



**State of New Mexico
General Services Department
State Purchasing Division**

Contract

Awarded Vendor:
0000027341
American Association of State Highway &
Transportation Officials - AAASHTO
444 North Capitol Street NW, Suite 249
Washington DC 20001

Telephone No.: (202) 624-5800

Contract Number: 90-805-19-16777

Payment Terms: Net 30

F.O.B.: Destination

Delivery: As requested by Agency

Ship To:
NM Department of Transportation
1120 Cerrillos Road
Santa Fe NM 87504

Procurement Specialist: Natalie Martinez *NM*

Telephone No.: (505) 827-0251

Email: natalie.martinez1@state.nm.us

Invoice:
Same as "Ship To"

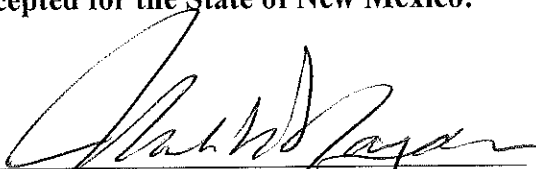
For questions regarding this contract please contact:
Miguel Gallegos (505) 690-0519

Title: **AASHTO Software Maintenance**

Term: **July 1, 2019 – June 30, 2022**

The attached Contract is made subject to the "terms and conditions" as indicated.

Accepted for the State of New Mexico:


Mark Hayden, State Purchasing Agent

Date: 7/1/19

Purchasing Division: 1100 St. Francis Drive, Santa Fe, NM 87505; PO Box 6850, Santa Fe, NM 87502 (505) 827-0472
nm

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State of New Mexico
General Services Department
Purchasing Division
Contract #: 90-805-19-16777

Page-2

(Unless otherwise specified)

1. **General:** When the State Purchasing Agent or his/her designee issues a purchase document in response to the Vendor's bid, a binding contract is created.
2. **Variation in Quantity:** No variation in the quantity of any item called for by this order will be accepted unless such variation has been caused by conditions of loading, shipping, packing or allowances in manufacturing process and then only to the extent, if any, specified in this order.
3. **Assignment:**
 - a. Neither the order, nor any interest therein, nor any claim thereunder, shall be assigned or transferred by the Vendor, except as set forth in Subparagraph 3b or as expressly authorized in writing by the State Purchasing Agent or his/her designee. No such assignment or transfer shall relieve the Vendor from the obligations and liabilities under this order.
 - b. Vendor agrees that any and all claims for overcharge resulting from antitrust violations which are borne by the State as to goods, services, and materials purchased in connection with this bid are hereby assigned to the State.
4. **State Furnished Property:** State furnished property shall be returned to the State upon request in the same condition as received except for ordinary wear, tear and modifications ordered hereunder.
5. **Discounts:** Prompt payment discounts will not be considered in computing the low bid. Discounts for payment within twenty (20) days will be considered after the award of the contract. Discounted time will be computed from the date of receipt of the merchandise invoice, whichever is later.
6. **Inspection:** Final inspection and acceptance will be made at the destination. Supplies rejected at the destination for nonconformance with specifications shall be removed at the Vendor's risk and expense, promptly after notice of rejection.
7. **Inspection of Plant:** The State Purchasing Agent or his/her designee may inspect, at any reasonable time, the part of the Contractor's, or any subcontractor's plant or place of business, which is related to the performance of this contract.
8. **Commercial Warranty:** The Vendor agrees that the supplies or services furnished under this order shall be covered by the most favorable commercial warranties the Vendor gives for such to any customer for such supplies or services. The rights and remedies provided herein shall extend to the State and are in addition to and do not limit any rights afforded to the State by any other clause of this order. Vendor agrees not to disclaim warranties of fitness for a particular purpose of merchantability.
9. **Taxes:** The unit price shall exclude all state taxes.
10. **Packing, Shipping and Invoicing:**
 - a. The State's purchasing document number and the Vendor's name, user's name and location shall be shown on each packing and delivery ticket, package, bill of lading and other correspondence in connection with the shipments. The user's count will be accepted by the Vendor as final and conclusive on all shipments not accompanied by a packing ticket.
 - b. The Vendor's invoice shall be submitted duly certified and shall contain the following information: order number, description of supplies or services, quantities, unit price and extended totals. Separate invoices shall be rendered for each and every complete shipment.
 - c. Invoices must be submitted to the using agency and NOT the State Purchasing Agent.
11. **Default:** The State reserves the right to cancel all or any part of this order without cost to the State, if the Vendor fails to meet the provisions of this order and, except as otherwise provided herein, to hold the Vendor liable for any excess cost occasioned by the State due to the Vendor's default. The Vendor shall not be liable for any excess costs if failure to perform the order arises out of causes beyond the control and without the fault or negligence of the Vendor, such causes include but are not restricted to, acts of God or the public enemy, acts of the State or Federal Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and defaults of subcontractors due to any of the above, unless the State shall determine that the supplies or services to be furnished by

State of New Mexico
General Services Department
Purchasing Division
Contract #: 90-805-19-16777

Page-3

the subcontractor were obtainable from other sources in sufficient time to permit the Vendor to meet the required delivery scheduled. The rights of the State provided in this paragraph shall not be exclusive and are in addition to any other rights now being provided by law or under this order.

12. Non-Collusion: In signing this bid the Vendor certifies he/she has not, either directly or indirectly, entered into action in restraint of free competitive bidding in connection with this offer submitted to the State Purchasing Agent or his/her designee.

13. Nondiscrimination: Vendor doing business with the State of New Mexico must be in compliance with the Federal Civil Rights Act of 1964 and Title VII of the Act (Rev. 1979) and the Americans with Disabilities Act of 1990 (Public Law 101-336).

14. The Procurement Code: Sections 13-1-28 through 13-1-99 NMSA 1978, imposes civil and criminal penalties for its violation. In addition the New Mexico criminal statutes impose felony penalties for bribes, gratuities and kickbacks.

15. Payment for Purchases: Except as otherwise agreed to: late payment charges may be assessed against the user state agency in the amount and under the conditions set forth in Section 13-1-158 NMSA 1978.

16. Workers' Compensation: The Contractor agrees to comply with state laws and rules pertaining to Workers' Compensation benefits for its employees. If the Contractor fails to comply with Workers' Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the contracting agency.

17. Bids must be submitted in a sealed envelope with the bid number and opening date clearly indicated on the bottom left hand side of the front of the envelope. Failure to label bid envelope will necessitate the premature opening of the bid in order to identify the bid number.

18. Contractor Personnel: Personnel proposed in the Contractor's written proposal to the Procuring Agency are considered material to any work performed under this Contract. Once a Purchase Order or contract has been executed, no changes of personnel will be made by the Contractor without prior written consent of the Procuring Agency. Replacement of any Contractor personnel, if approved, shall be with personnel of equal ability, experience, and qualifications. The Contractor will be responsible for any expenses incurred in familiarizing the replacement personnel to insure their being productive to the project immediately upon receiving assignments. Approval of replacement personnel shall not be unreasonably withheld. The Procuring Agency shall retain the right to request the removal of any of the Contractor's personnel at any time.

19. Subcontracting: The Contractor shall not subcontract any portion of the Contract without the prior written approval of the Procuring Agency. No such subcontracting shall relieve the Contractor from its obligations and liabilities under this Contract, nor shall any subcontracting obligate payment from the Agency.

20. Records and Audit: The Contractor shall maintain detailed time and expenditure records that indicate the date, time, nature, and cost of services rendered during this Contract's term and effect, and retain them for a period of three (3) years from the date of final payment under this Contract. The records shall be subject to inspection by the Agency, State Purchasing Division, Department of Finance and Administration, and for Information Technology contracts, State Chief Information Officer. The Agency shall have the right to audit billings, both before and after payment. Payment for services under this Contract shall not foreclose the right of the Agency to recover excessive or illegal payments.

21. The foregoing requirements for Contractor Personnel, Subcontracting, and Audit shall be inserted into all subcontracts from the prime contractor to the subcontractor.

Contract

Article I – Statement of Work

Contract to provide requirements as indicated in specifications.

Article II – Term

The term of this Contract will be as indicated in specifications.

Article III – Termination

This Contract may be terminated by either signing party upon written notice by either party to the other at least thirty (30) days in advance of the date of termination. Termination of this Contract, however, shall not affect any outstanding orders. This provision is not exclusive and shall not waive other rights and remedies afforded either party in the event of breach of contract or default. In such instances the contract may be cancelled effective immediately.

Article IV – Amendment

This Contract may be amended by mutual agreement of the New Mexico State Purchasing Agent and the Contractor upon written notice by either party to the other. An amendment to this Contract shall not affect any outstanding orders issued prior to the effective date of the amendment as mutually agreed upon, and as published by the New Mexico State Purchasing Agent. Amendments affecting price adjustments and/or extension of contract's expiration date are not allowed unless specifically provided for in bid and contract documents.

Article V – Price Schedule

Price(s) as listed are firm.

Article VI – Indemnity Clause

Contractor shall indemnify and hold harmless the State, its officers and employees, against liability, claims, damages, losses or expenses arising out of bodily injury to persons or damage to properties caused by, or resulting from Contractor's, and/or its employees, own negligent act or omission while Contractor, and/or its employees, perform or fails to perform its obligations and duties under the Terms and Conditions of this agreement. This save harmless and indemnification clause is subject to the immunities, provisions, and limitations of the Tort Claims Act (Section 41-4-1, et seq., N.M.S.A. 1978 comp. and Section 57-7-1 N.M.S.A. 1878 comp. and any amendments thereto.

It is specifically agreed between the parties executing this agreement that it is not intended by any of the provisions of any part of the agreement to create the public or any member thereof a third party beneficiary or to authorize anyone not a party to the agreement to maintain a suit(s) for wrongful death(s), bodily and/ or personal injury(s) to person(s), damage(s) to property(ies) and/or any other claim(s) whatsoever pursuant to the provisions of this agreement.

Vendor shall provide all insurance necessary to employees on the work site, including but not limited to Worker's Compensation.

Article VII – Contractor Agreement

Contractor agrees to:

- A. Furnish all equipment, material, labor and tools, required to perform the work specified.
- B. Provide competent supervision and skilled personnel to perform all work in progress.
- C. Comply with all local, state, and federal laws governing safety, health and sanitation. The Contractor shall provide all safeguards, safety devises and protective equipment, and take any other needed actions necessary to protect the life and health of employees on the job and the safety of the public, and to protect the property of the State of New Mexico in connection with the performance of the work covered by this Contract.
- D. Provide workers adequate insurance, including but not limited to Worker's Compensation.
- E. Make necessary arrangements for storage of his/her tools and/or equipment. The state agency will not be responsible for any lost or stolen property.
- F. Be responsible for all cleanup work on the project site and at the equipment storage area(s) prior to final inspection and acceptance.
- G. Comply with all applicable codes for this type of work.
- H. Be held liable for any damages which occur because of his/her negligence or that of his/her employees.

Contractor License Number (if applicable) _____

Classification _____

Maintenance and Support:

Software Maintenance and Support for AASHTOWare utilized by the New Mexico Department of Transportation Employees. AASHTOWare allows NMDOT to meet federal requirements for accurate inventory of bridges for maintenance and support with network-wide preservation and improvement which facilitates public safety, risk reduction, user convenience and preservation investment.

AASHTOWare Project:	
BAMS/DSS Module	80,000.00
Data Analytics Module	71,000.00
Estimation Module	49,000.00
Bids Module	20,500.00
SiteManager Module	239,000.00
Construction & Materials Module	-
Preconstruction Module	49,000.00
Estimator - Site License	55,000.00
AASHTOWare Project Sub-Total	\$ 563,500.00
AASHTOWare Bridge:	
AASHTOWare Bridge Management-Super Site License	38,100.00
AASHTOWare BridgeRating Unlimited Option	37,500.00
AASHTOWare Bridge Sub-Total	\$ 75,600.00
AASHTOWare Pavement:	
AASHTOWare Pavement ME Design Site License for up to nine (9) users	25,400.00
AASHTOWare Pavement Sub-Total	\$ 25,400.00
Grand Total	
	\$ 664,500.00