

**REQUEST FOR PROPOSALS**  
**FOR**  
**RFP 17-AD-001**  
**CONTRACTED ETHICS OFFICIAL**

**As Requested by**  
**THE CITY OF RIO RANCHO, NEW MEXICO**



**RFP SUBMITTAL DUE DATE:**

**10:00 AM Thursday, August 11, 2016**

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City of Rio Rancho Ordinance 22 ..... Attached

## **1. INTRODUCTION**

**1.1. Scope of Work / Specifications.** The scope of work and specifications for this RFP are attached as Exhibit A.

**1.2. Overview.** The City of Rio Rancho is soliciting formal proposals from a licensed attorney or law firm to perform independent reviews of complaints, conduct investigations, gather information, draft reports and make recommendations in accordance with City Ordinance No. 22, Enactment No. 16-19 adopted June 8, 2016. A copy of the ordinance is attached to the RFP document for Offeror's use.

**1.3. Point of Contact.** This RFP is issued on behalf of the City of Rio Rancho by the Purchasing Office, which is **THE SOLE POINT OF CONTACT DURING THE PROCUREMENT PROCESS**. Communications initiated by a respondent to this RFP (the "Offeror") with members of the Governing Body or City personnel, other than as coordinated by the Point of Contact noted below, shall be grounds for Offeror disqualification. Any inquiries or requests during this procurement shall be submitted to the following Point of Contact in writing:

City of Rio Rancho  
Department of Financial Services  
Attention: Shonna Ybarra, Purchasing and Contracts Manager  
3200 Civic Center Circle NE  
Rio Rancho, NM 87144  
(505) 891-5044  
[sybarra@rrnm.gov](mailto:sybarra@rrnm.gov)

## **2. CONDITIONS GOVERNING PROCUREMENT**

**2.1. Overview.** This section of the RFP contains the RFP schedule for the procurement, describes the major RFP events and milestones and specifies general conditions governing the procurement.

**2.2. Schedule of Events.** Dates are subject to change. The City will make every effort to adhere to the following schedule:

<b>Action</b>	<b>Responsibility</b>	<b>Date</b>	<b>Time</b>
Issue RFP	City of Rio Rancho	Wednesday, July 13, 2016	NA
Return of Acknowledgement Form	Potential Offerors	ASAP	
Deadline to Submit Written Questions	Potential Offerors	Monday, August 01, 2016	5:00 PM
Response to Written Questions	City of Rio Rancho	Thursday, August 04, 2016	5:00 PM
Submission of Proposals	Offerors	Thursday, August 11, 2016	10:00 AM
Proposal Evaluation (Including time for Interviews, Oral Presentations, and Best and Final Offers)*	Evaluation Committee	NA	NA

\*Offerors will be notified by the Purchasing Department if and when to expect interview and Best and Final Offer dates.

- 2.2.1. Issuance of RFP.** This RFP is being issued by the City of Rio Rancho Purchasing Division on the date specified in the Schedule of Events above.
- 2.2.2. Pre-Proposal Conference.** No pre-proposal conference will be held for this project.
- 2.2.3. Return of Acknowledgement Form for Distribution List.** Potential Offerors should complete and return the Acknowledgement Form (form attached as Appendix D), via email, fax, hand deliver or registered mail to have their firm placed on the procurement distribution list. Failure to return this form will prevent the potential Offeror's firm name from appearing on the procurement distribution list. The procurement distribution list will be used for distribution of important information regarding this procurement.
- 2.2.4. Written Questions and RFP Amendments.** Potential Offerors may submit written questions as to the intent or clarity of this RFP until the date and time specified in the schedule of events. All written questions must be sent by email and addressed to the Point of Contact (see Section 1.3). Written responses to written questions and any RFP amendments will be distributed to all Potential Offerors whose organization name appears on the procurement distribution list, via email. All addenda and communications will also be posted to the City's website at the following address: [www.rrnm.gov/bids](http://www.rrnm.gov/bids). It is the responsibility of all potential Offerors to ensure that all addenda have been received before submitting their proposal.
- 2.2.5. Submission of Proposal.** All proposals must be received by the City no later than the date and time specified in the schedule of events. Proposals received after this deadline will not be accepted. The date and time of receipt will be recorded on each proposal. Proposals must be hand delivered or mailed to:

**City of Rio Rancho  
Clerk's Office  
Attention: Shonna Ybarra, Purchasing and Contracts Manager  
City Hall, 3200 Civic Center Circle Suite 150  
Rio Rancho, New Mexico 87144**

No other methods of proposal delivery will be accepted. Proposals must be submitted in a sealed package or envelope listing the following information on the outside:

**RFP Title:  
Contract Ethics Official  
RFP 17-AD-001**

The City shall not be responsible for proposals that are mailed and not received by the opening date and time specified in this section. Receipts for hand delivered proposals may be issued by the City Clerk's Office (upon request).

Delayed Opening or Closing of City Offices: In the event that City Hall is officially on a delayed opening for any reason (for example, inclement weather) and City Hall is not open at least two (2) hours prior to bid opening, the deadline for bid and proposal submissions will be delayed for exactly the amount of time indicated in the official City announcement. For example, if City Hall is on a two (2) hour

delay, deadline for receipt of bids and proposals due prior to 12:00 p.m. will be delayed by two (2) hours; bids due after 12:00 p.m. will be due at their regularly scheduled time. Also, if City Hall is officially closed for any reason (such as inclement weather) for all or part of the day that submission of bids is due (other than an official, announced delayed opening), bids will be due at the same time on the following business day. Any delayed opening or closing of City Hall will be announced on the City's website, [www.rnm.gov](http://www.rnm.gov).

**2.2.6. Proposal Evaluation.** The evaluation of proposals will be performed by the Evaluation Committee within ninety (90) days of the submission deadline indicated in the schedule of events, or such later date as the City may designate in writing.

**2.2.7. Offeror Responsibility.** Only those proposals submitted by any Offeror deemed to be a Responsible Offeror will be included for further review. A Responsible Offeror is a person or entity that submits a proposal and furnishes, when required, information and data demonstrating that the Offeror's financial resources, production or service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the services, construction, or items of tangible personal property described in this RFP.

**2.2.8. Oral Presentations.** The Evaluation Committee may request oral presentations by the Finalist Offerors. If this is required, the presentations will take place at City Hall in Rio Rancho on the date established by the City. As a result of any oral presentation, proposals will be re-scored using the same scoring methodology already indicated in this RFP.

**2.2.9. Award without Discussions.** An award on the basis of the initial proposals may be made without further negotiations unless further discussions are determined to be necessary. An award without discussions will only be made if the offer is accepted as submitted.

**2.2.10. Selection of Finalists.** If an award is not made on the basis of the initial proposals, finalist will be identified based on the Evaluation Committee's determination that the identified finalists' proposals have a reasonable chance of being chosen for award, based on the criteria set forth in this RFP. The Point of Contact will notify the Finalist Offerors via mail or email. Those not selected as a finalist will be notified of their status via mail or email.

**2.2.11. Discussions with Finalists.** The scope of discussions with identified finalists may include, but may not be limited to, communication in writing, by telephone, or in face-to-face-meetings. Any communication received from the City shall be acknowledged immediately by the finalist Offerors. Finalist Offeror shall ensure that adequate contact information is provided with the submitted proposal. Multiple contacts may be provided. Discussions will be limited to specific deficiencies, ambiguities, and weak aspects of the Offeror's proposal. Discussions will not disclose strengths and weaknesses of competing Offerors, or information from an Offeror's proposal which would allow improvement in another Offeror's proposal. Upon completion of discussions, finalists will be asked to submit a best and final offer.

**2.2.12. Proposal Revisions and Best and Final Offers.** Finalist Offerors may be asked to submit additional information and/or revisions to their proposals which may be used for the purpose of obtaining best and final offers. For any proposal

revisions and/or best and final offer received, offers will be re-scored using the same scoring methodology already indicated in this RFP. The City reserves the right to request multiple rounds of proposal revisions or best and final offers. An award on the basis of any round of scoring may be made without further negotiations unless further discussions are determined to be necessary.

**2.2.13. Finalize Contract.** A Contract, substantially in the form attached hereto as Appendix B, will be finalized with the Offeror whose offer is most advantageous to the City. In the event that mutually agreeable terms cannot be reached within the time specified, the City reserves the right to finalize a contract with the next most advantageous Offeror without undertaking a new procurement process or reserves the right to cancel the award.

**2.2.14. Protest Deadline.** The ten (10) day protest period for Offerors shall begin on the day following the notification of the contract award and will end at 5:00 pm MT on the tenth calendar day following the notification of the contract award. Protests must be submitted in writing and must include the name and address of the protestant and the RFP number. It must also contain a statement of grounds for protest and be addressed and delivered to the Point of Contact.

**2.2.15. Notice.** The City of Rio Rancho Procurement Code imposes civil and criminal penalties for its violation, in addition to the felony penalties for illegal bribes, gratuities and kickbacks imposed by the New Mexico Statutes.

### **2.3. General Proposal Requirements and Miscellaneous Information**

**2.3.1 General Proposal Requirements.** Proposals shall be prepared simply and economically, providing a straightforward, concise description of the Offeror's ability to meet the requirements of this RFP. Emphasis shall be placed on the quality, completeness, and clarity of content of the proposal.

- 2.3.1.a** Offerors shall carefully read the information contained in this RFP and submit a complete response to all requirements and questions as directed. Incomplete proposals may be considered non-responsive and subject to rejection.
- 2.3.1.b** Proposals and any other information submitted by Offerors in response to this RFP shall become the property of the City.
- 2.3.1.c** Offerors shall prepare and develop proposals at the sole cost and expense of the Offeror.
- 2.3.1.d** Proposals that are qualified with conditional clauses, alterations, or irregularities of any kind are subject to rejection by the City, at its option.
- 2.3.1.e** The City makes no representations of any kind that an award of contract will be made as a result of this RFP, or subsequent RFP. The City reserves the right to accept or reject any or all proposals, waive any formalities or minor technical inconsistencies, and/or delete any item/requirements from this RFP when deemed to be in City's best interest.
- 2.3.1.f** Proposals shall consist of responses to the submission requirements identified in Section 4 of this RFP. Please identify the requirement number in the proposals when responding to each.
- 2.3.1.g** Failure to comply with all requirements contained in this RFP may result in the rejection of proposal.
- 2.3.1.h** It is incumbent upon each Offeror to carefully examine all specifications, terms, and conditions contained herein. Any inquiries, suggestions, or

requests concerning interpretation, clarification or additional information shall be made in writing, (facsimile transmissions acceptable, email is preferred) through the contact named above. The City will not be responsible for any oral representation(s) given by any employee, representative or others. The issuance of a written addendum is the only official method by which interpretation, clarification or additional information can be given. If it becomes necessary to revise or amend any part of this RFP, notice may be obtained by accessing our web site. Respondents in their proposal must acknowledge receipts of amendments. **Each Offeror should ensure that they have received all addenda and amendments to this RFP before submitting their proposal.**

**2.3.1.i** A proposal may be modified or withdrawn in person at any time BEFORE the scheduled due date and time of proposals provided a receipt for the withdrawn proposal is signed by the Offeror's authorized representative. The City reserves the right to request proof of authorization to withdraw a proposal.

### **2.3.2. Miscellaneous Information**

**2.3.2.a. Public information.** All information, documentation, and other materials submitted in response to this RFP are considered non-confidential and/or non-proprietary and are subject to public disclosure after the solicitation is completed. The contents of any proposal shall not be disclosed during any negotiations that may occur. All proposals shall be valid until the contract is awarded. For purposes of understanding, award of contract means, negotiations are complete and a contract is executed. Proposals shall not be opened publicly and shall not be open to public inspection until after an Offeror has been selected for award and the contract has been fully executed. An Offeror may request in writing nondisclosure of confidential data. Such data shall accompany the proposal and shall be readily separable from the proposal in order to facilitate eventual public inspection of the no confidential portion of the proposal.

**2.3.2.b. City's Reservation of Rights.** The City may evaluate the proposals based on the anticipated completion of all or any portion of the project. The City reserves the right to divide the project into multiple parts, to reject any and all proposals and re-solicit for new proposals, or to reject any and all proposals and temporarily or permanently abandon the project. The City makes no representations, written or oral, that it will enter into any form of agreement with any Offeror to this RFP for any project and no such representation is intended or should be construed by the issuance of this RFP.

**2.3.2.c. Clarification.** The City may, in the evaluation of proposals, request clarification from Offerors regarding their proposals, obtain additional information, and pursue other avenues of research as necessary to ensure that a thorough evaluation is conducted.

**2.3.2.d. Acceptance of Evaluation Methodology.** By submitting a proposal in response to this RFP, the Offeror accepts the evaluation process and acknowledges and accepts that determination will require subjective judgments by the City. The proposal scoring highest among all proposals in a particular evaluation criterion may not receive 100% of the points assigned to that criterion.

- 2.3.2.e. No Reimbursement for Cost.** Offeror acknowledges and accepts that any costs incurred as a result of the Offeror's participation in this RFP process shall be at the sole risk and responsibility of the Offeror. Offerors submit proposals at their own risk and expense.
- 2.3.2.f. Ethical Conduct.** The City of Rio Rancho expects the highest level of ethical conduct from Offerors including adherence to all applicable laws and local ordinances regarding ethical behavior.
- 2.3.2.g. Negotiation of Contract.** Offeror must submit, in redlined form, any proposed changes to the proposed Contract attached as Appendix B. After identifying the selected Offeror(s), the City will attempt to negotiate final terms of a Contract with such Offeror, on such terms as the City deems in its best interest. The City reserves the right to negotiate all elements of the Contract.
- 2.3.2.h. Right to Terminate Negotiations.** If an agreement cannot be made with the selected Offeror, City reserves the right to terminate negotiations with that party and enter into negotiations with the next highest qualified Offeror.
- 2.3.2.i. Modification.** Proposals may be modified by written notice provided such notice is received prior to the hour and the date specified for receipt of offers.
- 2.3.2.j. Application of Resident, Veteran, Local, Area, and Recycled Content Goods Preference.**

DEFINITIONS:

- LOCAL BUSINESS means a Resident Business or Resident Contractor which:
  - (a) Is authorized to do and is doing business under the laws of the State of New Mexico;
  - (b) Possesses a current city business registration;
  - (c) Maintains its principal place of business within the corporate limits of the city; and
  - (d) Agrees to furnish evidence, in a form suitable to the city, of its payment of New Mexico Gross Receipts Tax.
- AREA BUSINESS means a Resident Business or Resident Contractor which:
  - (a) Is authorized to do and is doing business under the laws of the State of New Mexico;
  - (b) Possesses a current city business registration;
  - (c) Maintains a bona fide place of business within the corporate limits of the city, and agrees to conduct its activities pursuant to the contract for which it is bidding or proposing, to the extent practicable, from that place of business; and
  - (d) Agrees to furnish evidence, in a form suitable to the city, of its payment of New Mexico Gross Receipts Tax.
- RECYCLED CONTENT GOODS has the meaning set forth in NMSA 1978 § 13-1-21(A)(6), as amended from time to time.
- RESIDENT BUSINESS has the meaning set forth in NMSA 1978 § 13-1-21(A)(5), as amended from time to time.
- RESIDENT CONTRACTOR has the meaning set forth in NMSA 1978 § 13-4-2(A)(5), as amended from time to time.
- RESIDENT VETERAN BUSINESS has the meaning set forth in NMSA 1978 § 13-1-22(A)(7), as amended from time to time.
- RESIDENT VETERAN CONTRACTOR has the meaning set forth in NMSA 1978 § 13-4-2(A)(6), as amended from time to time.

- STATUTORY PREFERENCE means the preference for Resident Businesses, Resident Contractors, Resident Veteran Businesses, Resident Veteran Contractors, and Recycled Content Goods provided in NMSA 1978 §§ 13-1-21 or 13-4-5, as amended from time to time.
- QUALIFYING COMPANY means a company that qualifies for a Statutory Preference under NMSA 1978 §§ 13-1-21 or 13-4-5, as amended from time to time.

**INSTRUCTIONS:**

- In all invitations for bid and requests for proposals, the Statutory Preferences shall be applied in the manner set forth in NMSA 1978 §§ 13-1-21 or 13-4-5, as amended from time to time.
- A copy of a valid Resident Business Certificate, Resident Veteran Business, Resident Veteran Contractor or Resident Contractor Certificate issued by the New Mexico Taxation & Revenue Department. Information regarding resident preference can be obtained by contacting the Point of Contact as listed herein.
- In addition to the Statutory Preferences, a preference for Local Businesses and Area Businesses shall be administered in the same manner as the Statutory Preferences, as follows:
  - (1) in the event a Local Business submits a qualifying bid or proposal and one or more Qualifying Companies also submits a bid or proposal, the Local Business shall receive a two percent (2%) preference in addition to (and not in lieu of) the Statutory Preference; and
  - (2) in the event an Area Business submits a qualifying bid or proposal and one or more Qualifying Companies also submits a bid or proposal, the Area Business shall receive a one percent (1%) preference in addition to (and not in lieu of) the Statutory Preference.
- An offeror or bidder can only qualify as either a Local Business or an Area Business, not both.
- In addition to the definitions and criteria set forth in this section, the central purchasing office may impose additional requirements regarding the nature, size and/or location of offerors or bidders in any request for proposals or invitation for bids. As a result, companies responding to such solicitations should review the solicitation documents thoroughly.
- Information regarding the City's Procurement Code and the application of the local and resident preference can be obtained by contacting the Point of Contact as listed herein.
- For consideration for the Area, Local, and Recycled Content Goods preference, the Offeror must complete the Preference Certification Form, attached hereto as Appendix C, in accordance with the instructions and return the form with its Technical Proposal.
- In addition to the definitions and criteria set forth in the section, when a joint bid or joint proposal is submitted by both resident and non-resident businesses, the resident business preference provided pursuant to Subsection B or C of the NMSA 1978 §§ 13-1-21 or 13-4-5, as amended from time to time, shall be reduced in proportion to the percentage of the contract, based on the dollar amount of the goods or services provided under the contract, that will be performed by a non-resident business as specified in the joint bid or proposal.

- 2.3.2.k. Acceptance of Proposals.** Acceptance of a proposal is contingent upon the Offeror's certification and agreement by submittal of its proposal, to comply with all provisions of the City Procurement Code.

### **3. PROPOSAL FORMAT AND ORGANIZATION REQUIREMENTS**

**3.1 Number of Copies.** Offeror must submit 1 original and 4 copies of its proposal in a sealed envelope or container.

**3.2 Proposal Format.**

**3.2.1** Proposals shall be limited to a maximum length of 5 pages. The Required Information Form, Table of Contents, reference letters, cost proposal, any requested redlined changes to contract related documents, and other non-scored informational appendices will not be included in the total proposal page count. An additional cover letter may be submitted with a proposal but will not be a scored item and will not be included in the total page count. Any information not included in the page count (i.e. supplemental cover letter, non-scored appendices) may not be reviewed by the evaluation committee. Additional appendices will not be forwarded for review by the RFP Committee. Proposals must include page numbers for each section of the Proposal.

**3.2.2** Proposals shall be divided into three clearly defined sections, which shall include:

**3.2.2.a** Section 1: Required Information Form, Table of Contents, Response to Evaluation Criteria, and any additionally required documents not included in the page count.

**3.2.2.b** Section 2: Additional non-scored informational appendices, such as promotional documents (these documents may not be reviewed by evaluation committee members).

**3.2.2.c** Section 3: Cost Proposal and reference letters.

**3.2.3** Proposals shall be printed on letter-size (8-1/2" x 11") paper and assembled with spiral bindings or in 3-ring binders. Graphics incorporated into the proposal may exceed the paper-size requirement. **One (1) CD/DVD containing the electronic files of the proposal and cost proposal shall be included with the original proposal submitted.**

**3.2.4** The City realizes that there may be information in the Offeror's proposal that overlaps different sections. Please make a separate copy of information for each section so that the Evaluation Committee can evaluate each section individually.

**3.2.5** The City realizes that there may be more than one solution that can be offered by an Offeror. If the solutions are significantly different from each other in the technology suggested and the price of that technology, it is recommended that the Offeror submit two proposals.

### **4. SUBMISSION REQUIREMENTS AND EVALUATION OF PROPOSALS**

**4.1. Overview.** This section contains the mandatory requirements, evaluation criteria, and related information. Offerors must respond to the mandatory requirements and should respond to the evaluation criteria of this RFP providing the required responses, documentation, or assurances, and complete a Cost Proposal. Failure to respond to any of the evaluation criteria may result in zero points being awarded for that element of the proposal.

**4.2 Mandatory Proposal Submission Requirements.** Failure to comply with a

mandatory requirement will result in disqualification of the proposal.

**4.2.1 Required Information Form.** Offerors must submit a completed Required Information Form (attached as Appendix A) signed by party authorized to bind the entity submitting the proposal. This form should include the following items:

- The Identity of Offeror including the name of the firm, central address, email address, telephone number, fax number, etc.
- Disclosure of any Potential Conflicts of Interest. A conflict of interest shall be cause for disqualifying an Offeror from consideration. A potential conflict of interest includes, but is not limited to: (1) Accepting an assignment where duty to the client would conflict with the Offeror's personal interest, or interest of another client. (2) Performing work for a client or having an interest which conflicts with this contract.
- This page has been signed by a signatory with the authority to bind the Offeror. By signing this Signature Page, through the undersigned representative who has the authority to bind the Offeror, and by submitting a proposal in response to this RFP, the Offeror agrees to perform the services required by such RFP and to adhere to all requirements, specifications, terms and conditions of the RFP. Offeror further agrees to be bound by this proposal for a minimum of 90 days from the date proposals were due.

**4.2.2 Required Licensure.** Offerors must be licensed by the New Mexico Supreme Court to practice in the State of New Mexico. The City will verify all Offeror's licensure.

**4.2.3 Cost Proposal.** Offerors shall submit a detailed Cost Proposal detailing all applicable hourly rates and service charges.

**4.3 Evaluation Criteria.** Failure to respond to any of the evaluation criteria may result in zero points being awarded for that element of the proposal.

**4.3.1 Direct Experience**

Provide detailed information related to the Offeror's experience with an emphasis on specialized legal experience and technical competence to be able to provide the type of services detailed in the Scope of Work – Exhibit A. Provide specific examples of experience and qualifications that the Offerors believes would be relevant to the services being requested.

**4.3.2 General Experience, Qualifications and Resources**

Provide general experience, qualifications and detail resources that the Offeror will utilized to provide representation and services.

**4.3.3 Quality of Proposal**

The consultant shall provide a proposal free of spelling, punctuation, and grammar mistakes. Each Offeror shall exhibit their ability to submit a quality proposal communicating a realistic approach, technical soundness, and enhancements to elements that are outlined in this Request for Proposal. Points may be deducted in this category if proposal contains errors in spelling, punctuation, or grammar. Points may be affected by formatting and organizational mistakes in the proposal. Clarity and realism in approach, technical soundness, and proposed enhancements to elements that are outlined in the RFP may affect points in the category.

#### 4.3.4 References

Provide only three non-City of Rio Rancho references for similar services. Offeror must provide a brief narrative describing relevant experience for each of the three references provided. No other references outside of those included in the narrative will be evaluated.

#### 4.3.5 Cost Proposal.

**4.3.5.a** Offerors must submit a Cost Proposal detailing all applicable hourly rates and service charges along with each copy of their proposal submission.

**4.3.5.b** Cost Proposal Submissions must be submitted in two (2) parts:

**4.3.5.b.1 Part (1) – Objective Cost Analysis.** The submitted Cost Proposal shall contain a detail of all cost to be billed to the City by the Offeror for each billable item listed in the scope of work (whether billed directly or withheld from revenues collected). The proposal shall include all time and materials with a total “not to exceed” amount. The Offeror should understand that the City will not pay any amount not included in the Cost Proposal.

The evaluation of each Offeror’s Cost Proposal will be determined using the following formula:

$$\frac{\text{Lowest Responsive All-In Cost}}{\text{This Offeror's All-In Cost}} \times 10 \text{ pts} = \text{Awarded Points}$$

**4.3.5.b.2 Part (2) – Cost Reasonableness.** In order to allow for a clear evaluation and comparison, relative to other offers received, Offerors must provide a justification narrative describing all assumptions incorporated in the submitted cost proposal. Offerors are encouraged to provide data to defend the reasonableness of the cost proposal.

Points will be awarded based on the Offeror’s ability to reasonably and adequately explain assumptions included in the development of Part (1) of the cost proposal.

## 5. Scoring Overview

<b>RFP Section</b>	<b>Factor</b>	<b>Points</b>
	<b><u>Mandatory Requirements – Pass/Fail</u></b>	
4.2.1	Required Information Form	<b>Pass/Fail</b>
4.2.2	Cost Proposal	<b>Pass/Fail</b>
	<b><u>Evaluation Criteria</u></b>	
4.3.1	Direct Experience	<b>50</b>
4.3.2	General Experience, Qualifications and Resources	<b>50</b>
4.3.3	Quality of Proposal	<b>20</b>
4.3.4	References	<b>10</b>
4.3.5	<b><u>Cost Proposal Evaluation</u></b>	
4.3.5.b.1	Objective Cost Analysis	<b>10</b>
4.3.5.b.2	Cost Reasonableness	<b>10</b>
	<b>Total Points</b>	<b>150</b>

**Exhibit A**  
**Scope of Work – Contract Ethics Official**  
**RFP 17-AD-001**

**GENERAL INFORMATION**

The City of Rio Rancho seeks to foster and maintain transparency while conducting City business, creating policy and undertaking the day to day operation of the City. The City of Rio Rancho has adopted the City of Rio Rancho Code of Conduct, Ordinance No. 22, to establish minimum standards of ethical behavior and sets forth explicit standards of conduct by requiring Elected Officials, Appointed Officials, and Employees to disclose personal interests, financial or otherwise, in matters of the City and to remove themselves from decision making when such interests exist.

Any Elected Official, Appointed Official, Employee, entity, or member of the public, may submit a complaint of unethical conduct to the City Ethics Panel by delivering to the City Attorney's Office a sworn complaint alleging facts which, if true, would constitute a violation of this City of Rio Rancho Code of Conduct. The City Attorney's office will forward all such sworn complaints to the City's Contract Ethics Official (Ethics Official). The Ethics Official shall refer all matters regarding employees to the City's Human Resources Department.

**GENERAL DUTIES**

- A. The Ethics Official shall investigate all applicable sworn complaints forwarded to them and make one of the following recommendations regarding the complaint:
  1. Unsubstantiated Claim under the Ordinance; or
  2. Substantiated Claim under the Ordinance
- B. If unsubstantiated claim is the recommendation made by the Ethics Official, he or she shall produce a report reflecting their finding and detail of the investigation. An unsubstantiated claim shall not be forwarded to the Ethics Panel unless necessary for the determination of a frivolous claim.
- C. Upon the completion of an investigation, the Ethics Official may determine that a claim is substantiated. At such time, the Ethics Official will produce a report which contains his or her findings and recommendations. The Ethics Panel shall conduct a public hearing of all substantiated claims and shall decide, by majority vote, if a provision(s) under this Ordinance has been violated. Penalties shall be determined pursuant to Section 20 of the Ordinance. The Ethics Official shall be present at the public hearing in order to respond to questions from the Ethics Panel regarding his or her findings and recommendations. The Complaining party and the Respondent to the complaint shall be provided notice via certified mail, to any and all hearings. The Respondent and/or a legal representative shall be afforded the opportunity to respond to the complaint at public hearing.
- D. If an individual or entity files two (2) or more unsubstantiated complaints directed at the same individual for the purpose of harassment or to otherwise cause the individual public shame or embarrassment, the Ethics Official may make a recommendation to the Ethics Panel. If the Ethics Official recommends a public hearing, notice shall be provided to the Complaining party no later than fourteen (14) calendar days prior to the scheduled public hearing. The Ethics Panel shall conduct the public hearing in order to determine if the complaints are frivolous and if the complaints were intended to annoy,

harass or otherwise cause the targeted individual public shame or embarrassment. If the Ethics Panel determines, by majority vote that the complaints are frivolous and intended to annoy, harass or otherwise cause the targeted individual shame or embarrassment, they may prescribe a penalty in accordance with Section 20 of the Ordinance that may be appealed to the Thirteenth Judicial District Court.

Appendix A  
**REQUIRED INFORMATION FORM**

**RFP 17-AD-001**  
**Contract Ethics Official**

**1. IDENTITY OF OFFEROR:**

FIRM NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_  
\_\_\_\_\_

E-MAIL ADDRESS: \_\_\_\_\_

ALTERNATE EMAIL CONTACT: \_\_\_\_\_  
(City may attempt to contact Offeror via email please provide additional email contact information if available.)

TELEPHONE #: \_\_\_\_\_

FACSIMILE #: \_\_\_\_\_

NEW MEXICO TAX # (if any) \_\_\_\_\_

NEW MEXICO STATE CORPORATION COMMISSION # \_\_\_\_\_

CONTACT PERSON FOR PROPOSAL \_\_\_\_\_

**2. DISCLOSURE OF ANY POTENTIAL CONFLICTS OF INTEREST**

Please indicate any potential conflicts of interest including, but is not limited to:

- Accepting an assignment where duty to the client would conflict with the Offeror's personal interest, or interest of another client.
- Performing work for a client or having an interest which conflicts with this contract.

\_\_\_\_\_

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(Please attach additional pages if necessary)

**3. SIGNATURE**

This page has been signed by a signatory with the authority to bind the Offeror. By signing this Signature Page, through the undersigned representative who has the authority to bind the Offeror, and by submitting a proposal in response to RFP 17-AD-001, the Offeror agrees to perform the services required by such RFP and to adhere to all requirements, specifications, terms and conditions of the RFP. Offeror further agrees to be bound by this proposal for a minimum of 90 days from the date proposals were due. By signing this Signature Page, the undersigned representative is also acknowledging receipt of all addenda that may be issued in regards to said RFP.

SIGNED BY:

\_\_\_\_\_  
Name (print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**Appendix B**  
**Contract No. XX-XX-XXX**  
**Contract Ethics Official**

THIS AGREEMENT (the "Agreement") is made and entered into by and between the **City of Rio Rancho** (the "City"), a municipal corporation and political subdivision of the State of New Mexico, and \_\_\_\_\_ (the "Contractor"), a New Mexico corporation, as of the date indicated below.

WHEREAS, the City issued an RFP for Contract Ethics Official, RFP 17-AD-001, on \_\_\_\_\_, containing the scope of work attached hereto as Exhibit A and incorporated herein by reference; and

WHEREAS, the Contractor submitted a proposal in response to RFP 17-AD-001 on \_\_\_\_\_; and

WHEREAS, The City and the Contractor negotiated certain terms regarding the services to be provided pursuant to the RFP 17-AD-001, resulting in the scope of services, labor and direct costs fee proposals, attached hereto as Exhibit xxx and incorporated herein by reference; and

WHEREAS, the City wishes to engage the Contractor to provide the services described in Exhibit xxx.

NOW, THEREFORE, in consideration of the premises and the respective obligations set forth herein, the parties agree as follows:

**1. ENGAGEMENT; SCOPE**

The City hereby engages the Contractor to provide the services described in Exhibit A attached hereto.

**2. TERM; TERMINATION**

(a) Unless sooner terminated, this Agreement will be effective for a period of one (1) year with the option to annually renew for three additional one (1) year terms. In no event shall the term of this Agreement exceed four years.

(b) Notwithstanding anything to the contrary contained herein, the City may terminate this Agreement at any time by giving the Contractor such written notice as may be reasonable under the circumstances. Upon receipt of such written notice, the Contractor shall cease all work undertaken hereunder, except as may be necessary to provide for an orderly transition of such work. The Contractor may terminate this Agreement at any time with 60 days written notice to the City.

(c) Upon any termination of this Agreement, the Contractor shall provide a final invoice to the City, showing all costs incurred but unpaid, and the City shall pay such costs, as shown therein. The Contractor shall forthwith deliver all files, reports, and other materials concerning the services provided, maintained or controlled by the Contractor at the time of such termination, subject to all applicable federal and state law.

(d) The Contractor shall have no claim, right or cause of action against the City for termination of this Agreement by City in accordance with the provisions of this paragraph, except as may be otherwise expressly provided with respect to the Contractor's earned but unpaid costs as of the date of such termination.

(e) Nothing herein shall be construed as relieving the Contractor from liability to the City for damages sustained by the City as a result of a breach of this Agreement by the Contractor,

and the City may withhold any payments otherwise due to the Contractor as a set-off against all or part of such damages, until such time as the exact amount of damages due the City from the Contractor is determined and that amount paid to (and/or withheld by) the City in full.

### **3. COMPENSATION AND PAYMENT**

For services rendered hereunder, the Contractor shall invoice the City monthly for services provided in accordance with the Contractor's fee schedule included in Exhibit xxxx. Contractor shall submit monthly invoices to the City showing the amount of compensation due, the amount of any New Mexico gross receipts taxes and the total amount payable. Payment of undisputed amounts shall be due and payable thirty (30) days after the City's receipt of the invoice.

### **4. RELATIONSHIP OF PARTIES**

The Contractor (and each agent, employee and contractor employed or engaged by the Contractor to fulfill the Contractor's obligations hereunder) shall be an independent contractor performing professional services for the City and not an employee of the City or an agent of the City for any purpose beyond the specific engagement for services set forth herein. As independent contractors, the Contractor and its agents and employees shall not qualify for or receive any employee benefits from the City, including but not limited to leave, retirement, insurance, bonding, use of City vehicles, or any other benefits afforded to City employees.

### **5. STANDARD OF PERFORMANCE**

The Contractor agrees and represents that it has the personnel, experience and knowledge necessary to qualify it for the particular duties to be performed under this Agreement. Contractor shall perform the work described herein in accordance with the highest standard of care for performance of the Services.

### **6. DELIVERABLES AND USE OF DOCUMENTS**

All work, work product, and deliverables produced under contract with the City shall remain the exclusive property and shall inure to the benefit of the City as work for hire; the Contractor shall not use, sell, disclose or obtain any other compensation for such work for hire. In addition, the Contractor may not, with regard to all work, work product, deliverables or work for hire required by this Agreement, apply for in its name or otherwise, any copyright, patent or other property right and acknowledges that any such property right created or developed remains the exclusive right of the City.

### **7. EMPLOYEES AND SUBCONTRACTORS**

The Contractor shall be solely responsible for payment of wages, salary or benefits to any and all employees or contractors retained by the Contractor in the performance of the Services. Contractor agrees to indemnify, defend and hold harmless the City for any and all claims that may arise from the Contractor's relationships to its employees and subcontractors.

### **8. INSURANCE**

The Contractor shall procure and maintain, at its own expense, all necessary or appropriate insurance coverage for itself and its agents and employees, including but not limited to professional malpractice coverage of not less than \$1,000,000.00 per occurrence and \$ 3,000,000.00 in the aggregate. The Contractor shall provide to the City, a certificate of insurance or declarations page demonstrating compliance with the foregoing.

### **9. ASSIGNMENT AND DELEGATION**

The Contractor shall not delegate or subcontract any portion of the services to be performed

hereunder without the prior written approval of the City or customary in the provision of the Contractor's services. Nor shall the Contractor assign or transfer any interest in this Agreement without the prior written consent of the City; provided, however, that, notwithstanding the foregoing, amounts due hereunder from the City to the Contractor may be assigned to a bank or trust company. Notwithstanding anything to the contrary contained herein, no assignment or transfer of funds and/or the Contractor's right to payment hereunder shall bind the City to pay any person other than the Contractor for services provided hereunder.

#### **10. RECORDS AND AUDIT**

The Contractor shall maintain appropriate accounts and records to adequately identify and account for all services provided and costs chargeable to the City hereunder and such other records as may be required by law. Subject to applicable federal and state law, such records will be made available to the City and/or its authorized representative(s) during regular business hours, upon reasonable request, and will be retained for two (2) years after the termination of this Agreement, unless provided otherwise by the City in writing.

#### **11. APPROPRIATIONS**

The terms of this Agreement and all amounts payable hereunder are contingent upon sufficient appropriations therefore by the City's Governing Body. If sufficient appropriations are not made, the City shall notify the Contractor of the termination of this Agreement in accordance with the provisions of paragraph 2, above.

#### **12. CONFIDENTIALITY**

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

#### **13. COMPLIANCE WITH LAWS AND POLICIES; CONFLICT OF INTEREST**

(a) In the performance of their obligations hereunder, the parties shall obey and abide by all applicable laws, rules and regulations, and with all applicable ordinances, polices and procedures.

(b) The Contractor hereby covenants, warrants and represents that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services under this Agreement. Without limiting the generality of the foregoing, the Contractor shall comply with all applicable legal or regulatory provisions concerning conflicts of interest.

(c) Both parties shall abide by all applicable federal and state laws, rules, regulations, and executive orders pertaining to equal employment opportunity; pursuant thereto, shall assure that no person shall, on the grounds of race, color, national origin, sex, age, or disability, be excluded from employment with, participation in, be denied the benefits of or be otherwise subjected to discrimination under, any program or activity performed under this Agreement; and to promptly take appropriate steps to correct any deficiency that may be found to occur in compliance with such laws and rules.

#### **14. RELEASE; INDEMNITY**

By its receipt of final payment of all amounts due under this Agreement, the Contractor shall release the City, and its officers and employees, from all liabilities, claims, and obligations whatsoever, arising from or under this Agreement. The Contractor shall indemnify and defend the City and hold the City harmless for and from any and every claim, action, liability, loss, damage or suit, arising from the fault of the Contractor in performing (or omitting to perform) services hereunder.

**15. FORCE MAJEURE**

Neither the City nor the Contractor shall be liable for any delay in the performance of this Agreement, nor for any other breach, nor for any loss or damage arising from uncontrollable forces such as fire, theft, storm, war, or any other force majeure that could not have been reasonably avoided by exercise of due diligence.

**16. LICENSES**

The Contractor shall maintain all required licenses, including without limitation all necessary professional and business licenses, throughout the term of this Agreement. Contractor shall require and shall assure that all of the Contractor’s employees and subcontractors maintain all required licenses, including without limitation all necessary professional and business licenses.

**17. NOTICES/POINT OF CONTACT**

For the City, the sole points of contact under this Agreement shall be the City Administration. Any notice required or permitted to be given hereunder shall be sufficient if mailed to the address shown below or faxed to the number shown below for the party receiving notice, or to such other address or fax number of which such party has duly notified the other party in accordance with the provisions of this paragraph.

For notice to the City:

For notice to the Contractor:

City of Rio Rancho  
City Attorney’s Office  
3200 Civic Center Circle NE  
Rio Rancho, New Mexico 87144  
Telephone: 505-891-5002  
Fax: 505-891-7274

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Telephone: \_\_\_\_\_  
Fax: \_\_\_\_\_

**18. MERGER; AMENDMENT**

This Agreement represents the entire agreement between the parties with respect to the matters addressed herein, and all prior agreements, covenants, and understandings between the parties concerning the same have been merged into this written Agreement. This Agreement shall not be altered, modified, changed, or amended except by a written instrument executed by the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement, effective as of the date executed by both parties.

CITY OF RIO RANCHO

[Contractor]

\_\_\_\_\_  
Keith J. Riesberg, City Manager

\_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Ken Tager, Deputy City Attorney

**Appendix C**  
**LOCAL/AREA/RESIDENT/RESIDENT VETERAN/RECYCLED CONTENT GOODS PREFERENCE**  
**CERTIFICATION FORM**

Business Name: \_\_\_\_\_

Principal Place of Business: \_\_\_\_\_

Address: \_\_\_\_\_

State \_\_\_\_\_ ZIP \_\_\_\_\_

**DEFINITIONS:**

Recycled content goods has the meaning set forth in NMSA 1978 § 13-1-21(A)(6) , as amended from time to time.

RESIDENT BUSINESS has the meaning set forth in NMSA 1978 § 13-1-21(A)(5) , as amended from time to time.

RESIDENT CONTRACTOR has the meaning set forth in NMSA 1978 § 13-4-2(A)(5) , as amended from time to time.

RESIDENT VETERAN BUSINESS has the meaning set forth in NMSA 1978 § 13-1-21(A)(7), as amended from time to time.

RESIDENT VETERAN CONTRACTOR has the meaning set forth in NMSA 1978 § 13-4-2(A)(6), as amended from time to time.

STATUTORY PREFERENCE means the preference for Resident Businesses, Resident Contractors, Resident Veteran Businesses, Resident Veteran Contractors, and Recycled Content Goods provided in NMSA 1978 §§ 13-1-21 or 13-4-5, as amended from time to time.

Qualifying company means a company that qualifies for a Statutory Preference under NMSA 1978 §§ 13-1-21 or 13-4-5, as amended from time to time.

LOCAL BUSINESS means a Resident Business or Resident Contractor which:

- (a) Is authorized to do and is doing business under the laws of the State of New Mexico;
- (b) Possesses a current city business registration;
- (c) Maintains its principal place of business within the corporate limits of the city; and
- (d) Agrees to furnish evidence, in a form suitable to the city, of its payment of New Mexico Gross Receipts Tax.

AREA BUSINESS means a Resident Business or Resident Contractor which:

- (a) Is authorized to do and is doing business under the laws of the State of New Mexico;
- (b) Possesses a current city business registration;
- (c) Maintains a bona fide place of business within the corporate limits of the city, and agrees to conduct its activities pursuant to the contract for which it is bidding or proposing, to the extent practicable, from that place of business; and
- (d) Agrees to furnish evidence, in a form suitable to the city, of its payment of New Mexico Gross Receipts Tax.

No bid or proposal shall receive both the Local Business and Area Business preferences.

**INSTRUCTIONS:**

In all invitations for bid and requests for proposals, the Statutory Preferences shall be applied in the manner set forth in NMSA 1978 §§ 13-1-21 or 13-4-5, as amended from time to time.

In addition to the Statutory Preferences, a preference for Local Businesses and Area Businesses shall be administered in the same manner as the Statutory Preferences, as follows:

(1) in the event a Local Business submits a qualifying bid or proposal and one or more Qualifying Companies also submits a bid or proposal, the Local Business shall receive a two percent (2%) preference in addition to (and not in lieu of) the Statutory Preference; and

(2) in the event an Area Business submits a qualifying bid or proposal and one or more Qualifying Companies also submits a bid or proposal, the Area Business shall receive a one percent (1%) preference in addition to (and not in lieu of) the Statutory Preference.

No bid or proposal shall receive both the Local Business and Area Business preferences.

In addition to the definitions and criteria set forth in this section, the central purchasing office may impose additional requirements regarding the nature, size and/or location of offerors or bidders in any request for proposals or invitation for bids. As a result, companies responding to such solicitations should review the solicitation documents thoroughly.

**A COPY OF A RESIDENT BUSINESS OR CONTRACTOR / VETERAN BUSINESS OR CONTRACTOR CERTIFICATE ISSUED BY THE NEW MEXICO TAXATION AND REVENUE DEPARTMENT IS REQUIRED TO BE SUBMITTED ALONG WITH YOUR BID / OFFER IN ORDER TO QUALIFY FOR THE STATUTORY RESIDENT / VETERAN PREFERENCE. In addition, the attached Resident Veterans Preference Certification form must accompany any bid/offer and any business wishing to receive a resident veteran's preference must complete and sign the form.**

**REQUESTS FOR RECYCLED CONTENT GOODS PREFERENCE MUST BE ACCOMPANIED BY OFFICIAL / VERIFIABLE EVIDENCE THAT THE MATERIAL BEING BID / OFFERED CONTAINS THE MINIMUM RECYCLED CONTENT REQUIRED BY STATE STATUE.**

**THIS FORM MUST BE SUBMITTED AT THE TIME BIDS / OFFERS IN ORDER TO CLAIM LOCAL, AREA, RESIDENT, VETERAN OR RECYCLED CONTENT GOODS PREFERENCE.**

PLEASE INDICATE THE TYPE OF PREFERENCE CLAIMED:

If your firm is a Qualifying Company please circle the type of preference for which your firm qualifies and indicate your appropriate annual revenue threshold:

RECYCLED CONTENT GOODS

RESIDENT BUSINESS

RESIDENT CONTRACTOR

RECYCLED CONTENT GOODS RESIDENT VETERAN BUSINESS

Annual revenue up to \$3,000,000.00

Annual revenue more than \$3,000,000.00 or more

RESIDENT VETERAN BUSINESS

- Annual revenue up to \$3,000,000.00
- Annual revenue more than \$3,000,000.00 or more

**RESIDENT VETERAN CONTRACTOR**

- Annual revenue up to \$3,000,000.00
- Annual revenue more than \$3,000,000.00 or more

If your firm is applying for either a Local or Area Preference, please circle the type of preference for which your firm qualifies. **(Select only one):**

LOCAL BUSINESS

AREA BUSINESS

CITY OF RIO RANCHO BUSINESS LICENSE REGISTRATION NUMBER: \_\_\_\_\_

(Must be provided if claiming Local Business or Area Business Preference)

If submitting a joint bid/proposal please indicated proportion of work to be completed by qualifying company:

\_\_\_\_\_ %

**CERTIFICATION:** I hereby certify that the information which I have provided on this form is true and correct, that I am authorized to sign on behalf of the business set out above and if requested by the City will provide, within 10 days of notice, the necessary documents to substantiate the information provided on this form.

By: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

**Resident Veterans Preference Certification**

\_\_\_\_\_ (NAME OF CONTRACTOR) hereby certifies the following in regard to application of the resident veterans' preference to this procurement:

**Please check one box only:**

I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is less than \$3M allowing me the 10% preference discount on this solicitation. I understand that knowingly giving false or misleading information about this fact constitutes a crime.

"I agree to submit a report, or reports, to the State Purchasing Division of the General Services Department declaring under penalty of perjury that during the last calendar year starting January 1 and ending on December 31, the following to be true and accurate:

"In conjunction with this procurement and the requirements of this business' application for a Resident Veteran Business Preference/Resident Veteran Contractor Preference under Sections 13-1-21 or 13-1-22 NMSA 1978, when awarded a contract which was on the basis of having such veterans preference, I agree to report to the State Purchasing Division of the General Services Department the awarded amount involved. I will indicate in the report the award amount as a purchase from a public body or as a public works contract from a public body as the case may be.

"I understand that knowingly giving false or misleading information on this report constitutes a crime."

I declare under penalty of perjury that this statement is true to the best of my knowledge. I understand that giving false or misleading statements about material fact regarding this matter constitutes a crime.

\_\_\_\_\_  
(Signature of Business Representative)\*                      (Date)

\*Must be an authorized signatory for the Business.

The representations made in checking the boxes constitutes a material representation by the business that is subject to protest and may result in denial of an award or unaward of the procurement involved if the statements are proven to be incorrect.



**CITY OF RIO RANCHO  
DEPARTMENT OF FISCAL SERVICES**

**RFP 17-AD-001  
Contract Ethics Official**

**Appendix D  
ACKNOWLEDGMENT FORM**

Please complete this form and return it to the City of Rio Rancho Financial Services Department. Failure to return this form will not exclude a firm from submitting a proposal; however, only those prospective respondents who elect to return this form will receive addenda, if issued, and/or other information pertaining to this solicitation.

**Name of Firm:** \_\_\_\_\_

**Firm Representative:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Phone:** \_\_\_\_\_ **Fax:** \_\_\_\_\_

**E-Mail: (required)** \_\_\_\_\_

**Address:** \_\_\_\_\_

**City:** \_\_\_\_\_ **State:** \_\_\_\_\_ **Zip:** \_\_\_\_\_

When completed, please email, fax or mail this form to the following contact:

Shonna Ybarra, Purchasing and Contracts Manager  
 CITY OF RIO RANCHO  
 DEPARTMENT OF FINANCIAL SERVICES  
 3200 CIVIC CENTER CIRCLE  
 RIO RANCHO, NM 87144  
 Phone: (505) 891-5044  
 Fax: (505) 891-5762  
[sybarra@rrnm.gov](mailto:sybarra@rrnm.gov)



**CITY OF RIO RANCHO  
ORDINANCE**

**ORDINANCE NO. 22**

**ENACTMENT NO. 16-19**

**AN ORDINANCE ENACTING A CODE OF CONDUCT FOR THE CITY OF RIO RANCHO EMPLOYEES, ELECTED OFFICIALS, AND APPOINTED OFFICIALS**

government position as a public trust; and

**WHEREAS:** the public officer or employee shall use the powers and resources of public office only to advance the public interest and not to obtain personal benefits or pursue private interests; and

**WHEREAS:** public officers and employees shall conduct themselves in a manner that justifies the confidence placed in them by the people at all times maintaining the integrity and discharging ethically the responsibilities of public service; and

**WHEREAS:** the City seeks to foster and maintain transparency while conducting City business, creating policy and undertaking the day to day operation of the City; and

**WHEREAS:** in order for the public to maintain confidence in the integrity of government, this ordinance establishes minimum standards of ethical behavior and sets forth explicit standards of conduct by requiring Elected Officials, Appointed Officials, and Employees to disclose personal interests, financial or otherwise, in matters of the City, and to remove themselves from decision making when such interests exist.

**NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF RIO RANCHO:**

**SECTION 1. SHORT TITLE.** This Ordinance may be cited as the "City of Rio Rancho Code of Conduct."

**SECTION 2. DECLARATION OF POLICY.** The City of Rio Rancho seeks to foster and maintain transparency while conducting City business, creating policy and undertaking the day to day operation of the City. This Ordinance establishes minimum standards of ethical behavior and sets forth explicit standards of conduct by requiring Elected Officials, Appointed Officials, and Employees to disclose personal interests, financial or otherwise, in matters of the City and to remove themselves from decision making when such interests exist.

**SECTION 3. RESPONSIBILITY OF PUBLIC OFFICE AND EMPLOYMENT.** Elected Officials, Appointed Officials, and Employees of the City are bound to uphold the Constitution of the United States, the New Mexico Constitution, and federal, state and local laws; to adhere to the highest standards in the exercise of powers and duties of

1 office or employment; to impartially carry out their duties; to discharge their duties of  
2 office regardless of personal considerations; and to recognize that public interest must  
3 be the prime objective.

4  
5 **SECTION 4. DEFINITIONS.**

6  
7 **A. Administrative Action** - action based upon the application, or interpretation  
8 of a City Ordinance or state statute, or a proceeding involving a license permit,  
9 franchise or development use.

10  
11 **B. "Anything of Value," "benefit," or "thing of value;"** includes all matters,  
12 whether tangible or intangible, that could reasonably be considered to be of  
13 advantage or worth, use or service to the person to whom they are conferred.  
14 This includes; money; products or merchandise; works of art or collectibles;  
15 stocks, bonds, notes or options; real property or an interest in real property;  
16 contracts or a promise of future interest in a contract; an interest or a promise of  
17 a future interest in a business; non-alcoholic beverages; a meal with a total value  
18 exceeding fifty dollars (\$50) or meals from a single person or entity with a  
19 cumulative total value exceeding five hundred dollars (\$500) annually; excluding  
20 meals provided in connection with an event produced by a non-profit charitable  
21 organization, government entity, public school or a public event where the person  
22 attending is serving in an official capacity; transportation and related travel  
23 expenses not to exceed seventy-five dollars (\$75) per trip or transportation and  
24 related travel expenses from a single person or entity for trips with a cumulative  
25 total value exceeding five hundred dollars (\$500) annually; lodging; services  
26 including loaned employees; loans, loan guarantees or cosigning; loans at below  
27 market interest; forgiveness of a debt; discounts or rebates not extended to the  
28 public generally, and this does not include general discounts that are offered to  
29 all government employees at all levels of government; preferential treatment;  
30 tickets of admission; excluding tickets or admission provided in connection with  
31 an event produced by a non-profit charitable organization, government entity,  
32 public school or a public event where the person attending is serving in an official  
33 capacity; paid compensation not commensurate with fair and reasonable value of  
34 services rendered; free or discounted use of office equipment and facilities;  
35 intentional overpayment or knowing duplicate payments for expenses or costs;  
36 radio or television time which is not paid at fair market value; promise or offer of  
37 present or future employment; use of autos, boats, apartments, or other  
38 recreational or lodging facilities; intangible rights such as a cause of action;  
39 licenses, patents intellectual property, copyrights, or an interest in them; and any  
40 other item, tangible or intangible, having economic value. "Anything of value,"  
41 "benefit," or "thing of value," does not include political endorsements, support in a  
42 political campaign or a promise of an endorsement, political activities, or political  
43 support. Nothing in this section shall be construed to prohibit an occasional, non-  
44 pecuniary gift, insignificant in value or an award publicly presented in recognition  
45 of public service.

46  
47 **C. Appointed Official** - a person who is not an Elected Official or City Employee  
48 and has been appointed by the Governing Body to serve on a City Board,  
49 Commission, Committee, or other body established by the Governing Body, or to  
50 perform other functions at the request of the Governing Body.

1  
2 **D. Governing Body or City Council** - means the Governing Body of the City of  
3 Rio Rancho.

4  
5 **E. Confidential Information** - information that has been classified as  
6 confidential by law and/ or information contained on City owned and/or operated  
7 equipment, including but not limited to; electronic correspondence, diagrams,  
8 charts, all components of electronic files, data, records, pictures, documents;  
9 visual, voice and electronic recordings; and any other data or information stored  
10 or maintained on computer memory or device.

11  
12 **F. Conflict of Interest** - a situation in which a person exercising a duty has an  
13 interest, financial or otherwise, that potentially conflicts with the exercise of the  
14 duty or that may be perceived as conflicting with the exercise of the duty.

15  
16 **G. Contract** - an agreement between two or more parties, whether express or  
17 arising by operation of law.

18  
19 **H. Contract Ethics Official** - an attorney contracted by the City who will perform  
20 independent reviews of complaints, conduct investigations, gather information,  
21 draft reports and make recommendations in accordance with this ordinance. The  
22 Official will be contracted through the City Attorney's office through normal  
23 process, in agreement with the City Manager.

24  
25 **I. Employee** - a non-elected person who is employed, in any capacity, by the  
26 City of Rio Rancho.

27  
28 **J. Elected Official** - a member of the Governing Body, including City Councilor,  
29 Mayor, and the Municipal Court Judge.

30  
31 **K. Ex Parte Communication** - a direct or indirect communication with a party or  
32 the party's representative outside the presence of the other parties concerning a  
33 pending adjudication that deals with substantive matters or issues on the merits  
34 of the proceedings. Ex parte communications do not include statements that are  
35 limited to providing publicly available information about a pending adjudication or  
36 solely related to the status of the proceeding.

37  
38 **L. Family** - means an individual's spouse, domestic partner, parent, child, sibling,  
39 and like in-laws, by consanguinity or affinity, and persons, related or unrelated,  
40 living within the household.

41  
42 **M. Financial Interest** - any interest of an Elected Official, an Employee, or an  
43 Appointed Official that is: (i) an ownership interest or other interest in any  
44 contract or prospective contract with the City; (ii) an interest in the sale of real or  
45 personal property to or from the City; (iii) a financial relationship with a person or  
46 business whose interests may be affected by the City; (iv) any employment or  
47 prospective employment for which negotiations have already begun where the  
48 prospective employer has an interest in the sale of real or personal property from  
49 the City; or (v) any other interest that may be affected by the City. For the  
50 purposes of this Ordinance, an interest shall be one either as owner, part owner,

1 partner, or shareholder, in which such individual owns more than two (2) percent  
2 of the outstanding stock or more than two (2) percent of the ownership interest of  
3 any other business that is doing business with the City in an amount in excess of  
4 \$7,500 annually. An interest held by the Elected Official's spouse or minor  
5 children shall be considered an interest of the Elected Official, Appointed Official,  
6 or Employee for the purposes of this Ordinance.

7  
8 **N. Frivolous** - A determination made by the Ethics Panel when two or more  
9 complaints made by an individual or entity have been determined to be  
10 unsubstantiated and contain allegations that are found to have no factual basis.

11  
12 **O. Harassment** - Harassment consists of knowingly pursuing a pattern of  
13 conduct that is intended to annoy, alarm, bully or intimidate another person and  
14 that serves no lawful purpose. The conduct must be such that it would cause a  
15 reasonable person to suffer substantial emotional distress.

16  
17 **P. Immediate Family** - a spouse, domestic partner, child, child of a sibling, a  
18 parent, a grandparent, a grandchild, like in-laws, and like step-children.

19  
20 **Q. Non-public Information** - information that is obtained in the course of an  
21 Elected Official's, Appointed Official's, or Employee's duties and is subject to  
22 public inspection under state law, but that, because of its nature, is not readily  
23 accessible to the public; and if used or disclosed, a personal benefit or  
24 advantage is likely to result.

25  
26 **R. Party** - a person who has submitted to the City an application seeking  
27 affirmative relief; a person who has filed a formal complaint or protest; a person  
28 who is the subject of a formal complaint or investigation; and members of the  
29 general public who participate in a pending adjudication.

30  
31 **S. Pending Adjudication** - any application, petition, complaint, protest,  
32 investigation, or other administrative adjudicatory proceeding requiring decision  
33 or action by the Governing Body, the Planning and Zoning Board, the Utilities  
34 Commission, Development Services Department, or any other board  
35 or commission established by the Governing Body.

36  
37 **T. Personal Benefit** - the obtaining or promise of obtaining anything of value.

38  
39 **U. Political Action** - conduct in which Elected Officials or Appointed Officials use  
40 their official positions to exercise influence on City Employees, Elected Officials  
41 or Appointed Officials; the phrase includes intervention on behalf of constituents  
42 with a governmental agency, and endorsement, pledging support, or actively  
43 supporting a City governmental matter, a nominee or a candidate for public  
44 office.

45  
46 **V. Substantiated Claim** - a violation of the Ordinance verified by competent  
47 facts and that substantial evidence exists to support.

48  
49 **W. Unsubstantiated Claim** – a claim that is not supported by competent facts or  
50 substantial evidence or existent of facts and/or an allegation that is not a per se

1 violation of the Ordinance.

2  
3 **SECTION 5. NON-PARTISANSHIP.** All actions, decisions and votes on matters relating  
4 to City government shall be on the merits. Decisions shall be made objectively, without  
5 party or partisanship considerations, and without facts which are not directly and  
6 properly related to the matter requiring action.

7  
8 **SECTION 6. PUBLIC TRUST.**

9  
10 A. Elected Officials, Appointed Officials, and Employees shall act according to  
11 the highest principles of representative democracy to ensure that City  
12 government is worthy of public respect, trust and support.

13  
14 B. Elected Officials, Appointed Officials, and Employees shall not engage in  
15 conduct that they know or reasonably should know is likely to create in the minds  
16 of reasonable, objective, fair-minded observers, the perception that they have  
17 used their public positions improperly, unethically or otherwise have not  
18 conducted themselves in accordance with the standards of conduct of this  
19 Ordinance.

20  
21 C. Elected Officials, Appointed Officials, and Employees shall not provide or  
22 disseminate to the public, any information or data which they should reasonably  
23 know to be untrue, inaccurate or misleading. It is incumbent upon Elected  
24 Officials, Appointed Officials, and Employees to correct such information as  
25 quickly as reasonably possible.

26  
27 D. It is a violation of this Ordinance for Elected Officials and Appointed Officials  
28 to knowingly violate their own rules of procedure or any other law or ordinance.

29  
30 **SECTION 7. CONDUCT AVOIDING IMPROPRIETY.**

31  
32 A. Elected Officials, Appointed Officials, and Employees shall avoid conduct that  
33 creates the appearance of impropriety or that is otherwise unbecoming a public  
34 official. An impropriety can mean misconduct or behavior that demonstrates an  
35 unethical process or improper influence.

36  
37 B. Elected Officials, Appointed Officials, and Employees shall not knowingly  
38 engage in conduct that violates the rights of others to be treated fairly.

39  
40 C. Elected Officials, Appointed Officials, and Employees shall refrain from  
41 engaging in conduct, even if lawful, where personal gain or advantage is involved  
42 in a way that creates a reasonable inference that such office has been used for  
43 private benefit.

44  
45 **SECTION 8. PROHIBITED FINANCIAL INTEREST IN CITY BUSINESS.**

46  
47 A. No Elected Officials, Appointed Officials, or Employees may have a Financial  
48 Interest if the Elected Official, Appointed Official, or Employee, is in a decision  
49 making capacity with respect to the Financial Interest.

1 B. Elected Officials, Appointed Officials, and Employees who have any Financial  
2 Interest shall disclose such interest by filing a Disclosure of Interest and  
3 recording the same with the City Clerk and by disclosing the interest as otherwise  
4 provided in this Ordinance or by law, and shall thereafter be disqualified from  
5 participating in any debate, decision or vote relating thereto.  
6

7 **SECTION 9. CONFLICT OF INTEREST, DISCLOSURE.**  
8

9 A. Elected Officials, Appointed Officials, and Employees shall strictly avoid  
10 transactions and relationships that create a conflict of interest. Where a conflict of  
11 interest is unavoidable, the Elected Official, Appointed Official, or Employee shall  
12 disclose the conflict of interest and shall subordinate the conflicting interest to the  
13 public interest, and the disclosure shall be recorded by the Clerk as part of the  
14 minutes of the meeting at which the disclosure is made.  
15

16 B. Elected Officials, Appointed Officials, and Employees shall exercise their  
17 duties, powers and prerogatives without prejudice or favoritism to hire, promote,  
18 or simply to reward family members, relatives, friends, or political supporters, or  
19 to hinder or punish enemies and opponents.  
20

21 C. Elected Officials, Appointed Officials, and Employees shall assure that  
22 constituents and others who may be affected by decisions of the City have a fair  
23 and reasonable opportunity to express their concerns, grievances, and ideas  
24 without regard to their willingness or ability to provide benefits or political support  
25 to the Elected Official, Appointed Official, or Employee.  
26

27 D. Elected Officials, Appointed Officials, and Employees shall not engage in any  
28 conduct that could create in the mind of a reasonable observer the belief that  
29 persons will receive better or different services if gifts, personal benefits or  
30 political or charitable contributions are provided.  
31

32 E. Elected Officials, Appointed Officials, and Employees shall not solicit or  
33 receive gifts, personal benefits, favors, gratuities or political or charitable  
34 contributions, or Anything of Value under circumstances that create a reasonable  
35 belief that special access, services, favors, or official or unofficial actions will be  
36 provided as a result. Nor may Anything of Value be solicited or received from a  
37 person or business doing business with the City, contracting with the City,  
38 regulated by the City, has an application pending before the City, or whose  
39 interests may be affected by the City.  
40

41 F. Elected Officials, Appointed Officials, and Employees shall not accept  
42 Anything of Value from a person, business, or other entity when the Elected  
43 Official, Appointed Official, or Employee knows or reasonably should know that  
44 said person, business, or entity does any business with the City, desires to do  
45 business with the City, contracts with the City, is regulated by the City, has an  
46 application pending before the City, or whose interests may be affected by the  
47 City.  
48

49 **SECTION 10. CONFIDENTIAL INFORMATION AND MISUSE OF NON-PUBLIC**  
50 **CONFIDENTIAL INFORMATION.** No Elected Official, Appointed Official, or Employee

1 shall disclose or use Confidential Information maintained by the City without proper  
2 authorization, and such information shall not be used to advance the financial or other  
3 private interests of said person. No Elected Official, Appointed Official, or Employee  
4 shall use Confidential Information for personal benefit.

5  
6 **SECTION 11. USE OF POSITION TO OBTAIN INFORMATION.** No Elected Official,  
7 Appointed Official, or Employee shall use their position to obtain information from  
8 another entity or individual for their personal benefit. Neither shall an Elected Official,  
9 Appointed Official, or Employee obtain, or attempt to obtain, information from an  
10 individual or entity on behalf of the City when the information will be used for their  
11 personal interest or benefit.

12  
13 **SECTION 12. MISUSE OF CITY PROPERTY AND RESOURCES FOR PRIVATE**  
14 **GAIN OR PERSONAL ADVANTAGE.**

15  
16 A. An Elected Official, Appointed Official, or Employee shall not use public  
17 property for any private purpose or nongovernmental purpose except as  
18 specifically provided by law. Public property includes public funds, time, facilities,  
19 property, equipment, mailing lists, computer data, services or any other  
20 governmental asset or resource. This section does not prohibit the occasional  
21 and limited use of City property and resources for personal purposes if:

- 22 1. the use does not interfere with the performance of public duties;
- 23 2. the cost or value related to the use is so nominal that reimbursement  
24 procedures would not be justified; and
- 25 3. the use does not create the appearance of improper influence.

26  
27 B. No Elected Official, Appointed Official, or Employee shall seek, accept, use,  
28 allocate, grant or award public funds for a purpose other than that authorized by  
29 law or make a false statement in connection with a claim, request or application  
30 for compensation, reimbursement or travel allowances from public funds.

31  
32 C. Unless authorized by the City of Rio Rancho Personnel Policies and Work  
33 Rules, no City Employee shall be asked or permitted to perform personal  
34 services for an Elected Official or Appointed Official. An Elected Official or  
35 Appointed Official shall not require a City Employee to perform personal services  
36 or assist in a private activity except in unusual and infrequent situations where  
37 the person's service is reasonably necessary to permit the Elected Official or  
38 Appointed Official to perform official duties.

39  
40 **SECTION 13. MISUSE OF CITY PROPERTY OR RESOURCES FOR POLITICAL**  
41 **PURPOSES.**

42  
43 A. Public resources, including funds, facilities and personnel, may not be used to  
44 further partisan campaign purposes or to influence the outcome of an election,  
45 except for an election on a question proposed by the City such as whether a tax  
46 should be imposed or a debt contracted for in which case public resources may  
47 be used for the limited purpose of educating voters about the details of the  
48 question.

49  
50 B. An Elected Official shall not use or authorize the use of public funds, time,

1 facilities, equipment, mailing lists, computer data, services or other government  
2 assets or resources for the purpose of political fundraising, campaigning, or  
3 influencing an election. This section does not prohibit the use of mailing lists,  
4 computer data or other public information lawfully obtained from a government  
5 agency and available to the general public for nongovernmental purposes.  
6

7 C. A Candidate, an Elected Official, another person on behalf of a Candidate or  
8 Elected Official, or campaign committee of a Candidate or Elected Official, shall  
9 not solicit or accept or authorize the solicitation or acceptance of a campaign  
10 contribution in a facility or office ordinarily used to conduct City government  
11 business. This provision applies to telephone conversations, personal meetings,  
12 and solicitations by mail. If such a contribution is offered, it shall be refused or  
13 returned promptly. If an unsolicited contribution is received in the mail, or a  
14 lawfully solicited contribution is misdirected to an office ordinarily used to conduct  
15 City business, if otherwise lawful, it may be accepted, but it may not be  
16 processed in that office, and it shall be delivered promptly to an appropriate  
17 location.  
18

19 D. An Elected Official, a Candidate, or a campaign committee or another person  
20 on behalf of an Elected Official Candidate, shall not distribute or post literature,  
21 placards, posters, or other communications intended to influence the election of a  
22 candidate in an election in a facility or office ordinarily used to conduct City  
23 government business.  
24

25 **SECTION 14. USE OF CONFIDENTIAL INFORMATION FOR PRIVATE GAIN.** An  
26 Elected Official, Appointed Official, or Employee or a former Elected Official, Appointed  
27 Official, or Employee who terminated City service within one year, shall not use or  
28 disclose Confidential Information to obtain a benefit for the Elected Official, Appointed  
29 Official, Employee, or former Elected Official, Appointed Official, Employee or another  
30 person, including a person with whom the Elected Official, Appointed Official, or  
31 Employee or former Elected Official, Appointed Official, or Employee is associated or  
32 has negotiated prospective employment. This section does not allow the disclosure of  
33 information made confidential by law.  
34

35 **SECTION 15. MISUSE OF TITLE OR PRESTIGE OF OFFICE FOR PRIVATE GAIN  
36 OR PERSONAL ADVANTAGE.**  
37

38 A. An Elected Official, Appointed Official, or Employee shall not use, induce,  
39 cause, or encourage others to use the authority, title, official letterhead or  
40 prestige of the Elected Official's, Appointed Official's, or Employee's office or  
41 service for his or her own private gain or personal advantage.  
42

43 B. An Elected Official, Appointed Official, or Employee shall not solicit or accept  
44 Anything of Value under terms and conditions where the compensation is not  
45 commensurate with the services performed or where a reasonable person would  
46 believe that the authority, title or prestige of office had been exploited. Nothing in  
47 this section prohibits the use of official title of an Elected Official, Appointed  
48 Official, or Employee as part of a political campaign or political endorsement.  
49

50 **SECTION 16. POLITICAL ACTIVITY.**

1  
2 A. No Elected Official, Appointed Official, or Employee shall compel, coerce or  
3 intimidate any Elected Official, Appointed Official, or Employee to make, or  
4 refrain from making, any political contribution. No Elected Official, Appointed  
5 Official, or Employee shall solicit or obtain by coercion any political contribution  
6 from Employees. Nothing in this subsection shall be interpreted to provide that an  
7 Elected Official, Appointed Official, or Employee is precluded from voluntarily  
8 making a contribution or receiving a voluntary contribution.

9  
10 B. No Employee with contract management authority, property management  
11 authority or land use authority shall serve as a paid political consultant, a  
12 campaign treasurer, or as a member of the political fundraising committee of any  
13 Candidate for Federal, State, City or County office, or Elected Office.

14  
15 C. No elected officer of the City shall hold any other City office or be employed by  
16 the City during the term for which the member was elected.

17  
18 D. Nothing in this section shall be construed to prohibit the Governing Body from  
19 selecting any current or former mayor or city councilor to represent the City  
20 before any other governmental entity.

21  
22 E. Employees shall not perform any political activity when on duty. This does not  
23 include time used while on paid vacation in accordance with City Personnel  
24 Policy and Work Rules.

25  
26 F. An Elected Official, Appointed Official, or Employee shall not require an  
27 Employee to perform political activity: (i) as part of the Employee's duties; (ii) as a  
28 condition of City employment; or (iii) during any time off that is compensated by  
29 the City.

30  
31 G. An Employee shall not be required to participate in any political activity.

32  
33 H. An Employee shall not be awarded additional compensation or employment  
34 benefit in any form to engage in as a part of the Employee's official City  
35 employment duties or activities that are undertaken by an Employee on a  
36 voluntary basis as permitted by law.

37  
38 I. Nothing in this section prohibits an Employee from engaging in political activity  
39 on behalf of the City, or engaging in voluntary political activities of the  
40 Employee's choosing when not on duty.

41  
42 J. No Elected official or Appointed Official shall engage in any conduct that  
43 would, to an objective third party, constitute an undue threat to an Employee's  
44 continued employment.

45  
46 K. Employees that receive compensation or reimbursement from an Elected  
47 Official or political campaign on behalf of an Elected Official in excess of \$250  
48 shall be required to report such compensation or reimbursement to the City  
49 Manager, which shall include disclosure of the nature of the compensation or  
50 reimbursement.

1  
2 L. Any City Employee who becomes a candidate for municipal elective office of  
3 the City of Rio Rancho shall, upon filing a declaration of candidacy, take a leave  
4 of absence without pay, use accrued vacation time, or both, not later than thirty  
5 (30) days prior to the date of the municipal election. If a leave of absence is  
6 requested, it shall be granted.  
7

8 M. No former mayor or city councilor shall be employed by the City until one year  
9 after the expiration of the term for which the member was elected.  
10

11 **SECTION 17. DISCLOSURE.**  
12

13 A. Within ten (10) days after swearing in of any Elected Official or Appointed  
14 Official, the Elected Official or Appointed Official shall file a statement of  
15 economic interest with the City Clerk on a form provided by the City. Amended  
16 statements of economic interest shall be filed on an annual basis on or before the  
17 15th of January of each year.  
18

19 B. The following information shall be provided:

20 1. A description of all parcels of real estate within the City in which the  
21 person owns any interest including an option to purchase;

22 2. All interests in any business organization, either as owner, part owner,  
23 partner, or shareholder, in which such individual owns more than two  
24 percent of the outstanding stock or more than two percent of the  
25 ownership interest of any other business that is doing business with the  
26 City in an amount in excess of \$7,500 annually.  
27

28 C. Any person required to file a statement hereunder shall not be required to file  
29 an amended statement unless that person undergoes a change in those  
30 economic interests that are required to be disclosed by this section. Such  
31 persons shall file the amended statement in the manner prescribed above within  
32 ninety (90) days of the date of any change in circumstances requiring  
33 filing thereof.  
34

35 D. All persons required to file a statement hereunder shall comply with the  
36 provisions of this section within thirty (30) days after the requirements hereof are  
37 imposed upon such office or position.  
38

39 **SECTION 18. COERCION.**  
40

41 A. An Elected Official shall not, directly or by authorizing another to act on his or  
42 her behalf, state or imply that the Elected Official's willingness to meet with a  
43 person or organization is dependent on the person or organization making a  
44 campaign contribution, donating to a cause favored by the Elected Official or  
45 providing a thing of value to the Elected Official.  
46

47 B. An Elected Official shall not directly, or by authorizing another to act on the  
48 Elected Official's behalf:

49 1. agree or threaten to take or withhold any City governmental action, as a  
50 result of a person's decision to provide or not provide a political

- 1 contribution; or
- 2 2. state or imply that the Elected Official will perform or refrain from
- 3 performing a lawful constituent service as a result of a person's decision to
- 4 provide or not provide a political contribution; or
- 5 3. agree to or participate in a scheme or plan intended to evade the
- 6 requirements of any applicable state ethics statutes, this Ordinance, or
- 7 another financial disclosure provision of state or City law; or
- 8 4. knowingly accept a contribution given or offered in violation of any
- 9 applicable state ethics statutes or this Ordinance.

10  
11 **SECTION 19. REPORTING, INVESTIGATING, AND MAKING DETERMINATIONS**  
12 **PERTAINING TO VIOLATIONS OF THIS ORDINANCE.**  
13

14 A. Any Elected Official, Appointed Official, Employee, entity, or member of the  
15 public, may submit a complaint of unethical conduct to the City Ethics Panel by  
16 delivering to the City Attorney's Office a sworn complaint alleging facts which, if  
17 true, would constitute a violation of this Ordinance. The City Attorney's office will  
18 forward all such sworn complaints to the City's Contract Ethics Official (Ethics  
19 Official) The Ethics Official shall refer all matters regarding employees to the  
20 City's Human Resources Department.

21  
22 B. The Ethics Official shall investigate all applicable sworn complaints forwarded  
23 to them and make one of the following recommendations regarding the  
24 complaint:

- 25 1. Unsubstantiated Claim under this Ordinance; or
- 26 2. Substantiated Claim under this Ordinance

27  
28 C. If Unsubstantiated Claim is the recommendation made by the Ethics Official,  
29 he or she shall produce a report reflecting their finding and detail of the  
30 investigation. An Unsubstantiated Claim shall not be forwarded to the Ethics  
31 Panel unless necessary for the determination of a frivolous claim.

32  
33 D. Upon the completion of an investigation, the Ethics Official may determine that  
34 a claim is Substantiated. At such time, the Ethics Official will produce a report  
35 which contains his or her findings and recommendations. The Ethics Panel shall  
36 conduct a public hearing of all Substantiated Claims and shall decide, by majority  
37 vote, if a provision(s) under this Ordinance has been violated. Penalties shall be  
38 determined pursuant to Section 20 of this Ordinance. The Ethics Official shall be  
39 present at the public hearing in order to respond to questions from the Ethics  
40 Panel regarding his or her findings and recommendations. The Complaining party  
41 and the Respondent to the complaint shall be provided notice via certified mail, to  
42 any and all hearings. The Respondent and/or a legal representative shall be  
43 afforded the opportunity to respond to the complaint at public hearing.

44  
45 E. If an individual or entity files two (2) or more Unsubstantiated complaints  
46 directed at the same individual for the purpose of harassment or to otherwise  
47 cause the individual public shame or embarrassment, the Ethics Official may  
48 make a recommendation to the Ethics Panel. If the Ethics Official recommends a  
49 public hearing, notice shall be provided to the Complaining party no later than  
50 fourteen (14) calendar days prior to the scheduled public hearing. The Ethics

1 Panel shall conduct the public hearing in order to determine if the complaints are  
2 frivolous and if the complaints were intended to annoy, harass or otherwise  
3 cause the targeted individual public shame or embarrassment. If the Ethics Panel  
4 determines, by majority vote that the complaints are frivolous and intended to  
5 annoy, harass or otherwise cause the targeted individual shame or  
6 embarrassment, they may prescribe a penalty in accordance with Section 20 of  
7 this Ordinance that may be appealed to the Thirteenth Judicial District Court.  
8

9 **SECTION 20. CITY ETHICS PANEL.**

10  
11 A. There shall be created a City of Rio Rancho Ethics Panel that shall consist of  
12 three (3) members plus one alternate. It is desired that two Panel members  
13 (excluding alternate) will be licensed attorneys. At a minimum one member of the  
14 Panel (excluding alternate) shall be a licensed attorney. The members of the  
15 Panel shall be appointed by the City Manager subject to confirmation by the  
16 Governing Body. The members of the Panel shall not be affiliated with City  
17 government in any capacity, including, but not limited to, employment (including  
18 employment for which the salary is in any way funded by or through the City),  
19 appointment, or election. The members of the Ethics Panel may not hold elected  
20 public office or office with any political party within the City. Each member shall  
21 serve a term of three years, subject to reappointment thereafter.  
22

23 B. The Ethics Panel shall annually elect its own chair. If any member of the  
24 Ethics Panel petitions the Panel for a hearing and advice regarding his or her  
25 own conduct or the conduct of others, such member shall not be eligible to sit in  
26 such cases, and the alternate member shall be seated when the need arises.  
27

28 C. The jurisdiction of the Ethics Panel is limited to acting within the scope of  
29 matters covered by this Ordinance, but may periodically review and recommend  
30 amendments to this Ordinance.  
31

32 D. The Ethics Panel shall adopt rules of procedure for conducting hearings  
33 pursuant to this Ordinance. The rules of procedure shall be consistent with the  
34 rules for conducting administrative hearings in Rio Rancho and shall be reviewed  
35 by the City Attorney.  
36

37 E. The Ethics Panel shall have the power to issue administrative subpoenas  
38 compelling attendance of witnesses at hearings and the production of  
39 documents, and the authority to seek enforcement of those subpoenas by the  
40 Thirteenth Judicial District Court.  
41

42 F. If the Ethics Panel finds, by a preponderance of evidence and upon a majority  
43 vote, that an Elected Official or Appointed Official has violated this Ordinance,  
44 the Ethics Panel may impose any of the following penalties after the written  
45 findings of fact and conclusions of law:

- 46 1. a civil fine not to exceed \$500; or
- 47 2. a written finding of censure; or
- 48 3. a referral to the District Attorney or appropriate governmental office for  
49 commencement of criminal or other proceedings; or
- 50 4. a recommendation to the District Attorney that proceedings to remove

1 the person from elected office be commenced pursuant to NMSA 1978 §  
2 10-4-1 et.seq. (as amended)

3  
4 G. No action may be taken by the Ethics Official or Ethics Panel on any  
5 complaint that is filed later than one (1) year after violation of this Ordinance is  
6 alleged to have occurred or that is filed more than six (6) months from the date of  
7 the discovery of the alleged violation, upon due diligence by the complaining  
8 party, of facts constituting a violation, whichever event occurs later.

9  
10 H. No sworn complaints can be submitted, or will be accepted by the City  
11 Attorney's Office, between the fifty-sixth day preceding the City's March regular  
12 election and the date of the March regular election or, in case of a required run-  
13 off election, the date of the corresponding run-off election.

14  
15 I. The Ethics Panel may also provide advisory opinions regarding the applicability  
16 or interpretation of the provisions of this Ordinance upon the request of any  
17 Elected Official, Appointed Official, or City Employee, and may confer or request  
18 legal interpretation from the City Attorney. The City Attorney may refer such  
19 requests to the Ethics Official.

20  
21 J. On an annual basis the Governing Body shall be provided with a report stating  
22 the number and type of complaints that were submitted alleging a violation of this  
23 Ordinance, as well as the number of hearings and their outcomes.

24  
25 K. A member of the Ethics Panel may be removed by the Governing Body at any  
26 time.

27  
28 L. A vacancy on the Ethics Panel shall be filled in the same manner as the initial  
29 appointment and the appointment shall continue for the remainder of the  
30 unexpired term of the departing Panel member.

31  
32 M. Members of the Ethics Panel shall not receive any salary or compensation for  
33 services.

34  
35 **SECTION 21. RIGHT OF APPEAL.** Any decision of the Ethics Panel finding a violation  
36 of this Ordinance may be appealed to the Thirteenth Judicial District Court pursuant to  
37 NMSA 1978, § 39-3-1.1 (1998, as amended).

38  
39 **SECTION 22. NON-RETALIATION.** The Governing Body does not tolerate retaliation,  
40 workforce discrimination or harassment of any kind against any person who has  
41 reported a violation of this Ordinance. This non-retaliation provision applies whether the  
42 complaint is ultimately determined to be Unsubstantiated or Substantiated. All Elected  
43 Officials, Appointed Officials, or Employees are specifically prohibited from taking any  
44 adverse employment action, engaging in workplace discrimination or harassment of any  
45 kind, or other retaliatory action against anyone for reporting a claim of violation. Anyone  
46 who believes that they have been subject to workplace discrimination or harassment of  
47 any kind or that has been retaliated against in violation of this Ordinance should submit  
48 a complaint of unethical conduct to the Ethics Panel by delivering to the City Attorney's  
49 Office a sworn complaint.

1 **SECTION 23. EX PARTE COMMUNICATIONS.**

2  
3 **A. EX PARTE COMMUNICATIONS PROHIBITED.**

4 1. An Elected Official or Appointed Official designated to hear an  
5 administrative adjudicatory matter pursuant to the City's Development  
6 Code, Zoning Code, Building Code, or any other City Ordinance, shall not  
7 initiate, permit or consider a communication directly or indirectly with a  
8 party or the party's representative outside of the hearing and outside of the  
9 presence of all other interested parties concerning the pending matter. A  
10 pending matter does not include an Ordinance on first or second reading.

11 2. An administrative adjudicatory matter is one that involves the use of a  
12 discretionary standard, as specified in the Development Code or other City  
13 Ordinance, to an application for discretionary approval.

14 3. Notwithstanding the provisions of Subsection 1, above, ex parte  
15 communications for procedural or administrative purposes, during  
16 emergencies, or that do not deal with the merits of the application, shall  
17 not be prohibited if the Elected Official or Appointed Official reasonably  
18 believes that no party will gain an advantage as a result of the ex parte  
19 communication and promptly notifies all other parties of the substance of  
20 the ex parte communication.

21 4. An Elected Official or Appointed Official who receives or who makes or  
22 knowingly causes to make a communication prohibited by this Ordinance  
23 shall disclose the communication to all parties and give other parties an  
24 opportunity to respond.

25  
26 **B. RECUSAL.**

27 1. An Elected Official or Appointed Official shall recuse himself or herself  
28 in any pending administrative adjudicatory matter in which the official is  
29 unable to make a fair and impartial decision or in which there is a  
30 reasonable doubt about whether the official can make a fair and impartial  
31 decision, including:

32 a. when the official has a personal bias or prejudice concerning a  
33 party or its representative or has prejudged a disputed evidentiary  
34 fact. For the purposes of this paragraph, "personal bias or  
35 prejudice" means the predisposition toward a person based on a  
36 previous or ongoing relationship, including a professional, personal,  
37 familial or other intimate relationship, that renders the official unable  
38 to exercise his or her functions impartially; or

39 b. when the official has a pecuniary or Financial Interest in the  
40 outcome of the proceeding; or

41 c. when, during the previous employment, the official served as an  
42 attorney, advisor, consultant or witness in the matter of controversy  
43 (previous employment is employment during the previous twelve  
44 (12) months); or

45 d. when the official announced how he or she would rule on the  
46 adjudicatory proceeding or a factual issue in the adjudicatory  
47 proceeding.

48  
49 2. An Elected Official or Appointed Official shall not be required to recuse  
50 herself or himself in any pending administrative adjudicatory matter merely

1 because the official possesses and discusses general viewpoints on public  
2 policy that an application may raise. Similarly, an Elected Official shall not  
3 be required to recuse herself or himself in any pending administrative  
4 adjudicatory matter merely because the Elected Official made  
5 representations during a political campaign on viewpoints on public policy  
6 that an application may raise.  
7

8 3. The Elected Official or Appointed Official recusing himself or herself  
9 shall disclose the specific reason for a recusal contemporaneous with the  
10 recusal.  
11

12 4. If, prior to the hearing, an Elected Official or Appointed Official fails to  
13 recuse herself or himself when it appears that grounds exist, a party shall  
14 promptly notify the Elected Official or Appointed Official of the grounds for  
15 recusal. If the Elected Official or Appointed Official declines  
16 to recuse himself or herself upon request of a party, the official shall  
17 provide a full explanation in support of his refusal to recuse himself or  
18 herself.  
19

20 5. If, during the hearing, an Elected Official or Appointed Official fails to  
21 recuse himself or herself when it appears that grounds exist, a party shall  
22 promptly notify the Chair of the grounds for recusal. If the Elected Official  
23 or Appointed Official declines to recuse herself or himself, the Chair may  
24 entertain a motion to excuse the official from further participation in the  
25 matter. If the motion is successful, the official shall be excused from  
26 further participation in the matter.  
27

28 **SECTION 24. RESTRICTIONS ON THE GOVERNING BODY; ADMINISTRATION OF**  
29 **THE PERSONNEL SYSTEM, MANAGEMENT.** The Governing Body shall not perform,  
30 collectively or individually, general executive management functions in the  
31 administration of City government; these functions shall be delegated to the City  
32 Manager including administration of the personnel system. This paragraph shall not  
33 apply to matters of policy, the responsibility and authority of the Governing Body to  
34 approve budgets and expenditures, contracts outside the Signature authority of the City  
35 Manager, and matters that, in the discretion of the Governing Body, while they may  
36 involve management issues, are of Citywide importance.  
37

38 **SECTION 25. SEVERABILITY CLAUSE.** If any section, paragraph, clause, or  
39 provision of this Ordinance, or any section, paragraph, clause, or provision of any  
40 regulation promulgated hereunder shall for any reason be held to be invalid, unlawful, or  
41 enforceable, the invalidity, illegality, or unenforceability of such section, paragraph,  
42 clause, or provision shall not affect the validity of the remaining portions of this  
43 Ordinance or the regulation so challenged. If any portion of this ordinance conflicts or is  
44 otherwise inconsistent with an existing City ordinance, the more stringent ordinance  
45 shall rule.  
46

47  
48 **SECTION 26. COMPILING CLAUSE.** This Ordinance shall be incorporated in and  
49 compiled as part of the Revised Ordinances of the City of Rio Rancho, (R.O. 2003).  
50

1 **SECTION 27. EFFECTIVE DATE.** This Ordinance shall become effective ten days  
2 after adoption.

3  
4 ADOPTED THIS 8<sup>TH</sup> DAY OF JUNE, 2016.

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Greggory D. Hull, Mayor

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10  
11 ATTEST:

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14 

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Stephen J. Ruger, City Clerk  
15 (SEAL)  
16