) additional one-year terms, if upon at least one hundred eighty (180) calendar days written notice is given prior to the end of the Initial Term by either party to the other party. In no event will this Contract be extended for more than the four additional one-year Renewal Terms. Notwithstanding the election by one Party to renew this Contract, the other Party may provide written notice of its intention not to renew this Contract beyond the Initial Term, and in such event, such Party will provide written notice of such intent not to renew to the other Party at least one hundred eighty (180) calendar days prior to the end of the Contract's Initial Term. Unless either Party furnishes the other with said notice of intent not to renew, then the Parties will be deemed to have agreed to extend this Contract for the four one-year Renewal Terms. In any event, this Contract will terminate upon the expiration of the fourth Renewal Term.

## ARTICLE V
## MAINTENANCE OF DETENTION FACILITY

**Section 5.1: Maintenance and Improvement of the Detention Facility.** Under the Performance Schedule Contractor will keep the detention facility in good order, repair, and condition subject to ordinary wear and tear. Contractor will make all repairs to, and renewals and replacements, necessary to keep the detention facility in good order. Contractor is not required to replace the heating, air conditioning, and ventilating or backup generator systems.

Under provisions of the Performance Schedule Contractor may make any additions, modifications, or improvements to the detention facility as Contractor and the County may agree in writing. Title to any such additions or modifications vests to the County.

**Section 5.2: Property Inventory.** Under provisions of the Performance Schedule the Parties will make an inventory of all furnishings; fixtures, and equipment (FF&E) located at the detention facility or attached to the Detention facility prior to Contractor taking possession. Each Party will have an original of this inventory and each will sign both originals. The Parties will note on the Inventory the condition of each piece of inventoried property. The County will remove from the detention facility any FF&E that Contractor declines to use at the detention facility.

**Section 5.3: Maintenance of FF&E.** All replacements of FF&E will be at Contractor's expense for the Performance Schedule. Upon the County's request, Contractor will cooperate in an annual joint review and audit of all FF&E as related to the Performance Schedule. No FF&E will be transferred from the detention facility by the County without the prior approval of the Contractor. No FF&E will be removed by Contractor from the existing County detention facility without the prior approval and consent of the County; and, appropriate and adequate compensation or replacement by the Contractor.

**Section 5.4: Title to FF&E.** Title to all non-declined FF&E listed on the Inventory remains with the County.

**Section 5.5: Contractor's Machinery and Equipment.** Pursuant to Contractor's obligations under Section 8 of this Contract to operate, manage and maintain the Detention facility and support facilities at its sole cost and expense; and in connection with all of Contractor's obligations pursuant to this Contract, Contractor will during the term of this Contract have the sole and exclusive right, in its sole discretion and at its own expense, to install items of movable machinery and equipment in or upon the Detention facility and support facilities.

**Section 5.6: Taxes, Utilities, and Other Governmental Charges**. Contractor will timely pay tangible personal or business property taxes as to Contractor's property and all other taxes and governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to Contractor's provision of services, but Contractor will not be responsible for payment of ad valorem taxes on the existing detention facility.

For all Performance Schedules, the Contractor is responsible for payment of all utilities including, but not limited to; water, sewer, electricity, and gas necessary in order to operate the detention facility.

## ARTICLE VI
## TRANSITION

**Section 6.1: Transition.** The County agrees that it will cooperate with and reasonably assist Contractor in facilitating the transition from the current contractor operation of the existing detention facility to the Contractor as the operator of the detention facility.

## ARTICLE VII
## OPERATION UNDER PERFORMANCE SCHEDULE

**Section 7.1: Custody and Treatment.** Upon the Service Commencement Date, Contractor will operate, manage, and maintain the existing detention facility in a professional manner and in accordance with all standards.in connection with the operation, management and maintenance of the detention facility, as identified in Part 2, ¶ 5, "Other Requirements" of Proposal. Contractor will incarcerate and release Inmates upon written authority of a court of competent jurisdiction, or the contracting agency and will at its sole expense provide in a good and workmanlike manner and of a commercially reasonable quality, all goods and services, including, but not limited to, the items listed herein, necessary for and/or incidental to the operation of the detention facility, consistent with inmate rights, and acceptable jail industry standards.

Contractor is required to adopt and comply with the Prison Rape Elimination Act (PREA) 28 C.F.R. §115.12 and §115.312. Inmate Handbook is required to include information regarding Inmate rights and processes on how to complain about sexual misconduct, including mechanisms for reporting sexual misconduct to individuals outside the facility.

**Section 7.2: Procedures Manual.** Contractor will prepare, adopt, and present to the County Manager a procedures manual for the operation specific to the management and operations of this detention facility. Contractor will make such modifications, corrections, and updates in said procedures manual, as are necessary to maintain the facilities in compliance with all applicable laws, and the rules and procedures promulgated any Prisoner Transfer Source using the facility. The Contractor may use the OSS Model Jail Policies & Procedures®, and modified the same specific to their operations, or in-house systems.

Policy shall include PREA's Records Retention Policy, 28 C.F.R §115.71, that requires all reports of administrative or criminal investigations be retained for as long as the alleged abuser is incarcerated with or employed by the County, plus five additional years.

**Section 7.3: Training of Employees**. Contractor, at its sole cost and expense, with such assistance and cooperation as may be reasonably necessary from the County and the County Manager, will ensure that all employees at the detention facility are adequately trained to perform at the requisite levels and standards required to maintain the safe and

orderly control of the facility. In addition to other training that the contractor may provide, all employees will receive:

(a) Formal Field Training Officer [FTO] shall be conducted prior to an employee being allowed to work independently in supervising inmates. This program is overseen by an experienced and trained FTO, and all subject matter included in the program will be documented and recorded in the individual's training file. This program is a formal mentoring and guidance process conducted by Contractor supervisory personnel.

(b) Eighty (80) hours of formal detention officer course for all new employees, as soon as practical and within the first six months of employment. a. Up to sixty (60) hours of this course may be provided by interactive [on-line] distance learning. The remaining twenty (20) hours will be in person and include testing, and proficiency demonstrations by the student officers.

(c) Sixteen (16) hours of additional detention facility skills and liability training. This training will include such topics as suicide prevention, use of force, medical and mental services, fire suppression, searching, and restraints.

(d) Adequate training shall be conducted for employees assigned to the Special Management Unit which houses mentally ill inmates, protective custody inmates and disciplinary segregated inmates.

All formal training will be provided by experienced and certified or licensed law enforcement or jail instructors. For purposes of this proposal a certified or licensed instructor means an instructor with at least three (3) years experience in jail operations, who has completed a state [New Mexico or other] sanctioned instructor course in the subject matter to be taught. FTOs should be experienced in jail operations, and trained or experienced in mentoring and providing one-on-one instruction. FTO course training is preferred.

The Contractor will maintain all Contractor employees' employment, pay, and training records. All such records will be maintained in good order, and are subject to inspection by the County Manager during all reasonable business hours.

The Contractor may use its own in-house or other contract training services, however remains solely responsible for ensuring that all employees are adequately trained and supervised.

**Section 7.4: Utilization of Other Facilities.** The County agrees it will not house County Inmates in any facility other than the detention facility described herein, except in exigent circumstances. Coordination of housing in other facilities is encouraged.

**Section 7.5: Performance Schedule - Housing of Non-County Inmates.**

(a) Under the Performance Schedule Lincoln County Inmates are given first priority for detention facility beds.

(b) Subject to the provisions of Section 10 of this Contract, the County may enter into separate contracts with other entities for the housing of other entities' Inmates when space is available at the detention facility. The County may coordinate with Contractor in obtaining these contracts.

(c) If at any time the existing Detention facility is at capacity and a County Inmate is presented, Contractor will immediately accept that Inmate and organize the transfer of the non-County Inmate from the detention facility.

**Section 7.7: Safety and Emergency Procedures.** Contractor will develop plans to provide for emergencies such as labor disputes, riots, escape, fire, and manmade or natural disasters. These plans will be submitted to the County Manager prior to the Service Commencement Date for review and approval. Contractor will assist the County in soliciting the approval of such procedures by other law enforcement agencies.

**Section 7.8: Sanitation/Hygiene.** Contractor will provide sanitation/hygiene in all locations at the detention facility in conformity with the Standards.

**Section 7.9: Accreditation.** Contractor will receive and retain all licenses, certifications, and inspection reports necessary for the safe and orderly operation of the facility.

**Section 7.10: Recreation.** Contractor will provide Inmates with opportunities for exercise and leisure time activities in accordance with the Standards. The recreational program will include both in-door and out-door activities for eligible inmates.

**Section 7.11: Access to Courts.** Contractor will provide Inmates access to courts in accordance with the Standards; to include access to a law library (paper or electronic).

**Section 7.12: Routine Health Care Services.** Contractor will provide and be responsible for the cost of basic, routine, and preventative medical, dental, and psychological services, and over-the-counter pharmaceuticals to any Inmate, including first aid and emergency outpatient care and shall conduct routine review of inmates housed in the Special Management Unit to ensure sufficient documentation and justification exists for keeping them in the special unit. Contractor shall be required to provide signed contracts to the County for the provision of all Health Care / Medical services offered to Inmates.

**Section 7.13: Other Health Care Services.**

(a) The cost of hospitalization, prescription drugs, surgical and non-routine dental care for an Inmate will be the obligation of the Prisoner Transfer

Source or the jurisdiction from which the Inmate was assigned to the detention facility, including Inmates from the County.

(b) However, regardless of the terms of any other Section of this Contract, Contractor is obligated to provide all health care services required to be provided pursuant to any agreement between County and any Prisoner Transfer Source where Contractor has reviewed and approved such agreement prior to execution by County. If requested by Contractor and at Contractor's sole expense, County will reasonably assist Contractor in requesting reimbursement from any appropriate entity for any medical services provided to any Inmate. County will not, however, be obligated to pay or bear any cost of any medical or health care (or transportation to obtain such care) for any Inmates, other than County Inmates.

(c) All Health Care Services Agreements or Contracts shall indemnify the County from any liability in the performance of the terms of said Agreements or Contracts.

**Section 7.14: Food Service.** Contractor will provide food service for Inmates in accordance with the Standards.

**Section 7.15: Laundry.** Contractor will provide laundry services for Inmates in compliance with the Standards.

**Section 7.16: Transportation.** Contractor will provide full transportation for Inmates to and from the Lincoln County Detention Center, to and from all Lincoln County Courts, including but not limited to Magistrate Court, and hospital or other healthcare providers.

**Section 7.17: Commissary.** Contractor will provide a commissary in accordance with the Standards. The proceeds from the commissary will be utilized to establish and maintain the commissary for Inmates' benefit and to pay for costs associated with its operation, including commissary staff salaries. The commissary may be located off-site.

**Section 7.18: Mail.** Contractor will provide delivery of mail to inmates in the detention facility in compliance with the Standards.

**Section 7.19: Inmate Telephone System.** Contractor will provide a telephone system in accordance with the Standards. The county currently has a contract with Public Communications Services, Inc. of Los Angeles, California and the contract expires May 19, 2017. A Request for Proposals for Inmate Telephone Service for the Lincoln County Detention Center will be issued on April 17, 2017.

**Section 7.20: Religion.** Contractor will provide for religious services and provide other social programs in compliance with Standards.

**Section 7.21: Facility Supplies.** Contractor will provide all detention facility supplies necessary and/or incidental to the operation, management and maintenance of the detention facility; including, but not limited to; general hygiene items, office supplies and building support items such as cleaning supplies, mops, buckets, linens, towels, and clothing.

**Section 7.22: Grievance Procedure.** Contractor will provide a formal grievance procedure for Inmates in compliance with the Standards, to include PREA §115.52 requirement to permit an inmate to report sexual misconduct to anyone at any time. Time deadlines for filing a complaint must enable such reporting.

**Section 7.23: Security and Control.** Contractor will provide security and control in accordance with the Standards at the detention facility and during any transportation of the Inmate.

**Section 7.24: Communication and Cooperation.** The County through the oversight of the County Manager will reasonably cooperate with Contractor in all matters of law enforcement, security, and communications. The County and the County Manager will (at Contractor's sole cost and expense) reasonably assist Contractor at the request of Contractor in the training of Contractor's employees hired to operate the detention facility. The County Manager will reasonably assist and cooperate with Contractor for purposes of obtaining such licensing as may be required by state or federal law for the aforementioned Contractor employees. The County and the County Manager will reasonably assist and cooperate with Contractor in providing information requested by Contractor in the screening of candidates for employment to the extent such information may be lawfully obtained or released under federal or state law. The Contractor will verify to the County that all Contractor employees undertaking detention facility duties meet the requirements for training, licensing/certification, and hiring as required by the state, and this contract.

**Section 7.25: Prisoner Escape.** In the event an Inmate confined in the detention facility escapes from the detention facility, Contractor will immediately notify appropriate law enforcement agencies, including the Lincoln County Sheriff, of such escape. The County Sheriff with the full assistance of the Contractor will coordinate activities for the capture and return of the escaped Inmate pursuant to the written policies and procedures developed by the Contractor and approved by the County. The Contractor will expend all reasonable efforts in assisting in the capture and return of any escaped Inmates.

**Section 7.26: Independent Contractor.** Contractor is associated with the County only for the purposes and to the extent set forth in this Contract. With respect to the performance of the management services set out herein, Contractor is an independent contractor and, subject to the terms of this Contract, and has the sole right and obligation to manage, control, operate, and direct the performance of its duties and obligations under this Contract. Nothing contained in this Contract will be deemed or construed to create a partnership or joint venture, to create the relationships of an employer/employee or principal/agent, or to otherwise create any liability for the county whatsoever with respect

to the indebtedness, liabilities, and obligations of the Contractor or any other party. Contractor, its agents, and employees will not be considered agents or employees of the County. The Contractor's agents and employees will not accrue leave, retirement, insurance, bonding, or any other benefit afforded to the employees of the County, as a result of this Contract; nor will the use of County vehicles be authorized.

**Section 7.27: Staffing / Personnel:**

(a) Contractor will provide sufficiently qualified and trained personnel, in accordance with the Standards, to deliver twenty-four (24) hour care and supervision of inmates, as well as all administrative and support service personnel for the overall operation of the detention facility. Per PREA. §115.13, Staffing Plan will provide for adequate levels of staffing and video monitoring to protect against sexual abuse.

(b) Contractor, will give preferential consideration in hiring to current employees, subject to said employees meeting Contractor's conditions of employment. Those current employees not meeting the established training, screening, and proficiency level demonstrations, if hired by the Contractor, will be screened, trained, and demonstrate proficiency within the first 6 months of the contract.

(c) Contractor will provide its employees a benefit package that includes wages at a level to attract, and retain employees thereby reducing turn-over and inefficiency.

(d) Prior to employment of any individual with Contractor, Contractor will subject all applicants to a background check, including criminal, medical, psychological, drug screen, and employment history to the extent allowed by law and in accordance with the Standards. These records become a part of the employee file, and are subject to inspection by the County Manager, and other regulatory authorities. Per PREA §115.17, Contractor is prohibited from hiring or promoting anyone who may have contact with inmates who have been convicted of engaging or attempting to engage in sexual activity by force or through threats of force or coercion or who has engaged in sexual abuse in a secure facility.

(e) Personnel Policy will include a provision that a violation of the detention center sexual misconduct policy is cause for termination of staff.

(f) The Contractor will obtain approval from the County Manager regarding the Contractor's Warden (or main supervisory official) positions. This individual will have at least five (5) years of detention facility management or supervisory experience. The County Manager's approval will not be unreasonably withheld.

**Section 7.28: Use of Local Disadvantaged Businesses and Local Hiring.** Subject to Section 7.29 below, Contractor will use reasonable efforts to identify and utilize disadvantaged businesses as sub-contractors and suppliers that may provide or have the potential to provide supplies, materials, services, and equipment to Contractor for performance of this Contract. Contractor will use its best efforts to purchase local goods and services in connection with the operation, maintenance, and management of the Detention facility. Contractor will also encourage its subcontractors to similarly utilize disadvantaged businesses, hire local personnel, and purchase goods and services locally.

**Section 7.29: Sub-contractors.**

(a) Contractor, with the County's prior written approval, may subcontract any portion of the operation, maintenance, or management services to be performed hereunder, but will not thereby be relieved of any of its obligations set forth herein. Contractor will bind each subcontractor to the terms hereof as far as applicable to such subcontractor's work, and will require that each subcontractor perform its work in conformance with the terms and conditions of this Contract. In the event Contractor subcontracts, as provided for in this paragraph, then any such subcontractor will be subject to the provisions of insurance pursuant to Sections 10.1 through 10.6 hereof and indemnification pursuant to Section 11 hereof.

(b) Contractor will not enter into any subcontract pursuant to Section 7.29(a), above, without written approval from the County. The approval of the County required by Subsection 7.29(a) and (b) will not be unreasonably withheld. Contractor will provide the County copies of any such subcontracts sufficiently in advance of any deadline for signing to allow for the effective review and approval by the County.

**Section 7.30: Insurance**. Contractor shall provide evidence of current insurance to the County that contains adequate indemnification language.

## ARTICLE VIII
## PERFORMANCE SCHEDULE-CONTRACTOR OPERATION OF EXISTING DETENTION FACILITY

**Section 8.1: Current Detention facility Operations.** Lincoln County Detention Center is currently operated under an Agreement with Emerald Correctional Management, LLC. ("Emerald") Emerald assumed this contract initially on May 8, 2008 in response to the County of Lincoln's Invitation to Bid 07-08-017 and subsequently in response to the County of Lincoln's Invitation to Bid 12-13-005.

**Section 8.2: Current Contract with Other Entities.** The County has long-standing agreements with USMS, and the Bureau of Indian Affairs [BIA] to house federal inmates at the current charge of $58.03 per-bed-per-day. The County also houses municipality inmates (within the County) at contracted per-bed-per-day rates. The county is interested in maintaining these contractual relationships.

**Section 8.3: Performance Schedule Proposals.** Lincoln County is seeking proposal to operate the current detention facility under a full operation and management contract. The Contractor is required to provide all security, support, and management staff, expendables, and materials necessary to operate the facility. Contractors will include in their proposals details regarding their planed performance under Section 7, and other applicable sections of this RFP.

**Section 8.4: Inmate Transfer Agreements.** The County is interested in maximizing the use of contract inmates.

Before County enters into any agreement with any Prisoner Transfer Source, Contractor and the County Manager will review each such proposed agreement. All such proposed agreements will provide for payments to be made to and received by the County. The County Manager, and County will have final determination regarding the origin, number, and type of inmate housed.

## ARTICLE IX
## INSURANCE

**Section 9.1: Insurance.** Contractor will obtain and maintain in force a policy or policies of *general liability insurance,* in an aggregate amount of no less than Ten Million Dollars ($10,000,000) in coverage for any single claim hereunder, including contractual liability endorsement with specific reference to this Contract. Said insurance will insure against all claims, including claims based upon violations of civil rights arising from services performed by Contractor under this Contract.

**Section 9.2: Workers' Compensation and Unemployment Insurance Compensation.** Contractor will maintain workers' compensation insurance coverage, with minimum limits of Five Hundred Thousand Dollars ($500,000) for employer's liability and statutory limits for all other exposures.

**Section 9.3: Automobile Insurance.** Contractor will maintain insurance for vehicles in an amount not less than the One Million Dollars ($1,000,000) for each occurrence and Five Million Dollars ($5,000,000) in the aggregate.

**Section 9.4: Property Insurance.** Contractor will at its sole cost, risk and expense obtain and maintain in force during the term of this Contract, a policy or policies of fire, casualty and building insurance in an adequate amount of no less than Ten Million Dollars ($10,000,000) in coverage for any single claim hereunder. Such insurance will cover all contents, structures, and fixtures at replacement cost values.

**Section 9.5: Additional Insurance.** The policy or policies of insurance obtained in accordance with this Section 11 will name the County, the Commissioners Court, the County Manager and the County Attorney as additional insured or joint loss payees. Coverage will provide for defense of the County Manager, County Attorney and Commissioners in their official and individual capacities. Further, should the unlikely occur, and the County Manage, County Attorney or Commissioners require individual counsel, payment for defense counsel is included within the policy.

**Section 9.6: Certificates of Insurance.** Contractor will provide insurance certificates to the County on an annual basis as proof of the policies obtained in accordance with this Section 12. Contractor will notify the County at least thirty (30) days in advance of any cancellation, non-renewal, or adverse change in insurance coverage. New certificates of insurance will be provided to the County at least fifteen (15) days prior to coverage renewal.

## ARTICLE X
## INDEMNIFICATION

**Section 10.1: Indemnification.** Contractor will indemnify, defend and hold harmless the County, its employees, agents and representatives (including, but not limited to, the County Commissioners, County Manager and County Attorney) from and against any and all suits, actions, claims (including, without limitation, claims and actions for alleged violations of civil and constitutional rights), demands, expenses, (including legal fees and disbursements), losses, liabilities or judgments (collectively, "indemnified Amounts") arising out of or in connection with, or resulting from, acts or omissions on the part of Contractor or its respective officers, agents, subsidiaries, subcontractors or employees in connection with the management and operational services provided herein and will pay all costs, disbursements, reasonable attorneys' fees, expenses and liabilities incurred in connection with such Indemnified Amounts. However, nothing herein is intended to deprive the County or Contractor or any of its officers, agents, subsidiaries, sub-contractors, or employees of the benefits of any law limiting exposure to liability or setting a ceiling on damages, or both, or of any law establishing a defense to any claim asserted against any of them.

Contractor will not waive, release or otherwise forfeit any possible defense the County may have regarding claims arising from, or made in connection with, the operation of the detention facility by Contractor without the consent of the County. Contractor will preserve all such available defenses and cooperate with the County to make such defenses available to the County to the maximum extent allowed by law.

**Section 10.2: Post Conviction Actions.** Confinement by Contractor will not deprive any Inmate of any legal right which he would have if confined in a State-operated incarceration or detention facility. Contractor will not be responsible for defense of any post-conviction action, including appeals and writs of habeas corpus, by any inmate

challenging the underlying judgment of conviction or the administration of the sentence imposed.

**Section 10.3: Defense/Immunity.** By entering into this Contract, the Contractor does not waive any immunity defense nor does Contractor waive any immunity, which may be extended to it by operation of law including limitation of damages.

**Section 10.4: Notice of Claims.** The Contractor and the County agree that they will within ten (10) working days of receiving notice of a claim resulting from or arising out of, in whole or in part, the operation, management, and maintenance of the Detention facility under this Contract, provide written notice of such claim to the other.

**Section 10.5: Prior Occurrences.** Contractor will not be responsible for any losses or costs resulting from litigation pending at the time this Contract becomes effective or for lawsuits arising thereafter relating to events or conditions which occurred or existed prior to the effective date of this Contract. Contractor agrees to cooperate with the County in defense of these suits.

## ARTICLE XI
## DEFAULT AND TERMINATION

**Section 11.1: Termination for Cause.** In addition to any other right contained herein of the Parties to terminate this Contract, a Party will have the right to terminate this Contract in the event of the other Party's material failure to comply with the terms of this Contract. However, prior to the exercise of its right pursuant to this section to terminate this Contract, a Party will give the other Party written notice setting forth in detail all matters of alleged noncompliance and the Party receiving the notice will have thirty (30) calendar days after receipt of said notice within which to correct all matters of noncompliance set forth in the required notice. If the Party receiving the notice has remedied all alleged breaches or matters of noncompliance within such period, to the other Party's reasonable satisfaction, the written notice of such noncompliance will be deemed null, void and of no force or effect.

**Section 11.2: Termination Due to Unavailability of Funds.** The payment of money by the County under any provision of this Contract is contingent upon the availability of funds appropriated by the Commissioners Court to pay the sums pursuant to this Contract. In the event funds for this Contract become unavailable due to non-appropriation, the County will have the right to terminate this Contract without penalty.

**Section 11.3: Bankruptcy of Operator.** In the event of the filing of a petition in bankruptcy by or against Contractor, and if Contractor consents to or acquiesces in the petition in bankruptcy filed against it or if said petition in bankruptcy is not dismissed within sixty (60) calendar days after the filing of same, the County will have the right to terminate this Contract upon the same terms and conditions set forth in Sections 12.1 and 12.8 hereof. If the County terminates this Agreement due to Contractor's bankruptcy,

then the County will be entitled to immediately take over and assume the operation, maintenance, and management of the detention facility or at its option, contract with a replacement contractor for such services for the detention facility.

**Section 11.4: Termination. The County** may terminate this Contract at any time by giving written notice ninety (90) days prior to the effective date of termination. The Contractor may terminate this Contract at any time by giving written notice one hundred eighty days (180) prior to the effective date of the termination as set forth in 33-3-27(F), NMSA 1978. It is the intent of the Parties that negotiations with respect to an Option to renew this Contract will begin no later than six (6) months prior to the termination date of the fifth year, and each year thereafter, and that said negotiations will terminate no later than three (3) months prior to the end of the Contract term, unless such dates are extended by mutual agreement of the Parties.

**Section 11.5: Force Majeure.** The failure of performance of any of the terms and conditions of this Contract resulting from Force Majeure will not be a breach or an event of default pursuant hereto.

**Section 11.6: Waiver.** No waiver of any breach of any of the terms or conditions of this Contract will be held to be a waiver of any other or subsequent breach, nor will any waiver be valid or binding unless the same will be in writing and signed by the party alleged to have granted the waiver.

**Section 11.7: Payment Upon Termination.** In the event this Contract is terminated by the County or by Contractor for any reason, or for no reason, Contractor will be entitled to receive only the amounts, if any, due to it under Section 9 for the theretofore uncompensated days that Inmates were housed in the detention facility by Contractor up to and including the date of termination and not thereafter, and less any just and lawful offsets or credits to which the County may be entitled.

## ARTICLE XII
## APPROVAL AND MONITORING

**Section 12.1: Approval of County Manager.** The County Manager has executed this Contract in the space provided herein to evidence written approval of this Contract at the instruction of the Commissioners, Lincoln County, New Mexico.

**Section 12.2: Approval of Conditions of Confinement.** Within one [1] months of the execution of this Contract, Contractor will provide the County and the County Manager with written comprehensive standards for conditions of confinement, and detailed policies and procedures, if the same have not already been provided. The County Manager will review comment, when acceptable, approve these documents. Such approval will not be unreasonably withheld, once the County Manager is satisfied that quality standards are in place. The acceptance and approval of said written documents are an express condition precedent to the County's continued obligations under this

Contract. Said documents will be incorporated as an addendum to this Contract in compliance with Section 351.103 of the Local Government Code.

**Section 12.3: Monitoring by County Manager and County.** The Warden of the Detention Center will report directly to the County Manager. The County Manager will have access at all times to all areas of the detention facility and regularly monitor Contractor's operation of the detention facility. The County Manager or designee will conduct on-site QA and audit inspections of any facilities covered by this contract no less than twice each month throughout the term of this Contract. County will have the same rights to monitor Contractor's operations as are granted to the County Manager pursuant to this Section. Contractor will, at no cost to the County, provide the County Manager Office space within the detention facility as reasonably necessary to perform QA, auditing, and monitoring functions under this Contract. Regularly scheduled reports on incidents, population information, grievances and inmate disciplinary actions shall be provided to County Manager.

## ARTICLE XIII
## RECORDS/REPORTS

**Section 13.1: Inmate Records.** Contractor will establish and operate a record and report system, which is consistent with applicable Standards. Upon termination of the Inmate's confinement, Contractor will forward the Inmate's records to the Contract Monitor. Contractor will retain public information, which cannot identify the former Inmate, copies of any research data, which has been depersonalized, and copies of reports generated by Contractor.

**Section 13.2: Confidential.** To the extent allowed by applicable state and federal laws, any confidential information provided to or developed by Contractor in the performance of this Contract will be kept confidential and will not be made available to any individual or organization by Contractor or the County without prior written approval of the other party.

**Section 13.3: Existing Contracts.** The County expressly states that presently existing contracts between the County and others relative to the operation of the Detention facility are not binding on Contractor, unless expressed herein.

**Section 13.4: Binding Nature.** This Contract will not be binding upon the Parties until it is approved and executed by both Parties.

**Section 13.5: Invalidity & Severability.** In the event that any provision of this Contract will be held to be invalid or unenforceable, the validity of the remaining provisions of this Contract will not in any way be affected thereby. The Parties hereto acknowledge that if any provision of this Contract is determined to be invalid or unenforceable, it is their desire and intention that such provision be reformed and corrected in such a manner that it will, to the maximum extent practicable, be deemed to be validated and enforceable.

**Section 13.6: Counterparts.** This Contract may be executed in multiple counterparts, each of which will be deemed to be an original and all of which will constitute one Contract. This Contract will be considered fully executed when all Parties have executed an identical counterpart, notwithstanding that all signatures may not be on the same counterpart.

**Section 13.7: Interpretation.** The headings contained in this Contract are for reference purposes only and will not affect the meaning or interpretation of this Contract.

**Section 13.8: Terminology and Definitions.** All personal pronouns used in this Contract, whether used in the masculine, feminine, or neutral gender, will include all other genders; the singular will include the plural and the plural will include the singular.

**Section 13.9: Books and Records.** Contractor will keep at the detention facility, proper and complete books, records and accounts with respect to the operation, management, and maintenance of the detention facility and with respect to all subcontractors, and will permit County Manager, County Manager's designee, and designees of the County to inspect, copy and audit such books, records, and accounts at all reasonable times.

**Section 13.10: Applicable Law and Venue.** This Contract will be governed by and construed in accordance with the laws of the State of New Mexico. This Contract will be deemed to be performable in Lincoln County, New Mexico, and any and all suits for any and every breach of this Contract will be instituted and maintained in any court of competent jurisdiction in Lincoln County, New Mexico.

**Section 13.11: Notices.** All notices will be in writing and will be sent via Certified Mail, Return Receipt Requested, private carrier (such as Federal Express or Airborne), electronic mail or fax to the following address and fax numbers.

**County:**

Nita Taylor, County Manager
**Lincoln County New Mexico**
PO Box 711
Carrizozo, New Mexico 88301
(800) 687-2705 Ext 101
ntaylor@lincolncountynm.gov

**Contractor:**

**///NAME OF CONTRACTOR///**
**///STREET///**
**///CITY,STATE,ZIP///**
Attn: **///DIRECTORS NAME, TITLE///**

**Section 13.12: Non-Discrimination**. Contractor will provide the services required hereunder in compliance with all laws with respect to nondiscrimination in hiring, promotion, or pay of employees. No person will be subjected to discrimination on the grounds of race, sex, age, color, religion, or national origin.

**Section 13.13: Third Party Rights.** The provisions of this Contract are for the sole benefit of the Parties hereto and will not be construed as conferring any rights on any other person. This Contract may not be assigned by any Party without the express written consent of the other.

**Section 13.14: Entire Agreement**. This Contract incorporates all of the agreements, covenants and understandings between the Parties thereto, concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this written Contract. No other prior agreement or understanding, verbal or otherwise, of the Parties or their agents will be valid or enforceable unless embodied in this Contract. Each party acknowledges that it was represented by competent counsel of its own choosing regarding the negotiation and execution of this Contract.

**Section 13.15: Amendment.** No changes to this Contract will be made except upon written agreement by both Parties. This Contract may be amended by a written agreement signed by the Lincoln County Manager, and the President or any Vice President of Contractor.

**Section 13.16: Execution Authority.** By his or her signature below, each signatory individual certifies that he or she is the properly authorized agent or officer of the applicable Party hereto and has the requisite authority necessary to execute this Contract on behalf of such party, and each Party hereby certifies to the other that any resolutions necessary to create such authority have been duly passed and are now in full force and effect.

## ARTICLE XIV
## PROPOSED PRICING
## PERFORMANCE SCHEDULE

### Contract Services to Operate the Existing Detention Facility

**General Proposal Requirements.** After a thorough review of the contract requirements and due diligence, the Contractor will provide a detailed proposal including a Pricing and Performance Schedule to manage, operate, staff, and maintain the Lincoln County Detention facility. This is contemplated is a turn-key operation, and includes providing all staffing, expendables, installation of additional necessary equipment, and maintaining the facility in good working order.

In the proposal, the Contractor will address as a minimum:

1. Experience of Contractor in contract detention facility operations;
2. References from similar arrangements;
3. Credentials and experience of the proposed Detention facility Administrator (Warden);
4. Personnel standards and training, amplifying the requirements stated in the RFP;
5. Plan for conversion of existing detention facility staff to Contractor employees;
6. Employee pay and benefit package, amplifying the requirements stated in the RFP;
7. Projected savings to the County compared to current costs of services;
8. Quality Assurance, Certifications and standards;
9. Inmate services;
10. Safety & emergency procedures;
11. Liability and insurance coverage;
12. Quality Assurance and auditing; &
13. Any requested variance to the RFP.

**Payment Schedule.** The County will pay Contractor as compensation for operation, management, and maintenance of the Detention facility the following amounts for County and Non-County Inmates incarcerated at the Detention facility.

1. Year 1: Price $_____per Inmate per Day
2. Year 2: Price $_____per Inmate per Day
3. Year 3: Price $_____per Inmate per Day
4. Year 4: Price $_____ per Inmate per Day
5. Year 5: Price $_____ per Inmate per Day
6. Year 6: Price $_____ per Inmate per Day
7. Year 7: Price $_____ per Inmate per Day
8. Year 8: Price $_____ per Inmate per Day
9. Year 9: Price $_____ per Inmate per Day
10. Year 10: Price $_____ per Inmate per Day

or in the alternative:

1. Year 1: Price $_____ per month
2. Year 2: Price $_____ per month
3. Year 3: Price $_____ per month
4. Year 4: Price $_____ per month
5. Year 5: Price $_____ per month
6. Year 6: Price $_____ per month
7. Year 7: Price $_____ per month
8. Year 8: Price $_____ per month
9. Year 9: Price $_____ per month
10. Year 10: Price $_____ per month

**Timely Payment Discount.** The Contractor may offer a discount for early or timely payment. Timely payment discounts provided by the contractor are:

Payment term: _____% - 10 days **(must be completed)**
_____% - 20 days
_____% - 30 days

**Payment Procedures**. Within the first five (5) days of each month, Contractor will submit a monthly invoice to the County together with supporting documentation (as determined by the County, County Manager, and Contractor) setting out the amounts due to Contractor under this Section for Inmates held at the Detention facility during the immediately preceding month and the amounts due to the County for vacant beds. Within thirty (30) days of receipt of the invoice the County will pay the invoice. If the amounts to be paid to Contractor are disputed, then the County will pay such amounts that are not in dispute and will notify Contractor of the basis for the dispute on or before the date the invoice is payable.

The County is entitled to verifiable documentation from the Contractor in order to justify reimbursement of cost and compensation due the Contractor under this Contract.

**Payment for Additional Services.** The County understands that it may be billed by Contractor from time to time for any services provided by the Contractor that are not included in this Contract to the extent such services have been specifically requested by the County Manager, and authorized by the County Commissioners. Authorization will be in writing prior to rendering of service.

Under the Performance Schedule the County Manager will continue to be responsible for, and provide detention facility security. The current kitchen and similar facilities in the detention facility will be converted to other uses if award of contract is made under this schedule.

## ARTICLE XV
## EVALUATION CRITERIA
## CRITERIA AND POINT VALUES

Proposals must address each of the following criteria. Each proposal may be awarded percentage points up to the amount listed in parentheses.

| Item | Possible Points | Points this RFP |
|---|---|---|
| 1. Cost of operations to the County | (50) | _____ |
| 2. Past record of performance - Capacity and Capability | (20) | _____ |
| 3. Employee retention, training, & Quality Assurance | (15) | _____ |
| 4. Transition Plan | (05) | _____ |
| 5. Plan for current detention center employees | (05) | _____ |
| 6 Program for inmates | (05) | _____ |
| | **Total** | _____ |

## GENERAL INSTRUCTIONS TO OFFERORS

## DEFINITIONS AND TERMS

**Addendum**: a written or graphic instrument issued prior to the opening of Proposals which clarifies, corrects, or changes the Request for Proposals. Plural: addenda.

**Consultant**: means the Successful Offeror awarded the Agreement/Contract.

**Determination**: means the written documentation of a decision of the procurement officer including findings of fact required to support a decision. A determination becomes part of the procurement file to which it pertains (13-1-52 NMSA 1978).

**Offeror**: any person, corporation, or partnership legally licensed to provide professional services in this state, which chooses to submit a proposal in response to this Request for Proposal.

**Procurement Manager**: means a person or designee authorized by the County of Lincoln to manage or administer a procurement requiring the evaluation of proposals.

**Request for Proposals**: or "RFP" means all documents, including those attached or incorporated by reference, used for soliciting proposals (13-1-81 NMSA 1978).

**Responsible Offeror or Proposer**: means an offeror or proposer who submits a responsive proposal and who has furnished, when required, information and data to prove that his financial resources, production or service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the services described in the proposal (13-1-83 NMSA 1978).

**Responsive Offer or Proposal**: means an offer or proposal which conforms in all material aspects to the requirements set forth in the request for proposals. Material respects of a request for proposals include, but are not limited to, price, quality, quantity or delivery requirements (13-1-85 NMSA 1978).

**The terms must, shall, will, is required, or are required**, identify a mandatory item or factor. Failure to comply with a mandatory item or factor will result in the rejection of the offeror's proposal.

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

## REQUEST FOR PROPOSAL DOCUMENTS

### COPIES OF REQUEST FOR PROPOSALS

A complete set of the Request for Proposals may be obtained from the County as stated in the RFP notice.

A complete set of the Request for Proposals shall be used in preparing proposals; the County assumes no responsibility for errors or misinterpretations resulting from the use of an incomplete set of the Request for Proposals.

The County, in making copies of the Request for Proposals available on the above terms, does so only for the purpose of obtaining proposals on the project and does not confer a license or grant for any other use.

A copy of the RFP, after award of the contract, shall be made available for public inspection and shall be posted at the County Courthouse.

### INTERPRETATIONS

All questions about the meaning or intent of the Request for Proposals shall be submitted to the Procurement Manager of the County in writing. Replies will be issued by addenda mailed or delivered to all parties recorded by the County of Lincoln having received the Request for Proposals. Questions received less than five (5) days prior to the date for opening of proposals will not be answered. Only questions answered by formal written addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

Offerors should promptly notify County of any ambiguity, inconsistency, or error which they discover upon examination of the Request for Proposals.

### ADDENDA

Addenda will be mailed by certified mail with a return receipt requested, by facsimile or hand delivered to all who are known by the County to have received a complete set of Request for Proposals.

Copies of Addenda will be made available for inspection wherever Request for Proposals are on file for that purpose.

No Addenda will be issued later than five (5) days prior to the date for receipt of Proposals, except an Addendum withdrawing the Request for Proposals or one which includes postponement of the date for receipt of Proposals.

Each Offeror shall ascertain, prior to submitting the Proposal, that the Offeror has received all Addenda issued, and shall acknowledge their receipt in the Proposal transmittal letter.

PROPOSAL SUBMITTAL PROCEDURES

NUMBER, FORM AND STYLE PROPOSALS

Offerors shall provide one (1) original and five (5) copies of their proposal to the location specified on the cover page on or before the closing date and time for receipt of proposals.

All proposals must be typewritten on standard 8 1/2" x 11" paper and bound on the left hand margin.

The proposal will be a maximum of thirty-five (35) pages of narrative, including title, index, etc., not including front and back covers and forms, licenses, and certificates.

The proposal must be organized and indexed in the following format and must contain, as a minimum, all listed items in the sequence indicated:

- Letter of transmittal, if any;
- Response to Cost of Operations to the County
- Response to Past Record of Performance, Capacity, and Capability
- Response to the transition plan
- Response to maintaining current employees
- Response to beneficial programs for inmates
- Response to Quality Assurance
- List of Subconsultants
- Other Supporting or Resource Material

Any proposal that does not adhere to this format, and which does not address each specification or requirement within the RFP may be deemed non-responsive and rejected on that basis.

Offeror may request in writing nondisclosure of confidential data. Such data should accompany the proposal and should be readily separable from the proposal in order to facilitate eventual public inspection of the nonconfidential portion of the proposal. A request that states that the entire proposal be kept confidential will not be acceptable. Only matters which clearly are of confidential nature will be considered.

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

SUBCONSULTANTS

The Offeror shall list and state the qualifications for each Subconsultant the Offeror proposes to use for all subcontracted work.

The Offeror is specifically advised that any person or other party, to whom it is proposed to award a subcontractor under this proposal, must be acceptable to the County after verification by the County of the current eligibility status, including but not limited to suspension or debarment by the County of Lincoln.

DEBARRED OR SUSPENDED CONTRACTORS

A business (contractor, subcontractor, or supplier) that has either been debarred or suspended pursuant to the requirements of 13-1-177 through 13-1-180, and 13-4-11 through 13-4-17 NMSA 1978 as amended, shall not be permitted to do business with the County and shall not be considered for award of the contract during the period for which it is debarred or suspended with the County.

GENERAL TERMS & CONDITIONS

Proposals shall be submitted at the time and place indicated in the Notice of Request for Proposals and shall be included in an opaque sealed envelope.

The envelope shall be addressed to the County Manager of the County. The following information shall be provided on the front lower left corner of the envelope: Lincoln County Detention Center Operations, Request for Proposals Number 16-17-008. If the proposal is mailed, the sealed envelope shall have the notation "SEALED PROPOSAL ENCLOSED" on the face thereof.

Proposals received after May 9, 2017, 2:00 p.m. will be returned unopened.

The Offeror shall assume full responsibility for the timely delivery of proposals at the County Manager's office, including proposals submitted by mail. Hand-delivered proposals shall be submitted to the County Manager or designee and will be clocked in/time stamped at the time received, which must be prior to the time specified.

**Overnight delivery to the town of Carrizozo, New Mexico by any Delivery Service is absolutely unreliable.**

Addresses are:

| VIA MAIL | HAND DELIVERED |
|---|---|
| Office of the Manager | Office of the Manager |
| County of Lincoln | Lincoln County Courthouse |
| Post Office Box 711 | 300 Central Avenue |
| Carrizozo, NM 88301-0711 | Carrizozo, NM 88301 |

After the date established for receipt of proposals, a register of proposals will be prepared which includes the name of each Offeror, a description sufficient to identify the service, and such other information as may be specified by the County Manager. Oral, telephonic, or telegraphic proposals are invalid and will not receive consideration.

CORRECTION OR WITHDRAWAL OF PROPOSALS

A Proposal containing a mistake discovered before proposal opening may be modified or withdrawn by an Offeror prior to the time set for proposal opening by delivering written or telegraphic notice to the location designated in the Request for Proposals as the place where proposals are to be received.

Withdrawn proposals may be resubmitted up to the time and date designated for the receipt of proposals, provided they are then fully in conformance with the Request for Proposals.

NOTICE OF CONTRACT REQUIREMENTS BINDING ON OFFEROR

In submitting this proposal, the Offeror represents that the Offeror has familiarized himself with the nature and extent of the Request for Proposals dealing with federal, state, and local requirements which are part of these Request for Proposals.

Laws and Regulations: The Offeror's attention is directed to all applicable federal and state laws, local ordinances and regulations, and the rules and regulations of all authorities having jurisdiction over the services of the project.

REJECTION OR CANCELLATION OF PROPOSALS

This Request for Proposals may be canceled, or any or all proposals may be rejected in whole or in part, when it is in the best interest of the County. A determination containing the reasons therefore shall be made part of the RFP file (13-1-131 NMSA 1978).

CONSIDERATION OF PROPOSALS

RECEIPT, OPENING AND RECORDING

Proposals received on time will be opened publicly or in the presence of one or more witnesses and the name of the Offeror and address read aloud.

The names of the businesses submitting proposals and the names of all businesses, if any, selected for interview shall be public information. After an award has been made, final ranking and evaluation scores for all proposals shall become public information. (13-1-120 NMSA 1978). The contents of any proposal shall not be disclosed so as to be available to competing Offerors during the negotiation process (13-1-116 NMSA 1978).

PROPOSAL EVALUATION

Proposals shall be evaluated on the basis of demonstrated competence and qualification for the type of service required, and shall be based on the evaluation factors set forth in this RFP. For the purposes of conducting discussions, proposals may initially be classified as:

- **Acceptable,**
- **Potentially acceptable,** that is, reasonably assured of being made acceptable, or
- **Unacceptable** (Offerors whose proposals are unacceptable shall be notified promptly).

The Contracting Agency shall have the right to waive technical irregularities in the form of the Proposal of the Offeror which do not alter the quality or quantity of the services (13-1-132 NMSA 1978).

If an Offeror who otherwise would have been awarded a contract is found not to be a responsible Offeror, a determination that the Offeror is not a responsible Offeror, setting forth the basis of the finding, shall be prepared by the Purchasing Agent/Procurement Manager. The unreasonable failure of the Offeror to promptly supply information in connection with an inquiry with respect to responsibility is grounds for a determination that the Offeror is not a responsible Offeror (13-1-133 NMSA 1978). Businesses which have not been selected shall be so notified in writing within twenty-one days after the award is made (13-1-120 NMSA 1978).

Selection Process: (13-1-120 NMSA 1978)

The evaluation of proposals will be performed by an evaluation committee composed of representatives selected by the Contracting Agency. The committee shall evaluate statements of qualifications and performance data submitted by all offerors in regard to the particular project and may conduct interviews with and may require public presentation by all businesses applying for selection regarding their qualifications, their approach to the project and their ability to finish the required services.

The selection committee may recommend termination of the selection process at its discretion.

NEGOTIATIONS (13-1-122 NMSA 1978)

The Contracting Agency's designee shall negotiate a contract with the highest qualified business for the services contemplated under this RFP at compensation determined in writing to be fair and reasonable. In making his decision, the designee shall take into account the estimated value of the services to be rendered and the scope, complexity, and professional nature of the services.

Should the designee be unable to negotiate a satisfactory contract with the business considered to be the most qualified at a price determined to be fair and reasonable, negotiations with that business shall be formally terminated. The designee shall then undertake negotiations with the second most qualified business. Failing accord with the second most qualified business, the designee shall formally terminate negotiations with that business.

The designee shall then undertake negotiations with the third most qualified business. Should the designee be unable to negotiate a contract with any of the businesses selected by the committee, additional businesses shall be ranked in order of their qualifications and the designee shall continue negotiations in accordance with this section until a contract is signed with a qualified business or the procurement process is terminated and a new request for proposals is initiated.

The Contracting Agency shall publicly announce the business selected for award.

NOTICE OF AWARD

After award by the local governing body, and approval by DFA, a written notice of award shall be issued by the Contracting Agency after review and approval of the Proposal and related documents by the Contracting Agency with reasonable promptness (13-1-100 and 13-1-108 NMSA 1978).

POST-PROPOSAL INFORMATION

PROTESTS

Any Offeror who is aggrieved in connection with a solicitation or award of an Agreement may protest in accordance with the requirements of the Contracting Agency's Procurement Regulations and the state Procurement Code. The protest should be made in writing within 24 hours after the facts or occurrences giving rise thereto, but in no case later than 15 calendar days after the facts or occurrences giving rise thereto (13-1-172 NMSA 1978).

A. Any Offeror who is aggrieved in connection with a solicitation or award of an Agreement may protest to the Contracting Agency's Purchasing Agent and the Chief Administrator/Clerk in accordance with the requirements of the Contracting Agency's Procurement Regulations and the state Procurement Code. The protest Should be made in writing within twenty-four (24) hours after the facts or occurrences giving rise thereto (13-1-172 NMSA 1978).

B. In the event of a timely protest under this section, the Purchasing Agent and the Contracting Agency shall not proceed further with the procurement unless the Purchasing Agent makes a determination that the award of Agreement is necessary to protect substantial interests of the Contracting Agency (13-1-173 NMSA 1978).

C. The Purchasing Agent or his designee shall have the authority to take any action reasonably necessary to resolve a protest of an aggrieved Offeror concerning a Procurement. This authority shall be exercised in accordance with the adopted Regulations, but shall not include the authority to award money damages or Attorneys' fees (13-1-174 NMSA 1978).

D. The Purchasing Agent or designee shall promptly issue a determination relating to the protest. The determination shall:

1) state the reasons for the action taken; and
2) inform the protestant of the right to judicial review of the determination pursuant to 13-1-183 NMSA 1978.

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

EXECUTION AND APPROVAL OF AGREEMENT

The Agreement shall be signed by the Successful Offeror and returned within an agreed upon time frame after the date of the Notice of Award. No Agreement shall be effective until it has been fully executed by all of the parties thereto.

NOTICE TO PROCEED

The Contracting Agency will issue a written Notice to Proceed to the Consultant.

OFFEROR'S QUALIFICATION STATEMENT

Offeror to whom award of a Agreement is under consideration shall submit, upon request, information and data to prove their financial resources, production or service facilities, personnel, and service reputation and experience are adequate to make satisfactory delivery of the services described in the Request for Proposals (13-1-82 NMSA 1978)

OTHER INSTRUCTIONS TO OFFERORS

None

# 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.

"**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:_____
(Completed by State Agency or Local Public Body)

DISCLOSURE OF CONTRIBUTIONS BY PROSPECTIVE CONTRACTOR:

Contribution Made By: _____

Relation to Prospective Contractor: _____

Date Contribution(s) Made: _____
_____

Amount(s) of Contribution(s) _____
_____

Nature of Contribution(s) _____
_____

Purpose of Contribution(s) _____

_____

(Attach extra pages if necessary)

_____ _____

Signature Date

_____

Title (position)

**--OR—**

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

_____ _____

Signature Date

_____

Title (Position)