



Navajo Nation Department of Emergency Management

PO Box 2908, Window Rock, AZ 86515 | P: (928) 871-6892 | F: (928) 871-7569

REQUEST FOR PROPOSALS BID# 24-06-3375SB

PROPOSAL DUE DATE:

June 28, 2024

DESCRIPTION:

Installation of Fencing

CONTACT PERSON:

Joshua Ellison
Division of Public Safety
Department of Emergency Management
Phone: 505-422-9035
Email: jellison@navajo-nsn.gov

RETURN ALL RESPONSES TO:

DELIVER TO (PHYSICAL):

The Navajo Nation Purchasing Department
Office of the Controller
1st Floor, Administration Building #1
Window Rock, AZ 86515
Attn: Sharon Belone, Buyer
Phone: 928-871-6320
Note: The Bid Number and the vendor must be Indicated on the outside of the package.

MAIL TO:

The Navajo Nation Purchasing Department
Office of the Controller
1st Floor, Administration Building #1
Window Rock, AZ 86515
Attn: Sharon Belone, Buyer
Phone: 928-871-6320
Note: The Bid Number and the vendor must be Indicated on the outside of the package.



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SECTION 1

INFORMATION ONLY – NO RESPONSE TO THIS SECTION IS REQUIRED

- a. **ISSUING OFFICE:** This Request for Proposal (RFP) is issued by the Navajo Department of Emergency Management (NDEM) PO Box 2908 Window Rock, AZ 86515.
- b. **PURPOSE:** This RFP provides prospective respondents with sufficient information to enable them to prepare and submit proposals for consideration.
- c. **SCOPE:** This RFP contains the instructions governing the proposals to be submitted and material to be included therein; mandatory requirements which must be met to be eligible for consideration; and other requirements to be met by each proposal.
- d. **SCHEDULE OF ACTIVITIES:**
- | | DEADLINE: |
|---|--------------------------|
| 1. Public Advertisement RFP's and Advertisements (nnooc.org) | June 12 to June 28, 2024 |
| 2. Prospective respondents' inquiry deadline (no questions accepted after this date) Inquiries and questions will be answered anytime prior to this date. Questions to this RFP may be verbal or written. | June 26, 2024@ 5:00p.m. |
| 3. Due date for proposal | July 1, 2024@ 5:00p.m. |
| 4. Opening and Evaluation of proposals | July 8, 2024 |
| 5. Contract award date | July 9, 2024 |
- e. **INQUIRIES:** Prospective respondents may make telephone or written inquiries concerning this RFP to obtain clarification of requirements. Email inquiries may be emailed to jellison@navajo-nsn.gov. No inquiries will be accepted after the inquiry deadline listed in this section.



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f. MAILED INQUIRIES ARE TO BE ADDRESSED TO:

The Navajo Nation
Purchasing Services Department
Post Office Box 9000
Window Rock, AZ 86515
Attn: Ms. Sharon Belone, Buyer
Phone: 928-871-6320

*Note: Please mark the outside of the envelope or email subject line as:
"NDEM - Installation of Fencing"*

- g. ADDENDUM OF SUPPLEMENT TO THIS REQUEST FOR PROPOSALS:** In the event that it becomes necessary to revise any part of this RFP, an addendum will be issued.
- h. PROPOSALS SUBMISSION:** Bidders who are mailing their proposals should allow sufficient time for mail delivery to ensure receipt by the time specified. It is recommended they be sent by certified/ priority mail with tracking to the physical address indicated on the cover sheet of this RFP.
- i. TWO IDENTICAL PROPOSALS ARE REQUIRED:** Delivered in a sealed envelope; also include the name and address of the individual or firm submitting the proposal. Allow sufficient time for physical and/or mailing delivery to addresses found on the cover page of this RFP. Emailed proposals will not be accepted.
- j. LATE RECEIPT OF PROPOSALS:** Late proposals will not be accepted. It is the responsibility of the bidder to ensure the proposal arrives in the Purchasing Services Department prior to the date and time specified.
- k. REJECTION OF PROPOSALS:** The NDEM reserves the right to reject any or all proposals and to waive informalities and minor irregularities in the proposals received.
- l. PROPRIETARY INFORMATION:** Any restriction on the use of data contained within any proposals must be clearly stated in the proposal itself. Proprietary information submitted in response to this RFP will be handled in accordance with applicable purchasing procedures. Each and every page of the proprietary material must be labeled or identified with the word "proprietary".



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- m. **RESPONSE MATERIAL OWNERSHIP:** All material submitted regarding this RFP shall become property of the Navajo Nation and will not be returned to the bidder. Responses received will be retained in file and may be reviewed by any person after final selection has been made, subject to paragraph K above. The Purchasing Services Department has the right to use any or all system ideas presented in reply to this RFP, subject to limitations outlined in paragraph K above. Disqualification or non-selection of a bidder or bid does not eliminate this right.
- n. **INCURRING COSTS:** NDEM is not liable for any costs incurred by the bidders prior to issuance of an agreement, contract, and/or purchasing order.
- o. **ACCEPTANCE OF PROPOSAL CONTENT:** The contents of the proposal of the successful bidder will become contractual obligations if acquisition action ensues. Failure of the successful bidder to accept these obligations in a purchase agreement, purchase order, delivery order or similar acquisition instrument may result in cancellation of the award and such bidder may be removed from future solicitations. The Navajo Nation Purchasing Department or NDEM reserves the right to pursue appropriate legal action in the above set of circumstances.
- p. **EVALUATION PROCEDURES AND CRITERIA:**
 - 1. General Procedures:
 - a. An ad hoc committee will judge the merit proposals received in accordance with the criteria defined herein.
 - b. Failure of a bidder to provide any information requested in this RFP may result in disqualification of the proposal. All proposals must be endorsed with the signature of a responsible official having the authority to bind the offeror or to the execution of the proposal.
 - c. The sole objective of the ad hoc committee will be to select the bidder whose proposal is most responsive to the Navajo Nation Purchasing Services Department and NDEM. The specifications within this RFP represent the minimum performance necessary for response. On the basis of the evaluation criteria established in this RFP, the ad hoc committee will select and recommend the bidder who best meets this objective.



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- d. Evaluation Criteria: The following criteria will be used by the ad hoc committee in the selecting process for the contract award. The technical proposal factors will be rated on a scale of 10 – 100 with weight relations as stated below:

| <u>Technical Proposal Factors:</u> | <u>Possible Points:</u> |
|---|-------------------------|
| <u>Device Specifications</u> Offeror's meeting the minimum specifications and requirements as listed in Section III herein. | 35 |
| <u>Qualifications of Firm</u> Offeror's qualifications, including work on similar Projects, experience of personnel. | 25 |
| <u>Quality, Accuracy, and Completeness of the Proposal</u> The quality, accuracy, and completeness of the offeror's proposal in response to the RFP specifications and requirements. | 10 |
| <u>Cost</u> Price offered is responsive to the RFP requirements and instructions, and is realistic in respect to specifications and requirements. | 30 |
| | Total: 100 |

- q. **STANDARD CONTRACT:** The Navajo Nation reserves the right to incorporate standard contract provision into any contract negotiations as a result of a proposal submitted in response to this RFP.
- r. **RETURN OF PROPOSALS:** The Navajo Nation has no obligations to return any proposal received in response to this RFP.
- s. **GOVERNING LAW:** The procurement and any agreement with offerors that may result be governed by the laws of the Navajo Nation. The Navajo Nation is not bound to enter a contract under the RFP or RSQ and may issue a subsequent RFP or RSQ for the same services. The Navajo Nation is a sovereign government and all contracts entered into as a result of the RFP shall comply with Navajo Nation law, rules, and regulations, including the Navajo Preference in Employment Act. Navajo Business Opportunity Act, 5 N.N.C. will apply.



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SECTION II

PROPOSAL FORMAT AND ORGANIZATION

- a. **NUMBER OF COPIES:** Proposer shall provide two (2) identical proposals to the location specified for the submission of the proposals in Section I, Paragraph H, on or before the closing date and time for receipt of proposal. Allow sufficient time for physical and/or mailing delivery to addresses found on the cover page of this RFP. Emailed proposals will not be accepted.
- b. **PROPOSAL FORMAT:** All proposals must be typed on a standard 8.5 x 11 paper (Larger paper is permissible for charts, spreadsheets, etc.) and bound with tabs/dividers delineating each section, as necessary.
 1. **Proposal Organization:** The proposal must be organized and indexed in the following format and must contain, at minimum, all listed items in the sequence indicated:
 - a. Table of Contents
 - b. Letter of Transmittal
 - c. Cost of Proposal
 - d. Response to the Specifications Request
 - e. Professional References (list of similar services provided by the Offeror to tribal governments, enterprises, preferably organizations within 100-mile radius of the Navajo Nation within the last five (5) years.
 - f. Certifications/ Licenses (ie: Manufacturer, business, etc.) if any
 - g. Credentials:
 - i. Form W-9 (Rev. 03-2024)
 - ii. Debarment and Suspension Form
 - iii. Purchase Order Terms and Conditions
 - iv. Professional Service Contract
 - v. Certificate of Insurance with appropriate coverage and limits of insurance and names the Navajo Nation as the insured in the general and auto liability policies.



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2. Letter of Transmittal: Each proposal must be accompanied by a letter of transmittal. The letter of transmittal must:
 - a. Identify the submitting organization with a brief description;
 - b. Identify experience, capability, and capacity;
 - c. Identify the name and title of the person authorized to contractually obligate the organization;
 - d. Identify the names, title, and telephone numbers of a person to be contacted for clarification;
 - e. Be signed by the person authorized to contractually obligate the organization and;
 - f. Acknowledge receipt of any and all amendments to the RFP.

Section III

SCOPE OF SERVICES

- a. **INTRODUCTION:** The Navajo Department of Emergency Management (NDEM) is requesting bids for a licensed contractor to install perimeter fencing around the Department of Emergency Management's property located at 200 Morgan Blvd. #2518, Window Rock, AZ 86515.
- b. **SCOPE OF WORK:**
 - a. Furnish and install 513ft of 6ft tall 9-gauge chain-link fence
 - i. End, corner, and gate posts will be 2-7/8" AP40
 - ii. Line posts will be 2-3/8" AP40, set at 10ft on center
 1. All posts will be set in concrete
 - iii. Top rail will be 1-5/8" AP40
 - b. Furnish and install 513ft of three stand 2-point barbed wire
 - c. Furnish and install one 14ft x 6' with three stand barbed wire double gate
 - i. Gate hinges will be 180-degree hinges
 - ii. Gate latch will be DAC4000
 - iii. Furnish and install 2 duck bill hold opens.
- c. **ADDITIONAL WORK/ SAFETY/ DAMAGE:** The contractor shall;
 - a. adhere to all safety precautions to perform the work required;
 - b. repair or replace any damages incurred by contractor at own expense;
 - c. include additional work into the proposed budget (in the event the contractor discovers additional work during site visit).



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- d. **MATERIALS AND GENERATED WASTE:** The contractor is responsible;
 - a. for providing their own materials for all work;
 - b. responsible for managing, collecting and removing debris generated during construction.

- e. **SCOPE OF CONTENT:** The NDEM will utilize the standard Professional Service Contract for procurement of goods and services.

- f. **BUDGET:** Proposed budget must include the six (6) percent Navajo Nation Sales Tax.

APPENDIX A
FORM W-9 (Rev. 03-2924)

Request for Taxpayer Identification Number and Certification

Go to www.irs.gov/FormW9 for instructions and the latest information.

**Give form to the
 requester. Do not
 send to the IRS.**

Before you begin. For guidance related to the purpose of Form W-9, see *Purpose of Form*, below.

| | | | | | |
|--|--|--|--|---|---|
| Print or type. See Specific Instructions on page 3. | 1 | Name of entity/individual. An entry is required. (For a sole proprietor or disregarded entity, enter the owner's name on line 1, and enter the business/disregarded entity's name on line 2.) | | | |
| | 2 | Business name/disregarded entity name, if different from above. | | | |
| | 3a | Check the appropriate box for federal tax classification of the entity/individual whose name is entered on line 1. Check only one of the following seven boxes. | | 4 | Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): |
| | | <input type="checkbox"/> Individual/sole proprietor <input type="checkbox"/> C corporation <input type="checkbox"/> S corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> LLC. Enter the tax classification (C = C corporation, S = S corporation, P = Partnership) Note: Check the "LLC" box above and, in the entry space, enter the appropriate code (C, S, or P) for the tax classification of the LLC, unless it is a disregarded entity. A disregarded entity should instead check the appropriate box for the tax classification of its owner. <input type="checkbox"/> Other (see instructions) _____ | | Exempt payee code (if any) _____ Exemption from Foreign Account Tax Compliance Act (FATCA) reporting code (if any) _____ | |
| | 3b | If on line 3a you checked "Partnership" or "Trust/estate," or checked "LLC" and entered "P" as its tax classification, and you are providing this form to a partnership, trust, or estate in which you have an ownership interest, check this box if you have any foreign partners, owners, or beneficiaries. See instructions <input type="checkbox"/> | | (Applies to accounts maintained outside the United States.) | |
| | 5 | Address (number, street, and apt. or suite no.). See instructions. | | Requester's name and address (optional) | |
| | 6 | City, state, and ZIP code | | | |
| 7 | List account number(s) here (optional) | | | | |

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. See also *What Name and Number To Give the Requester* for guidelines on whose number to enter.

| | | | | | | |
|--|--|--|---|--|---|--|
| | Social security number | | | | | |
| | <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; border: 1px solid black; height: 20px;"></td> <td style="width: 5%; border: 1px solid black; text-align: center;">-</td> <td style="width: 25%; border: 1px solid black; height: 20px;"></td> <td style="width: 5%; border: 1px solid black; text-align: center;">-</td> <td style="width: 40%; border: 1px solid black; height: 20px;"></td> </tr> </table> | | - | | - | |
| | - | | - | | | |
| | or | | | | | |
| | Employer identification number | | | | | |
| | <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; border: 1px solid black; height: 20px;"></td> <td style="width: 5%; border: 1px solid black; text-align: center;">-</td> <td style="width: 70%; border: 1px solid black; height: 20px;"></td> </tr> </table> | | - | | | |
| | - | | | | | |

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and, generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

| | | |
|------------------|--------------------------|------|
| Sign Here | Signature of U.S. person | Date |
|------------------|--------------------------|------|

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

What's New

Line 3a has been modified to clarify how a disregarded entity completes this line. An LLC that is a disregarded entity should check the appropriate box for the tax classification of its owner. Otherwise, it should check the "LLC" box and enter its appropriate tax classification.

New line 3b has been added to this form. A flow-through entity is required to complete this line to indicate that it has direct or indirect foreign partners, owners, or beneficiaries when it provides the Form W-9 to another flow-through entity in which it has an ownership interest. This change is intended to provide a flow-through entity with information regarding the status of its indirect foreign partners, owners, or beneficiaries, so that it can satisfy any applicable reporting requirements. For example, a partnership that has any indirect foreign partners may be required to complete Schedules K-2 and K-3. See the Partnership Instructions for Schedules K-2 and K-3 (Form 1065).

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS is giving you this form because they

APPENDIX B

DEBARMENT AND SUSPENSION

**NAVAJO NATION CERTIFICATION
Regarding Debarment, Suspension, and
Contracting Eligibility**

1. Applicant entity acknowledges that to the best of its knowledge that the Applicant entity, either in its present form or in any identifiable capacity, has not, in accordance with 12 N.N.C. § 361:
 - A. Been convicted of the commission of criminal offenses incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of any such contract or subcontract;
 - B. Been convicted of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or other offenses indicating a lack of business integrity or honesty, which currently, seriously, and directly affect responsibility as a Navajo Nation contractor;
 - C. Been convicted under antitrust statutes arising out of the submission of bids or proposals;
 - D. Violated contract provisions, including:
 - i. Deliberate failure, without good cause, to perform in accordance with the contract specifications or within the time limit provided in the contract,
 - ii. A recent record of failure to perform or of unsatisfactory performance with the terms of any contract, or
 - iii. Any other cause so serious and compelling as to affect responsibility as a Navajo Nation contractor, including debarment by another governmental entity.
2. Applicant acknowledges that if the Navajo Nation determines that the executed Certification provided herein is untrue or not wholly accurate, it shall be grounds for the Navajo Nation to terminate the contract and pursue other legal remedies, at the Navajo Nation's discretion.
3. Applicant certifies to the best of its knowledge that it is eligible to do business with the

Navajo Nation, in its present form or in any other identifiable capacity, pursuant to 12 N.N.C. § 1501 and 5 N.N.C. § 301. Applicant also acknowledges that per 12 N.N.C. § 1505, it will not be eligible to contract with the Navajo Nation if deemed ineligible by the appropriate department or entity of the Navajo Nation which receives the Applicant's request for consideration for a business opportunity.

Applicant Name

Name of individual signing on Applicant's behalf (print)

Applicant Address

Title of individual signing on Applicant's behalf

Applicant Address

Signature of individual signing on Applicant's behalf

Applicant Address

Date

APPENDIX C

PURCHASE ORDER TERMS AND CONDITIONS

EXHIBIT D

Purchase Order Terms and Conditions

4

- A. DELIVERY.** Delivery must be made within thirty (30) days from receipt of this purchase order unless otherwise specified. Time is of the essence and if goods are not delivered within the time specified, the Navajo Nation may reject such goods and cancel the order. Acceptance of later or defective deliveries shall not be deemed a waiver by the Navajo Nation of its right to cancel this order or to refuse to accept further deliveries. The purchase order number, account and project numbers must be shown on all packages, packing slips, invoices and correspondence relating to the order. **BACKORDERS WILL BE ALLOWED ONLY UPON AGREEMENT WITH THE PURCHASING DEPARTMENT.**
- B. F.O.B POINT.** All prices offered herein are F.O.B. destination (on the Navajo Reservation) unless otherwise specified.
- C. REQUIREMENT FOR WRITTEN PURCHASE ORDER.** Shipments will not be accepted and invoices will not be honored unless a valid purchase order in writing, has been issued to the vendor by the Purchasing Section of the Navajo Nation.
- D. TERMS AND ACCEPTANCE.** This order becomes a contract (1) when a signed acknowledgment is received by the Navajo Nation, or (2) when shipment according to schedule of all or any portion of the goods covered by this order shall be made, or (3) when written approval is given vendor by the Navajo Nation of the price and delivery schedule of the goods as stated by vendor if vendor's written acknowledgment of this order contains either (a) a different price or delivery schedule or a different type of item, or (b) no price or no delivery schedule for the item or items to which the Navajo Nation's approval applies. Except as provided in the preceding sentence, a condition of this order is that any provisions printed or otherwise contained in any acknowledgment of this order, inconsistent with or in addition to the terms and conditions herein stated, and any alteration in this purchase order, shall have no force or effect, and that the vendor by such acknowledgment thereby agrees that any such provision therein or any such alteration in this order shall not constitute any part of this contract of purchase and sale. This contract contains the entire agreement of the parties, and failure of either party to enforce any of its rights hereunder shall not constitute a waiver of such rights or of any other rights hereunder.
- E. BILLING.**
1. Submit original invoice(s) and 2 copies to the Accounts Payable Section. The Navajo Nation, P.O. Drawer 1660, Window Rock, AZ 86515. **DUPLICATE INVOICES WILL NOT BE HONORED.**
 2. Invoicing must be itemized as to items, quantities, unit prices and extended amounts.
 3. Submit a separate invoice for each purchase order. Do not combine invoicing for more than one purchase order.
 4. Invoices must be submitted immediately upon shipment.
 5. Where pricing differences or discrepancies exist between the purchase order and the invoice submitted, the purchase order will prevail. The purchaser reserves the right to accept or reject all quantities delivered not in compliance with the purchase order specifications or in excess of the quantities specified herein.
- F. CASH DISCOUNT.** The term of any cash discount will be computed from the date of receipt and acceptance of the goods or services procured hereunder, or from the date of receipt of a correct Original invoice, whichever is later.
- G. TAXES.** Except as may be otherwise provided in this order, the contract price includes all applicable federal, state, Indian and local taxes. In addition, the Navajo Nation claims the transaction is in any event immune from state and local sales, gross receipts, use, compensating and transaction privilege taxes under federal Indian law. Vendor expressly warrants that the contract price does include any allowance for state and local sales, gross receipts, use, compensating and transaction privilege taxes. The Navajo Nation will not reimburse or pay vendor any state and local sales, gross receipts, use, compensating and transaction privilege taxes unless the following conditions are met:
1. A governmental authority asserts a liability for such taxes against vendor has not and will not concede its liability for such taxes except as provided in Paragraph G.3(below); and
 2. The Navajo Nation at its expense is given the full opportunity to contest the liability for such taxes for and on behalf of vendor and with vendor's full cooperation; and
 3. A final determination has been made that vendor is liable for such taxes or the Navajo Nation decides it does not wish to contest vendor's liability for such taxes further.
- H. FAIR LABOR STANDARDS ACT.** Vendor must certify that goods were produced in compliance with all applicable requirements of section 6,7 and 12 of the Fair Labor Standards Act, as amended, and of regulations and orders of the United States Department of Labor issued under section 14 thereof.
- I. NAVAJO PREFERENCE.** If this purchase order is issued to a vendor claiming preference under the Navajo Nation Business Preference Law, then acknowledgment and/or delivery against this order shall constitute certification of current compliance, on the part of the vendor, with all applicable provisions of this Law.
- J. CHOICE OF LAW.** The laws of the Navajo Nation will govern the interpretation, construction and enforcement of this Purchase Order, including, without limitation, the Navajo Uniform Commercial Code.
- K. CHOICE OF FORUM.** Subject to the limits of applicable law, eg., 1. Navajo Tribe Code et seq., any dispute between the parties will be resolved in the Courts of the Navajo Nation and vendor consents to in personam jurisdiction of such courts in the event of any such dispute.
- L. INSPECTION, WARRANTY.** Goods or services delivered (whether paid for or not) are subject to inspection, testing, and approval by the Navajo Nation before acceptance. Vendor expressly warrants that all articles, materials, services and work will conform to the applicable drawings, specifications, samples or other descriptions given in all respects. Vendor further expressly warrants that the goods or services delivered hereunder will be of good quality, material and workmanship, merchantable and free from defects. The warranty shall survive any inspection, delivery, acceptance or payment by vendor of the goods or services.
- M. OTHER** As used herein, the titles "the Navajo Tribe" and "the Navajo Nation" are synonymous.

APPENDIX D
PROFESSIONAL SERVICE CONTRACT

FORM 1 (ADMINISTRATIVE PURPOSES ONLY)

**SERVICES CONTRACT BETWEEN
THE NAVAJO NATION
AND**

Consultant's Legal Name (this must match the name on the Contractor's W-9 and Certificate of Insurance)

Consultant's physical address, state and zip code

Consultant's telephone number

CONTRACT NO: _____

FOR THE PERIOD: BEGINNING _____
ENDING _____

PAYMENTS TO BE MADE FROM:

Account: _____ - _____ Fees: \$ _____
Account: _____ - _____ Expenses: \$ _____
Account: _____ - _____ Taxes: \$ _____

TOTAL PAYMENTS ON THIS CONTRACT NOT TO EXCEED: \$ _____

UNDER THE TERMS AND CONDITIONS OUTLINED IN:

ATTACHMENT A – Mutual Promises and Agreements

ATTACHMENT B – Scope of Work

EXHIBITS:

EXHIBIT A – Accounting Codes and Budget

EXHIBIT B – Consultant Credentials

EXHIBIT C – Certificate of Insurance

EXHIBIT D – _____

EXHIBIT E – _____

Employer's Identification No.: _____
Or *this number must match Form W-9*

Consultant's Social Security No.: _____

SERVICES CONTRACT

ATTACHMENT A – Mutual Promises and Agreements

This Services Contract (“Contract”) is made and entered into by and between the Navajo Nation, hereinafter called the “NATION” and _____, hereinafter called the “CONSULTANT.” Collectively, the NATION and the CONSULTANT are the “PARTIES.” The PARTIES agree as follows:

1. **Contract Term.** The NATION agrees to use the non-exclusive services of the CONSULTANT beginning _____, and ending _____.
2. **Documents Constituting the Contract.** The following are to be considered collectively as one agreement/contract and the term Contract whenever used herein shall be deemed to include all such documents:
 - this ATTACHMENT A – Mutual Promises and Agreements;
 - ATTACHMENT B – Scope of Work (“Scope of Work”);
 - EXHIBIT A – Accounting Codes and Budget;
 - EXHIBIT B – Consultant Credentials;
 - EXHIBIT C – Certificate of Insurance; and (where applicable)
 - EXHIBIT D – _____; and
 - EXHIBIT E – _____.
3. **Scope of Work.** The CONSULTANT agrees to perform the services described in ATTACHMENT B – Scope of Work. Any changes to the Scope of Work must be agreed to by the PARTIES through a formal Modification of the Contract pursuant to Paragraph 13 below.
4. **Compensation.** The NATION agrees to compensate the CONSULTANT for services performed under this Contract by paying a sum not to exceed \$ _____, as per EXHIBIT A – Accounting Codes and Budget, to include the Navajo Nation and local government sales tax amounts described in Paragraph 18 below, for work performed within the territorial jurisdiction of the NATION.
5. **Authorized Representative.** The CONSULTANT shall work with the _____ (Contracting Program), and its Authorized Representative, _____, in the performance of work or services under this Contract. No payment shall be made unless said Authorized Representative approves the work performed or services provided under this Contract and has approved the invoice(s) submitted by the CONSULTANT. Only the Authorized Representative or someone formally delegated by the Authorized Representative may assign tasks under the Scope of Work. All invoiced expenditures must be supported by receipts.
6. **Contract Number.** Contract Number C- _____ shall cover this Contract, and reference to this number shall be made on all invoices submitted by the CONSULTANT to the NATION for payment.
7. **Availability of Funds.** The liability of the NATION under this Contract is contingent upon the availability of funds. Pursuant to 2 N.N.C. § 223(B), all contracts shall have sufficient funds available to perform the services under the Contract.
8. **Travel Expenses.** The PARTIES recognize that the CONSULTANT may incur reasonable travel expenses in connection with providing services to the NATION. For said travel expenses to be eligible for reimbursement hereunder, the Authorized Representative must approve the travel in writing before said expenses are incurred.
9. **Consultant is an Independent Contractor.** Neither CONSULTANT nor its employees are, or shall be deemed, NATION employees. In its capacity as an independent contractor, CONSULTANT agrees and

represents, and the NATION agrees, that CONSULTANT: (a) has the sole right to control and direct the means, manner, and method by which the services will be performed; (b) shall utilize its own employees, facilities, equipment, tools, and supplies in performing the services; (c) is not eligible to participate in, and is not eligible for coverage under any NATION employee benefit plans or offerings; and (d) is free to make its services available to third parties. Nothing in this Contract shall be construed to create any agency or employment relationship between CONSULTANT or any of its employees and the NATION. Neither Party shall have any right, power, or authority to assume, create, or incur any expense, liability, or obligation, express or implied, on behalf of the other. The CONSULTANT is responsible for payment of all taxes related to this Contract, and except as otherwise provided in Section 18 below, the NATION is not responsible for withholding, and shall not withhold, income taxes, FICA, unemployment taxes, or other taxes of any kind from any payment it owes to CONSULTANT, nor shall the NATION be responsible for remitting the employer's share of employment taxes to federal or state governments.

10. **The Nation's Ownership of Work Product.** The product(s) and title of the CONSULTANT'S work and services under this Contract shall be and will remain the property of the NATION. The NATION may use the work product for any purpose without prior approval or additional payment.

11. **The Nation's Right to Inspect Place of Business and to Inspect and Audit Books and Records.** The CONSULTANT agrees that the NATION may, at reasonable times, inspect the part of the plant or place of business of the CONSULTANT that is related to the performance of this Contract; and CONSULTANT further agrees that the NATION may, at reasonable times and places, inspect and audit the CONSULTANT'S books and records to the extent that such books and records relate to the performance of this Contract. The CONSULTANT shall maintain such books and records, and such books and records of any Subcontractor, for at least five (5) years from the date of final payment under this Contract. Further, CONSULTANT agrees to include in any Subcontractor agreement related to this Contract, provisions that the Subcontractor agrees (a) that the NATION may, at reasonable times, inspect the part of the plant or place of business of the Subcontractor that is related to the performance of this Contract; (b) that the NATION may, at reasonable times and places, inspect and audit the Subcontractor's books and records to the extent that such books and records relate to the performance of this Contract; and (c) that the Subcontractor shall maintain its books and records related to the performance of this Contract for at least five (5) years from the date of the CONSULTANT'S final payment under this Contract.

12. **Contact Information; Final Invoice.** Copies of all correspondence, reports, and invoices under this Contract shall be furnished to:

Insert the NATION'S and the CONSULTANT'S contact and contact information:

| | |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

NOTE: The final invoice will be due within thirty (30) days after the Contract ends.

13. **Indemnification.** The CONSULTANT agrees to hold harmless and indemnify the NATION against any and all losses, costs, damages, claims, accident or injury to person or property including death, attorneys' fees, expenses, and other liability whatsoever (collectively, "Claims"), arising under, related to, or in connection with this Contract, except to the extent such Claims are directly caused by the gross negligence or wanton and willful

conduct of the NATION or to the extent they result from the negligence of NATION officials or employees as provided for and in accordance with 1 N.N.C. § 551 *et seq.*

14. **Modifications.** Any modifications to this Contract shall be made only by written amendment, signed and executed by all parties to this Contract. If a cost-based selection method, such as the submission and evaluation of bids, was used to procure this Contract, any amendment to increase this Contract that exceeds twenty percent (20%) of the original accepted bid amount shall be handled pursuant to 2 N.N.C. § 223(F).
15. **Disputes; No Waiver of Sovereign Immunity.** Any and all disputes arising under, related to, or in connection with this Contract will be resolved first through negotiation between the PARTIES under the laws of the NATION. If negotiation does not resolve the dispute, the NATION may pursue legal action. Nothing herein shall be construed as a waiver of the NATION'S sovereign immunity.
16. **Termination.** The NATION may terminate this Contract at any time upon ten (10) days advance written notice to the CONSULTANT, in the event that: (a) the NATION, in its sole discretion, determines the CONSULTANT'S work or services provided are not satisfactory; (b) the CONSULTANT fails to submit reports and other documents as requested by the NATION within defined time schedules to the satisfaction of the NATION; (c) the CONSULTANT fails to submit verification of invoices to the NATION for payment to the satisfaction of the NATION; (d) the CONSULTANT is in breach of any material term or condition of this Contract; or (e) funds are not appropriated or otherwise made available to support continuation of this Contract.
17. **Applicable Law and Jurisdiction.** The CONSULTANT shall comply with all Navajo Nation laws, as they may be amended from time to time, including, but not limited to, the Navajo Business and Procurement Act, 12 N.N.C. § 1501 *et seq.*, the Navajo Preference in Employment Act, 15 N.N.C. § 601 *et seq.*, the Navajo Nation Business Opportunity Act, 5 N.N.C. § 201 *et seq.*, the Navajo Nation Corporation Act, 5 N.N.C. § 3101 *et seq.*, the Navajo Nation Limited Liability Company Act, 5 N.N.C. § 3600 *et seq.*, the Navajo Uniform Commercial Code, 5A N.N.C. § 1-101 *et seq.*, and applicable regulations. The CONSULTANT agrees to be subject to the jurisdiction of Navajo Nation courts and tribunals.
18. **Pre-Contract Costs.** Costs incurred before the finalization of this Contract deemed reasonable, allowable, and allocable to performance of the Contract as agreed to by the PARTIES may be paid under this Contract.
19. **Navajo Nation Taxes.** The CONSULTANT shall comply with all applicable Navajo Nation tax laws under Title 24 of the Navajo Nation Code and corresponding regulations. The CONSULTANT is subject to and shall be liable for payment of the Navajo Nation Sales Tax, at the prevailing rate, on gross receipts for all work performed within the territorial jurisdiction of the Navajo Nation pursuant to 24 N.N.C. § 601 *et seq.*, and the Navajo Nation Sales Tax Regulations § 6.101 *et seq.*, as amended from time to time, except that work performed within the To'Nanees'Dizi Local Government ("Tuba City Chapter") or the Kayenta Township is subject to their respective local sales taxes as amended from time to time. In addition to being subject to Navajo Nation Sales Tax, the CONSULTANT is subject to local sales tax on gross receipts for all work performed within a governance-certified chapter that imposes a local sales tax pursuant to a duly enacted local tax ordinance and the Uniform Local Tax Code, 24 N.N.C. §150 *et seq.*

The CONSULTANT shall segregate, on each invoice, the work performed within and outside the territorial jurisdiction of the Navajo Nation, and within and outside the jurisdictions of governance-certified chapters that impose a local sales tax. The NATION shall withhold from each payment to the CONSULTANT the applicable Navajo Nation Sales Tax and/or local sales tax due from the total invoice amount associated with work performed within the Navajo Nation and/or within governance-certified chapters that impose a local sales tax (excluding Tuba City Chapter and Kayenta Township). The amount withheld reflects the Navajo Nation Sales Tax and/or local sales tax due on such invoice amounts. The NATION shall transfer the withheld amount to the Office of the Navajo Tax Commission as payment of the Navajo Nation Sales Tax and/or local sales tax on behalf of the CONSULTANT. The CONSULTANT will then indicate on the quarterly tax return or returns

required for the Navajo Nation Sales Tax and/or local sales tax that this amount has been previously withheld and paid to the Office of the Navajo Tax Commission. It is hereby acknowledged that the NATION withholding amounts pursuant to this section in no way removes responsibility from the CONSULTANT as a taxpayer for timely filing of tax returns and timely payment of any other amounts, which may be owed for taxes.

The CONSULTANT is subject to the Tuba City Chapter Sales Tax on gross receipts for all work performed within the Tuba City Chapter pursuant to the To’Nancees’Dizi Local Government Tax Code, as may be amended from time to time, and shall pay the sales tax directly to the Tuba City Chapter. The CONSULTANT is subject to the Kayenta Township Sales Tax on gross receipts for all work performed within the Kayenta Township pursuant to the Kayenta Township Tax Ordinances, as may be amended from time to time, and shall pay the sales tax directly to the Kayenta Township. The NATION shall not withhold this portion of the tax that is directly payable to Tuba City Chapter or Kayenta Township.

The CONSULTANT is solely responsible for the payment of all applicable taxes.

20. **Consultant Debarment; Suspension.** If the CONSULTANT in its present form or any other identifiable capacity as an individual, business corporation, partnership or other entity is deemed ineligible, debarred, or suspended pursuant to the Navajo Business and Procurement Act, 12 N.N.C. § 1501 *et seq.* or the Navajo Nation Procurement Act, 12 N.N.C. § 301 *et seq.*, the CONSULTANT is not legally able to enter into this Contract, and this Contract shall be null and void unless the factors that warranted the ineligibility, debarment or suspension have been sufficiently addressed as provided by applicable Navajo Nation laws.
21. **Insurance Coverage.** The CONSULTANT shall obtain and maintain adequate insurance coverage as recommended and verified by the Navajo Nation Risk Management Program (“RMP”) for the entire term of the Contract. The insurance coverage shall name the NATION as an additional insured as specified by the RMP, and the CONSULTANT shall notify the contracting program and the RMP, c/o The Navajo Nation, P.O. Box 1690, Window Rock, Arizona 86515, within five (5) days of any change in the insurance policy. Proof of such insurance is attached as **Exhibit C – Certificate of Insurance**. The failure to fully comply with this provision shall render this Contract null and void.
22. **Conflicting and Additional Terms.** Any additional terms and conditions of the CONSULTANT are attached hereto and incorporated into this Contract, provided however that in the event of any conflict between the terms and conditions of this Contract and any of the CONSULTANT’S additional terms and conditions, the terms and conditions of this Contract shall control and govern. Any additional terms and conditions not attached to this Contract shall have no force or effect.

SIGNATURES OF THE CONTRACT

For the Consultant:

Date

For the Navajo Nation:

Branch Chief

Date

The Navajo Nation

Post Office Box 9000

Window Rock, Arizona 86515

SERVICES CONTRACT

ATTACHMENT B – Scope of Work (include timeframe)

FIRM NAME

ADDRESS

TELEPHONE NO.

SERVICES CONTRACT

EXHIBIT A – Accounting Codes and Budget

FIRM NAME _____
 ADDRESS _____

 TELEPHONE NO. _____

ACCOUNTING CODES

| <u>Account Number</u> | <u>Account Name</u> | <u>Item Totals</u> |
|--|---------------------|--------------------|
| _____ - _____ | _____ | \$ _____ |
| _____ - _____ | _____ | \$ _____ |
| _____ - _____ | _____ | \$ _____ |
| TOTAL CONSULTANT FEES AND EXPENSES: | | \$ _____ |

ATTACH A DETAILED BUDGET TO THIS EXHIBIT
The detailed budget total must match the totals above and the totals on Page 1 of the Contract.

Consider using the SAMPLE FORMULAS below:

_____ – *Cost Estimate – Fees*
 \$ _____ per day or per hour x _____ work days or work hours outside the Navajo Nation: \$ _____
 \$ _____ per day or per hour x _____ work days or work hours within the Navajo Nation: \$ _____
 _____ Percent Navajo Nation tax on fees for work within the Navajo Nation: \$ _____
Total Fees: \$ _____

_____ – *Cost Estimate – Fees*

Travel (_____ miles x \$ _____ per mile): \$ _____
 Meals (_____ meals x \$ _____ per meal): \$ _____
 Lodging (\$ _____ per night x _____ required overnight stays): \$ _____
 Airfare (\$ _____ per trip x _____ trips): \$ _____
 Materials, supplies, and goods (list each item and associated cost): \$ _____
Total Expenses: \$ _____

SERVICES CONTRACT
EXHIBIT B - Consultant Credentials

FIRM NAME _____
ADDRESS _____
TELEPHONE NO. _____

FOR INTERNAL GUIDANCE ONLY - Include in this section:

1. Consultant's current resume. If Consultant is a firm, use the resume of the primary responsible party,
2. Signed Navajo Nation Certification Regarding Debarment and Suspension,
3. Completed and signed W-9 Form, and
4. Any other credentials that are relevant to the work in this contract.

SERVICES CONTRACT
EXHIBIT C - Certificate of Insurance

FIRM NAME _____
ADDRESS _____

TELEPHONE NO. _____

FOR INTERNAL GUIDANCE ONLY - Include in this section:

1. The Consultant's Certificate(s) of Insurance, and
2. The Risk Management Program's (RMP) signed memorandum indicating that the attached Certificate of Insurance meets RMP's minimum insurance requirements.