**CITY OF SANTA FE**

**INVITATION TO BID**

**TITLE: REFRIGERATION AND MECHANICAL SERVICE FOR THE ICE ARENA AT THE GENOVEVA CHAVEZ COMMUNITY CENTER (GCCC)**

**ITB # 22/43/B**

**NIGP Commodity Code:** 03167, 03173, 03174, 03178, 03179, 03127, 91017, 91136, 91450, 94155, 96702, 99247, 98877, 98840

**Bid Due Date and Time: July 14, 2022, at 2:00PM MDT**

Bidder MUST complete as applicable and sign the following in order for the Invitation to Bid (Bid) to be valid (type or print clearly):

Company Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_­­­\_\_\_\_\_\_\_\_ Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

dba (if applicable): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Co. Email: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Co. Phone No.: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

NM Gross Receipts Tax # (CRS)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Federal Tax ID # \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Payment terms: \_\_\_\_\_\_\_\_ (e.g., Net 30. Discount will not be considered in computing the low bid, see “Terms and Conditions”

F.O.B. Point must be Destination, unless otherwise indicated in the Invitation to Bid.

Contractor’s Delivery: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (May be considered in the award)

Authorized Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Print or type name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signatory Email: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Phone No: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

No amendment will be issued later than three (3) days prior to the date for receipt of bids, except an amendment withdrawing the bids or one which includes postponement of the date for receipt of bids.

If applicable, Bidder acknowledges receipt of the following amendment(s):

Amendment No. \_\_\_\_ Dated: \_\_\_\_\_\_\_\_ Amendment No. \_\_\_\_ Dated: \_\_\_\_\_\_\_\_\_\_\_

Bids are subject to the “Terms and Conditions” shown on the attached pages of this document, and any additional bidding instructions or requirements. NOTE: if you decide not to bid, do not return this document.

***ELECTRONIC SUBMITTAL ONLY***

**TERMS AND CONDITIONS**

(Unless otherwise specified)

1. **General:** When the City of Santa Fe’s Chief Procurement Officer (CPO) or his/her designee approves a purchase document in response to the bid, a binding contract is created.

2. **Variation in Quantity:** No variation in the quantity of any item called for by this order will be accepted unless such variation has been caused by conditions of loading, shipping, packing or allowances in manufacturing process and then only to the extent, if any, specified in this order.

3. **City Furnished Property:** City furnished property shall be returned to the City upon request in the same condition as received except for ordinary wear, tear and modifications ordered hereunder.

4. **Discounts:** Prompt payment discounts will not be considered in computing the low bid.

5. **Inspection:** Final inspection and acceptance will be made at the destination. Tangible Personal Property (goods) rejected at the destination for nonconformance with specifications shall be removed at the Contractor's risk and expense, promptly after notice of rejection.

6. **Commercial Warranty:** The Contractor agrees that the supplies or services furnished under this order shall be covered by the most favorable commercial warranties the Contractor gives for such to any customer for such supplies or services. The rights and remedies provided herein shall extend to the City and are in addition to and do not limit any rights afforded to the City by any other clause of this order. **Contractor agrees not to disclaim warranties of fitness for a particular purpose of merchantability.**

7. **Taxes:** Price shall not include State gross receipts tax or local option tax. Such tax or taxes shall be added at time of invoicing at current rate and shown as a separate item to be paid by the Requesting Department.

8. **Packing, Shipping, and Invoicing:**

a. The City’s purchasing document number and the Contractor's name, Requesting Department's name and location shall be shown on each packing and delivery ticket, package, bill of lading and other correspondence in connection with the shipments. The Requesting Departments’ count will be accepted by the Contractor as final and conclusive on all shipments not accompanied by a packing ticket.

b. The Contractor's invoice shall be submitted duly certified and shall contain the following information: order number, description of supplies or services, quantities, unit price and extended totals. Separate invoices shall be rendered for each and every complete shipment.

c. Invoices must be submitted to the Requesting Department and NOT to the City Chief Procurement Officer.

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

11. **Nondiscrimination:** Contractor doing business with the City must be in compliance with the Federal Civil Rights Act of 1964 and Title VII of the Act (Rev. 1979) and the Americans with Disabilities Act of 1990 (Public Law 101-336).

12. **Penalties:** Sections 13-1-28 through 13-1-199 NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities, and kickbacks.

13. **Payment Provisions:** All payments under this Agreement are subject to the following provisions.

A. Acceptance - In accordance with Section 13-1-158 NMSA 1978, the City shall determine if the product or services provided meet specifications. Until the products or services have been accepted in writing by the City, the City shall not pay for any products or services. Unless otherwise agreed upon between the City and the Contractor, within thirty (30) days from the date the City receives written notice from the Contractor that payment is requested for services or within thirty (30) days from the receipt of products, the City shall issue a written certification (by letter or email) of complete or partial acceptance or rejection of the products or services. Unless the City gives notice of rejection within the specified time period, the products or services will be deemed to have been accepted.

B. Payment of Invoice - Upon acceptance that the products or services have been received and accepted, payment shall be tendered to the Contractor within thirty (30) days after the date of invoice. After the thirtieth day from the date that written certification of acceptance is issued, late payment charges shall be paid on the unpaid balance due on the contract to the Contractor at the rate of 1.5 % per month. Contractor may submit invoices for payment no more frequently than monthly. Payment will be made to the Contractor's designated mailing address. Payment on each invoice shall be due within 30 days from the date of the acceptance of the invoice. The City agrees to pay in full the balance shown on each account’s statement, by the due date shown on said statement.

14. **Items:** All bid items are to be NEW and of most current production, unless otherwise specified.

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

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

17. **Records and Audit:** The Contractor shall maintain detailed time and expenditure records that indicate the date, time, nature, and cost of services rendered during this Agreement’s term and effect, and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the Requesting Department and the City. The Requesting Department shall have the right to audit billings, both before and after payment. Payment for services under this Agreement shall not foreclose the right of the Requesting Department to recover excessive or illegal payments.

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

**IMPORTANT BIDDING INFORMATION**

**SUBMISSION OF BID:** Due Date – July 14, 2022, at 2:00 P.M. (MST/MDT) at which time the sealed Bids will be recorded as received and opened.

Solicitation packets are available at the following website: [**https://www.santafenm.gov/bids\_rfps**](https://www.santafenm.gov/bids_rfps)

**BID SUBMISSION:**

Complete bid documents, as required, by this ITB. **ALL** Specifications, submittal required documentation, supporting materials, certificates, etc. in addition to the bid documents must be attached to form a complete responsive bid. (NMSA 1978 13-1-82-85; NMSA 1978 13-1-133)

* Electronic bid submissions through the following City of Santa Fe email: [purchasing\_ITB@santafenm.gov](mailto:purchasing_ITB@santafenm.gov)

* It is the Bidder’s responsibility to ensure all documents are completely uploaded and submitted electronically via the email submission system by the deadline set forth in this ITB. Such electronic submissions will be considered sealed bids in accordance with statute. **Note:** **It is the responsibility of the Bidder to ensure bids are correct and accurate before submission.** By bidding electronically, you acknowledge any and all amendments and it is your responsibility to ensure your bid corresponds with any amendments.
* If an amendment is processed after bid is submitted, Bidders must resubmit their bid in order for it to be considered fully submitted.
* Please ensure to allow adequate time for large uploads and to fully complete the submittal by the deadline. A submission that is not both: (1) fully complete; and (2) received, via email by the deadline, will be deemed late. Further, a submission that is not fully complete by the deadline because the response was captured, blocked, filtered, quarantined or otherwise prevented from reaching the proper destination server by any anti-virus or other security software will be deemed late.
* It is the Bidder’s responsibility to ensure that both a ‘Read’ receipt and ‘Delivery’ receipt is remitted and conveyed in their own email for their own records. The City of Santa Fe will not guarantee that a response email will be sent to the Bidder upon submission, however, every effort to acknowledge that the bid was received timely will be made.

***LATE BIDS Will NOT BE ACCEPTED.***

**Chief Procurement Officer (CPO):**

CPO contact information is:

Fran A. Dunaway

Chief Procurement Officer

City of Santa Fe

[fadunaway@santafenm.gov](mailto:fadunaway@santafenm.gov)

**Any inquiries or requests** regarding this procurement should be submitted, in writing, to the Procurement Manager AND the Central Purchasing Office at the following emails:

Procurement Manager:

Name: Tom E. Miller / Ice Arena Manager / Recreation / City of Santa Fe

Email: [temilller@santafenm.gov](mailto:temilller@santafenm.gov)

Central Purchasing Office:

[purchasing\_ITB@santafenm.gov](mailto:purchasing_ITB@santafenm.gov)

Bidders may contact **ONLY** the Procurement Manager and the Central Purchasing Office regarding this procurement. Other city employees or Evaluation Committee members do not have the authority to respond on behalf of the Procurement Manager.

**Protests of the solicitation or award must be submitted in writing to the CPO.**  The CPO of the City of Santa Fe is the only authority for formal review and determination of a protest pursuant to §13-1-172, NMSA 1978 and Procurement Manual Section Y; **ONLY protests delivered directly to the CPO in writing and in a timely fashion will be considered to have been submitted properly and in accordance with statute, rule and this Invitation to Bid.** Protests submitted or delivered to the CPO will **NOT** be considered properly submitted.

Bidders may contact ONLY the Procurement Manager or Central Purchasing Office regarding the terminology stated in the solicitation. Other City employees do not have the authority to respond on behalf of the City.

Bidders shall promptly notify the CPO or his/her designee of any ambiguity, inconsistency, or error which they may discover upon examination of the bid. Any response made by the City will be provided in writing to all contractors by addendum, no verbal responses shall be authoritative.

If you are an individual with a disability and you require accommodations such as a hearing interpreter to attend our bid openings, please contact the CPO or his/her designee at least five (5) working days prior to the scheduled bid opening.

**MANDATORY PRE-BID CONFERENCE:**  A pre-bid conference and walk-thru will be held at the GCCC on-site for this bid on June 30, 2022, at 10:00 AM. Address location:

Genoveva Chavez Community Center (GCCC)  
3221 Rodeo Road   
Santa Fe, NM 87507

***Note: During the Pre-Bid Conference attendees shall observe all Federal, State, and local health and safety protocols and mandates with regard to the COVID-19 pandemic.***

***All questions after the walk-thru shall be submitted in writing by e-mail to the Procurement Manager of this ITB. Responses to questions will be issued by Amendment /Addenda / or Q&A posting.***

***Attendance at the Pre-Bid Conference is required, and a pre-requisite for submission of a Bid.***

**BID OPENING:** Due to the COVID-19 Pandemic, the Bid opening will be accomplished through a Zoom meeting as follows:

Date: July 14, 2022

Time: 2:00 PM Mountain Time (US and Canada)

**Topic:** Invitation to Bid: 22/43/B - REFRIGERATION AND MECHANICAL SERVICE FOR THE ICE ARENA AT THE GENOVEVA CHAVEZ COMMUNITY CENTER (GCCC)

**Join Zoom Meeting @**:

<https://santafenm-gov.zoom.us/j/84895243158?pwd=RlFKNVg5WWhpR1FBaW9uZTUyczN4Zz09>

**Meeting ID:** 848 9524 3158

**Passcode:** 942044

All Bidders must notify the CPO or his/her designee if any employee(s) of the requesting Department or the office of CPO have a financial interest in the Bidder:

**\_\_\_\_ No financial interest \_\_\_\_ Yes financial interest**

If yes specify by name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Rejection of Bids:** The CPO or his/her designee shall have the right to reject any or all bids, and in particular to reject a bid not accompanied by the data required by this bidding document, or a bid which is in any way incomplete or irregular.,

**Brand Name or Equal**: Where a brand name or equal is indicated, it is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to restrict competition. “No substitute” specifications may be authorized ONLY if required to match existing equipment.

If bidding “equivalent” bidders must be prepared to furnish “complete data” upon request, preferably with bid, to avoid delay in award.

**Prohibit Bidding:** If any Bidder is of the opinion that the specifications as written preclude him from submitting a bid on this ITB, it is requested that his opinion be made known to the CPO or his/her designee, in writing, at least seven (7) days prior to the bid opening date.

**Responsible Bidder:** Bidders must, upon request of the CPO or his/her designee, provide information and data to prove that the financial resources, production of service facilities, service reputation and experience are adequate to make satisfactory delivery of the materials and/or services. the CPO or his/her designee reserves the right to require a Bidder to furnish a Performance Bond prior to award, where the Bidder is unable to furnish the required information or data, or for other reasons which would insure proper performance by the Bidder.

**Samples:** Unless otherwise indicated in the bid specifications, samples of the items, when required, shall be free of expense to the City. Samples not destroyed or mutilated in testing will be returned upon request, at Bidders expense. Each sample must be labeled to clearly show the bid number and item number that it pertains to. Unsolicited bid samples or descriptive literature, which is submitted at the Bidder’s risk, will not be returned.

**Bid tabulations:** Bid tabs will be posted to our website after the bid opening date. To access go to [https://www. https://www.santafenm.gov/bid\_tabulations](https://www.generalservices.state.nm.us/statepurchasing/active-procurements.aspx)

**AWARDS:**

**Determination of Lowest Bidder –** Following determination of product acceptability, if any is required, bids will be evaluated to determine which Bidder offers the lowest cost to the City in accordance with the specifications and terms & conditions set forth in the Bid. The City reserves the right to award this Bid in total; by groups of items; on the basis of individual items; any combination of these which could result in a multiple award; or as otherwise specified in bid specifications; whichever, in his/her judgment, best serves the interest of the City.

The CPO or his/her designee shall have the right to waive technical irregularities, and to award to the Bidder whose bid is deemed to be in the best interest of the City.

**Special Notice –** To preclude any possible errors and/or misinterpretations, bid prices must be affixed legibly in ink or typewritten. Corrections or changes must be signed or initialed by Bidder prior to the scheduled bid opening; failure to do so will be just cause for rejection of bid.

Bids may be withdrawn upon receipt of written request, prior to scheduled bid opening for the purpose of making any corrections and/or changes; such corrections must be properly identified and signed or initialed by Bidder. Resubmittal must be prior to scheduled bid opening for consideration.

After bid opening, no modifications on bid prices or other provisions of bid shall be permitted. A low Bidder alleging a material mistake of fact after bids have been opened may be permitted to withdraw the bid upon written request prior to award at the discretion of the CPO or his/her designee.

**F.O.B. Destination –** Means goods are to be delivered to the destination designated by the Requesting Department which is the point at which the Requesting Department accepts ownership or title of the goods. Laws of New Mexico specifically prohibit acceptance of ownership of goods in transit. Any exception to F.O.B. Destinationmay cause bid to be declared nonresponsive.

**Orders:**

Under the terms and conditions of this Agreement the City may issue orders for items described herein. The terms and conditions shall form a part of each order issued hereunder.

The items to be ordered shall be as listed in the Price Schedule. All orders issued hereunder will bear both an order number and the Purchase Order Number.

Only written signed orders are valid.

Items and/or services furnished hereunder shall conform to the requirements of specifications and/or drawings applicable to items listed under the Price Schedule. Orders issued against this schedule will show the applicable item(s), number(s), and price(s); however, they may not describe the item(s) fully.

The prices quoted herein represent the total compensation to be paid by the City for the goods provided including any and all labor, equipment, tools, materials, taxes, permits, licenses, or other costs necessary to complete the services or goods provided.

**Shipping and Billing Instructions:**

The Contractor shall ship in accordance with the following instructions: Shipment shall be made only against specific orders which the Requesting Department may place with the Contractor during the term; The Contractor shall enclose a packing list with each shipment listing the order number, Agreement number and the commercial parts number (if any) for each item; delivery shall be made as indicated by the Requesting Department. If contractor is unable to meet stated delivery the CPO or his/her designee must be notified.

**Term:**

The term of this agreement shall be awarded for a four (4) year term. This Agreement shall not exceed four (4) years.

**Method of Award:** This will be a single vendor award. The award will be made to the bidder who meets or exceeds all specifications listed in the ITB and provides the lowest qualified bid.

**Tax Note:**

Prices submitted by the Bidder shall not include State Gross Receipts Tax (GRT) or Local Option Tax.

Applicable NMGRT rate will be applied and paid as determined by NM Taxation and Revenue Department at time of service.

The Awarded Vendor shall add applicable NM GRT or Local Option Tax to their invoice at the current rates at the time of service as a separate line item to be paid by the user.

**Escalation / Reduction Clause:**

Awarded Contractor shall keep pricing fixed for the first year of this Agreement. Thereafter, City of Santa Fe and the Awarded Contractor may adjust pricing no more than once annually through an amendment to the Agreement at the time of Agreement renewal. Awarded Contractor shall submit all pricing increase requests to City of Santa Fe directly or through the agency contact in writing and provide substantiating evidence that each request is based on demonstrable market changes impacting the cost of products. The request must show all proposed increases by line item and include supporting documentation acceptable to City of Santa Fe (such as a letter from a manufacturer indicating price increases, etc.) City’s decision on what is acceptable in this context is final and shall be accepted by all parties to the Agreement. ***Requested price increases that exceed 10% will not be accepted.*** No price increase may result in a higher profit margin for the Awarded Contractor than at the beginning of the initial term of this Agreement. Pricing changes will apply to Agreements and amendments to Agreements entered on and after the effective date of the price change. Price decreases as well as increases shall apply in the same manner. If Awarded Vendor's prices are reduced for any reason, users shall receive the benefit of such reductions, immediately. Price increases will not be retroactive to orders already in house or backorders. Orders will be filled at the price in effect on the date of receipt of the order by the vendor.

To facilitate prompt consideration, all requests for price increase must include all information listed below:

1. Agreement Item Number
2. Current Item Price
3. Proposed New Price
4. Percentage of Increase
5. Mill/Supplier Notification of price increase indicating percentage of increase and including the reason for the increase.

**Insurance Requirements:**

The Awarded Contractor shall procure and maintain at the Awarded Vendor’s own expense, insurance of the kinds and in amounts herein required. This insurance shall be provided by insurance companies authorized to do business in the State of New Mexico and shall cover all operations under the price agreement, whether performed by the Awarded Vendor, the Awarded Vendor's agents or employees, or by sub-contractors. All insurance provided shall remain in full force and effect for the entire period of the work, up to and including final acceptance, and the removal of all equipment, employees, agents and sub-contractors therefrom.

**Bidding Information:**

The conditions and specifications set out in this ITB are inseparable and indivisible. Any Bidder, by submitting a bid, agrees to be bound by all such conditions and/or specifications. All conditions and specifications in the ITB, and all other documents required to be submitted, shall be submitted by the Bidder in their bid package. Failure to do so or any attempt to vary or change the conditions or specifications of the invitation to bid shall, at the discretion of the City of Santa Fe, constitute grounds for rejection of the entire bid.

The prices quoted herein represent the total compensation to be paid by the City of Santa Fe for goods and/or services provided. It is understood that the Bidder providing said goods and/or services to the City of Santa Fe is responsible for payment of all costs of labor, equipment, tools, materials, federal taxes, permits, licenses, fees, and any other items necessary to complete the work provided. The prices quoted in this price agreement include an amount sufficient to cover such costs. When bidding, enter the amounts for the respective bid item unit prices to a maximum of three (3) decimal places.

The Awarded Contractor shall be considered an independent Contractor and not an employee of the City of Santa Fe. The Agency shall provide direction regarding the time and place of performance and compliance with rules and regulations required by this price agreement.

All interested Bidders, at a minimum, must be able to provide the products and/or services identified within the scope of work of this invitation to bid.

Bidder shall promptly notify the City of any ambiguity, inconsistency or error which they may discover upon the examination of the bidding documents, or of site and local conditions.

This bid may be awarded as an “all or none” bid or awarded as a multiple source bid: Bidders must provide a bid for each item or none of them.

The City shall have the right to reject any or all bids, and in particular, to reject a bid not accompanied by data, literature or samples required by the bidding documents, or a bid in any way incomplete or irregular.

**IMPORTANT: NO ADDITIONAL TERMS AND/OR CONDITIONS WILL BE ACCEPTED**

**SPECIFICATIONS:**

Establish a Service Agreement for Refrigeration, Mechanical, Plumbing and Electrical Services for the Ice Arena at the Genoveva Chavez Community Center (GCCC) The area to be serviced is 17,000 square feet located at the:

Genoveva Chavez Community Center (GCCC)  
3221 Rodeo Road   
Santa Fe, NM 87507

The Vendor will provide services for both Repair and Maintenance which include, but are not limited to, mechanical and electrical services to the refrigeration plant and associated mechanical systems that support the environment and ice conditions and (HVAC) Heating, Ventilation and Air Conditioning. All efforts to service the below equipment will be made during ***normal business hours, Monday through Friday 8am – 5pm*** but it might be necessary to service the equipment on weekends and after normal business hours. This would be considered Emergency/On-Call. If the vendor is contacted via phone by an authorized GCCC representative, it is considered a critical item. All other items needing attention will be scheduled through e-mails.

All work shall be in strict compliance with the national and state building mechanical, plumbing and electrical codes including (SMACNA) Sheet Metal and Air Conditioning Contractors’ National Association, and (ASHRAE) American Society of Heating, Refrigerating and Air-Conditioning Engineers standards. Any work involving disconnect or switching of electrical service to a work area shall utilize lockout tagout identification practices. Selected vendor MUST follow all City and State Licensing requirements for work listed in this agreement and must provide proof of licenses at any time requested by the City of Santa Fe or GCCC. These licenses must remain valid throughout the term of the agreement. Scheduled visits would be for a particular item or scheduled maintenance.

Vendor and the lead journeyman/technician shall have at least five (5) years' experience with maintenance and repair of ice rink, ice arena equipment used in the GCCC Ice Arena or similar equipment. **Documentation of the experience must be submitted with the bid, failure to submit the documentation may deem the bid non-responsive. Bidder will submit at least 3 references related to this ITB, the reference will include the name of the company, contact name, phone number, e-mail address and physical address. These references may be contacted by the GCCC.**

Vendor shall include in the bid their New Mexico License Number and Classification Pursuant to NMAC 14.6.6.10 and 14.6.6.12, a validly licensed person may bid and contract as the prime contractor of a project only if the major portion of the work, based on dollar amount, is authorized by the classification of the Prime Contractor’s license.

**MATERIALS AND PARTS:**

The GCCC requires that all materials be new and of the highest quality and at the best attainable price available for the type of work being performed. No used materials shall be used on the project unless they are recycled materials specifically prepared for reuse and meet (LEED) Leadership in Energy and Environmental Design certification.

The Contractor shall provide an itemized quantifiable list of materials needed to complete projects and maintenance. Billings shall be submitted based on actual cost for materials, less any applicable percentage for discounts. Contractor shall provide verification that materials purchased were used for the project. Any unused, billed for materials shall be turned over to the GCCC.

**CLEAN UP:**

The Contractor shall provide all clean-up for its operations and control of all construction debris. All work areas shall be maintained in a neat and workmanlike manner. All construction debris shall be removed from the work areas and disposed of at an approved waste disposal site. The GCCC trash container for the building shall not be used for disposal of any construction debris.

**SAFETY**:

Safety shall be of main concern and enforced by the vendor on site and will be periodically inspected by the State's qualified safety personnel. The selected Contractor will comply with all local, state, and federal laws governing safety, health, and sanitation. The on-site Journeyman shall always have a minimum (OSHA) Occupational Safety and Health Administration 10 and preferably OSHA 30 card with him when on the jobsite. **Copies of these cards will be submitted with the bid, failure to submit may deem the bid nonresponsive.**

The Using Agency shall not in any way be responsible for any fines set forth for such violations of codes, OSHA standards or any other governing agency having justification at the work site. The selected vendor shall provide all needed safeguards, safety devices and protective equipment and take any actions necessary to protect the life and health of the vendor, city employees, the public and to protect the property of the GCCC during the performance of the work covered by this Price Agreement while on site.

Any technician servicing EPA (Environmental Protection Act) regulated refrigerants in HVAC units MUST have a valid EPA Section 608 Certification covering the applicable refrigerant. **Copies of the EPA Section 608 Certification will be submitted with the bid, failure to submit may deem the bid nonresponsive.** The Contractor will assume responsibility for all EPA fines including those attributable to the Using Agency if the Contractor is found to be illegally, intentionally, or accidently releasing any regulated refrigerant. Prior to working on any regulated refrigerant-containing equipment, the Contractor shall provide a written statement certifying that they will use EPA-certified refrigerant recovery and recycling equipment when applicable.

**MAINTENANCE**:

All maintenance and repairs will be done by industry and equipment manual standards. These industry standards are determined by the manuals for the equipment located in the Ice Technicians office or via on-line authorized service manuals. The equipment that is to be serviced is listed in the ‘Equipment’ Section below. The GCCC Ice Technician/Ice Arena Manager will work with/coordinate with the Contractor on the dates for the site visit and discuss filters, lubrication, pumps, motors, and Preventive Maintenance Service (PMS). **All replaced parts will have the manufacturer warranty (of *at least* 30 days, this could be longer depending on the part) all service performed on GCCC equipment will have a 30-day warranty.**

**EQUIPMENT**: The equipment to be maintained includes but is not limited to:

**Quantity 2** - Compressors - Mycom “W” Series Reciprocating Compressors

**Quantity 2** - Chillers - Cimco CCS80WE R507A / Bitzer Compressors and DX chiller

Cold and warm floor ice making loops

**Quantity 1** - Water cooling towers - Cimco Tormont Model # LSTA4121

**Quantity 2 -** (HVAC) Heating Ventilation and Air Conditioner units – York Model # Y14EN74A2AABAA

**Quantity 1** - Dehumidification unit Exhaust fans – MUNTERS Model # AM30G

**Quantity 2** - Evaporative coolers - Cimco Tormont Model # LSTA4121

Various Pumps

Various Motors

Various Condensers

Various Water treatment system Support

All computer operated controls associated with the above equipment

*Note: If equipment is not listed above, the vendor must be licensed to maintain/repair that part and receive prior authorization from the GCCC.*

**WEEKLY RESPONSIBILITES:**

* 1. Perform a weekly visual inspection, operational test, and diagnostics on all systems equipment. Work with ice staff on possible concerns with equipment. Provide an approved GCCC weekly visual inspection report on the status of all equipment. Time and date of these weekly inspections will be determined by both the vendor and GCCC. Repair any issues found during the weekly inspections upon GCCC approval. **Weekly inspections are an all-inclusive flat rate. If additional approved repairs or maintenance are needed, then the hourly rate will be used.**

**QUARTERLY RESPONSIBILITIES:**

* 1. Submit a quarterly written report of tasks performed to the Ice Technician/Ice Arena Manager, findings of work needed, and status of mechanical and electrical systems to date. Communicate via an approved GCCC written report once a month regarding status of work, issues, and invoices. This includes four regularly scheduled visits, which shall occur in August, October, January, and April. The Contractor will report to the Ice Technician/Ice Arena Manager upon arrival, and when departing for the day.
  2. Perform a quarterly inspection of the operation of all moving parts of each piece of equipment listed and all supporting automated systems. An approved GCCC quarterly visual inspection written report will be submitted. This report will be kept for audit and reference purposes.
  3. Inspect belts in refrigeration plant Compressor's number 1 thru 4 and all Roof Top Units (RTU's) quarterly as needed. (Belts & pulleys will be provided by GCCC if needed)
  4. During one of the quarterly inspections, perform leak check tests on the condenser/chiller systems for Skid Number 1 and 2.
  5. Quarterly inspection of the MUNTERS Dehumidification system and check both desiccant wheel belts for wear and adjustments. Check both motor blower belts for wear and tension. Refer to manual for additional tests and other maintenance specifications. GCCC will provide the either the hardcopy or electronic manual if requested to ensure proper maintenance instructions.
  6. Vendor shall also provide quarterly comprehensive inspections, repair of the equipment and service of HVAC system on west-side locker room roof that follows the recommended service in the equipment manual.
  7. Repair any issues found during the quarterly inspections upon GCCC approval.

**Quarterly inspections are an all-inclusive flat rate. If additional approved repairs or maintenance is needed, then the hourly rate will be used.**

**ANNUAL RESPONSIBILITIES:**

1. Inspect and clean the water cooling towers annually (September). Inspect fans, drive shaft, and belts in Tower Number 1 and Tower Number 2 for wear and necessary adjustments. Annually clean and flush both towers.
2. Annually inspect and clean both HVAC Units Number 6 and 7 condenser coils inside and out to prevent high head pressure on these self-contained Roof Top Units (RTU).

If an item is discovered to need repair during a routine or other inspection, Contractor shall note the repair needed, the system impacted, and the cost to provide the repair. A written report that includes the quote will be provided. No work shall commence by the Contractor until an approved Purchase Order (PO) is created.

**Annual inspections are an all-inclusive flat rate. If additional approved repairs or maintenance are needed, then the hourly rate will be used.**

**ON-CALL /EMERGENCY RESPONSIBILITIES:**

The Selected Vendor shall respond within three (3) hours after receipt of the notification call for required service. The receipt of notification will be logged by a GCCC representative with the date and time. Unless otherwise authorized by the GCCC, the vendor must physically be on site at the GCCC. The GCCC does reserve the right to schedule a time and date outside of the 3-hour window with the vendor if needed. These calls may be in the evening, weekends, and holidays. Repair any issues found during the on-call/emergency response upon GCCC approval.

**COST RESPONSE/PRICE SCHEDULE:**

| **Item** | **Approx.**  **QTY** | **Unit** | **Article and Description** | **Unit Price** | **Unit Price** |
| --- | --- | --- | --- | --- | --- |
| 1 | 52 | Weekly | Weekly Inspection (As listed above), Flat Rate | $ | $ |
| 2 | 4 | Quarterly | Quarterly Inspection (As listed above), Flat Rate | $ | $ |
| 3 | 1 | Annually | Annual Inspection (As listed above), Flat Rate | $ | $ |
|  |  |  |  | **Unit Price**  **Repair Under $60K** | **Unit Price Repair Over $60K** |
| 4 | 1 | Hourly | Plumber Technician | $ | $ |
| 5 | 1 | Hourly | Refrigeration Technician | $ | $ |
| 6 | 1 | Hourly | Electrician, Journeyman | $ | $ |
| 7 | 1 | Hourly | Laborer Rate | $ | $ |
| 8 | 1 | Hourly | On-Call /Emergencies 8:00am through 5:00pm (Per Technician) Note: Prior authorization must be given by the GCCC if more than one technician is needed | $ | $ |
| 9 | 1 | Hourly | On-Call/Emergencies, 5:01pm through 7:59am (Per Technician on Site) Note: Prior authorization must be given by the GCCC if more than one technician is needed | $ | $ |
| 10 | 1 | Hourly | On-Call/Emergencies, 8:00am through 5:00pm (Per Laborer on site) Note: Prior authorization must be given by the GCCC if more than one laborer is needed | $ | $ |
| 11 | 1 | HR | On-Call/Emergencies, 5:01pm through 7:59am (Per Laborer on Site) Note: Prior authorization must be given by the GCCC if more than one Laborer is needed | $ | $ |
| 12 | N/A | % | % Discount off cost of current catalog price for parts, equipment, and other supplies needed for service, repair, and replacement. | % | % |

# 

# **LIVING WAGE ORDINANCE**



# **DRAFT CONTRACT**

**The Draft Contract must be as complete as possible; including all City/Federal Terms and Conditions, Detailed Scope of Work, Definitions, etc.** This does not preclude the City from negotiating the final contract terms and conditions upon award.

**The Agreement included in this Appendix C represents the contract/price agreement the City intends to use to make an award/awards. The City of Santa Fe reserves the right to modify the Agreement prior to, or during, the award process, as necessary.**

Item#\_\_\_\_\_\_\_\_\_\_\_\_

Munis Contract# \_\_\_\_\_\_\_\_

**CITY OF SANTA FE**

**GENERAL SERVICES CONTRACT**

**REFRIGERATION AND MECHANICAL SERVICE FOR THE ICE ARENA AT THE GENOVEVA CHAVEZ COMMUNITY CENTER (GCCC)**

THIS AGREEMENT is made and entered into by and between the City of Santa Fe, herein after **referred to as the “City”, and <Enter Contractor Name>herein after referred to as the “Contractor.”**

**IT IS MUTUALLY AGREED BETWEEN THE PARTIES:**

**1. Definitions**

**A. "Products and Services Schedule" refers to the complete list of products and services offered under this Agreement and the price for each. Product and service descriptions may be amended with the prior approval of the Agreement Administrator. New products and services shall not be added to the Products and Services Schedule.**

**B. "Business Hours" means 8:00 a.m. to 5:00 p.m. Mountain Time.**

**C. “You” and “your” refers to (Contract Name). “We,” “us” or “our” refers to the City and whose accounts are created under this Agreement.**

2. **Scope of Work**

Establish a Service Agreement for Refrigeration, Mechanical, Plumbing and Electrical Services for the Ice Arena at the Genoveva Chavez Community Center (GCCC) The area to be serviced is 17,000 square feet located at the:

Genoveva Chavez Community Center (GCCC)  
3221 Rodeo Road   
Santa Fe, NM 87507

The Vendor will provide services for both Repair and Maintenance which include, but are not limited to, mechanical and electrical services to the refrigeration plant and associated mechanical systems that support the environment and ice conditions and (HVAC) Heating, Ventilation and Air Conditioning. All efforts to service the below equipment will be made during ***normal business hours, Monday through Friday 8am – 5pm*** but it might be necessary to service the equipment on weekends and after normal business hours. This would be considered Emergency/On-Call. If the vendor is contacted via phone by an authorized GCCC representative, it is considered a critical item. All other items needing attention will be scheduled through e-mails.

All work shall be in strict compliance with the national and state building mechanical, plumbing and electrical codes including (SMACNA) Sheet Metal and Air Conditioning Contractors’ National Association, and (ASHRAE) American Society of Heating, Refrigerating and Air-Conditioning Engineers standards. Any work involving disconnect or switching of electrical service to a work area shall utilize lockout tagout identification practices. Selected vendor MUST follow all City and State Licensing requirements for work listed in this agreement and must provide proof of licenses at any time requested by the City of Santa Fe or GCCC. These licenses must remain valid throughout the term of the agreement. Scheduled visits would be for a particular item or scheduled maintenance.

Vendor and the lead journeyman/technician shall have at least five (5) years' experience with maintenance and repair of ice rink, ice arena equipment used in the GCCC Ice Arena or similar equipment. **Documentation of the experience must be submitted with the bid, failure to submit the documentation may deem the bid non-responsive. Bidder will submit at least 3 references related to this ITB, the reference will include the name of the company, contact name, phone number, e-mail address and physical address. These references may be contacted by the GCCC.**

Vendor shall include in the bid their New Mexico License Number and Classification Pursuant to NMAC 14.6.6.10 and 14.6.6.12, a validly licensed person may bid and contract as the prime contractor of a project only if the major portion of the work, based on dollar amount, is authorized by the classification of the Prime Contractor’s license.

**MATERIALS AND PARTS:**

The GCCC requires that all materials be new and of the highest quality and at the best attainable price available for the type of work being performed. No used materials shall be used on the project unless they are recycled materials specifically prepared for reuse and meet (LEED) Leadership in Energy and Environmental Design certification.

The Contractor shall provide an itemized quantifiable list of materials needed to complete projects and maintenance. Billings shall be submitted based on actual cost for materials, less any applicable percentage for discounts. Contractor shall provide verification that materials purchased were used for the project. Any unused, billed for materials shall be turned over to the GCCC.

**CLEAN UP:**

The Contractor shall provide all clean-up for its operations and control of all construction debris. All work areas shall be maintained in a neat and workmanlike manner. All construction debris shall be removed from the work areas and disposed of at an approved waste disposal site. The GCCC trash container for the building shall not be used for disposal of any construction debris.

**SAFETY**:

Safety shall be of main concern and enforced by the vendor on site and will be periodically inspected by the State's qualified safety personnel. The selected Contractor will comply with all local, state, and federal laws governing safety, health, and sanitation. The on-site Journeyman shall always have a minimum (OSHA) Occupational Safety and Health Administration 10 and preferably OSHA 30 card with him when on the jobsite. **Copies of these cards will be submitted with the bid, failure to submit may deem the bid nonresponsive.**

The Using Agency shall not in any way be responsible for any fines set forth for such violations of codes, OSHA standards or any other governing agency having justification at the work site. The selected vendor shall provide all needed safeguards, safety devices and protective equipment and take any actions necessary to protect the life and health of the vendor, city employees, the public and to protect the property of the GCCC during the performance of the work covered by this Price Agreement while on site.

Any technician servicing EPA (Environmental Protection Act) regulated refrigerants in HVAC units MUST have a valid EPA Section 608 Certification covering the applicable refrigerant. **Copies of the EPA Section 608 Certification will be submitted with the bid, failure to submit may deem the bid nonresponsive.** The Contractor will assume responsibility for all EPA fines including those attributable to the Using Agency if the Contractor is found to be illegally, intentionally, or accidently releasing any regulated refrigerant. Prior to working on any regulated refrigerant-containing equipment, the Contractor shall provide a written statement certifying that they will use EPA-certified refrigerant recovery and recycling equipment when applicable.

**MAINTENANCE**:

All maintenance and repairs will be done by industry and equipment manual standards. These industry standards are determined by the manuals for the equipment located in the Ice Technicians office or via on-line authorized service manuals. The equipment that is to be serviced is listed in the ‘Equipment’ Section below. The GCCC Ice Technician/Ice Arena Manager will work with/coordinate with the Contractor on the dates for the site visit and discuss filters, lubrication, pumps, motors, and Preventive Maintenance Service (PMS). **All replaced parts will have the manufacturer warranty (of *at least* 30 days, this could be longer depending on the part) all service performed on GCCC equipment will have a 30-day warranty.**

**EQUIPMENT**: The equipment to be maintained includes but is not limited to:

**Quantity 2** - Compressors - Mycom “W” Series Reciprocating Compressors

**Quantity 2** - Chillers - Cimco CCS80WE R507A / Bitzer Compressors and DX chiller

Cold and warm floor ice making loops

**Quantity 1** - Water cooling towers - Cimco Tormont Model # LSTA4121

**Quantity 2 -** (HVAC) Heating Ventilation and Air Conditioner units – York Model # Y14EN74A2AABAA

**Quantity 1** - Dehumidification unit Exhaust fans – MUNTERS Model # AM30G

**Quantity 2** - Evaporative coolers - Cimco Tormont Model # LSTA4121

Various Pumps

Various Motors

Various Condensers

Various Water treatment system Support

All computer operated controls associated with the above equipment

*Note: If equipment is not listed above, the vendor must be licensed to maintain/repair that part and receive prior authorization from the GCCC.*

**WEEKLY RESPONSIBILITES:**

* 1. Perform a weekly visual inspection, operational test, and diagnostics on all systems equipment. Work with ice staff on possible concerns with equipment. Provide an approved GCCC weekly visual inspection report on the status of all equipment. Time and date of these weekly inspections will be determined by both the vendor and GCCC. Repair any issues found during the weekly inspections upon GCCC approval. **Weekly inspections are an all-inclusive flat rate. If additional approved repairs or maintenance are needed, then the hourly rate will be used.**

**QUARTERLY RESPONSIBILITIES:**

* 1. Submit a quarterly written report of tasks performed to the Ice Technician/Ice Arena Manager, findings of work needed, and status of mechanical and electrical systems to date. Communicate via an approved GCCC written report once a month regarding status of work, issues, and invoices. This includes four regularly scheduled visits, which shall occur in August, October, January, and April. The Contractor will report to the Ice Technician/Ice Arena Manager upon arrival, and when departing for the day.
  2. Perform a quarterly inspection of the operation of all moving parts of each piece of equipment listed and all supporting automated systems. An approved GCCC quarterly visual inspection written report will be submitted. This report will be kept for audit and reference purposes.
  3. Inspect belts in refrigeration plant Compressor's number 1 thru 4 and all Roof Top Units (RTU's) quarterly as needed. (Belts & pulleys will be provided by GCCC if needed)
  4. During one of the quarterly inspections, perform leak check tests on the condenser/chiller systems for Skid Number 1 and 2.
  5. Quarterly inspection of the MUNTERS Dehumidification system and check both desiccant wheel belts for wear and adjustments. Check both motor blower belts for wear and tension. Refer to manual for additional tests and other maintenance specifications. GCCC will provide the either the hardcopy or electronic manual if requested to ensure proper maintenance instructions.
  6. Vendor shall also provide quarterly comprehensive inspections, repair of the equipment and service of HVAC system on west-side locker room roof that follows the recommended service in the equipment manual.
  7. Repair any issues found during the quarterly inspections upon GCCC approval.

**Quarterly inspections are an all-inclusive flat rate. If additional approved repairs or maintenance is needed, then the hourly rate will be used.**

**ANNUAL RESPONSIBILITIES:**

1. Inspect and clean the water cooling towers annually (September). Inspect fans, drive shaft, and belts in Tower Number 1 and Tower Number 2 for wear and necessary adjustments. Annually clean and flush both towers.
2. Annually inspect and clean both HVAC Units Number 6 and 7 condenser coils inside and out to prevent high head pressure on these self-contained Roof Top Units (RTU).

If an item is discovered to need repair during a routine or other inspection, Contractor shall note the repair needed, the system impacted, and the cost to provide the repair. A written report that includes the quote will be provided. No work shall commence by the Contractor until an approved Purchase Order (PO) is created.

**Annual inspections are an all-inclusive flat rate. If additional approved repairs or maintenance are needed, then the hourly rate will be used.**

**ON-CALL /EMERGENCY RESPONSIBILITIES:**

The Selected Vendor shall respond within three (3) hours after receipt of the notification call for required service. The receipt of notification will be logged by a GCCC representative with the date and time. Unless otherwise authorized by the GCCC, the vendor must physically be on site at the GCCC. The GCCC does reserve the right to schedule a time and date outside of the 3-hour window with the vendor if needed. These calls may be in the evening, weekends, and holidays. Repair any issues found during the on-call/emergency response upon GCCC approval.

3. **Compensation**

The City shall pay to the Contractor based upon fixed prices for each Deliverable item as listed here.

Deliverable item: U/I (unit of issue) Price

1. $
2. $

The total compensation under this Agreement shall not exceed [Insert Dollar Amount] [CHOICE #1- excluding New Mexico gross receipts tax. CHOICE #2 - including New Mexico gross receipts tax.]

4. **Payment Provisions**

All payments under this Agreement are subject to the following provisions.

A. Acceptance - In accordance with Section 13-1-158 NMSA 1978, the City shall determine if the product or services provided meet specifications. Until the products or services have been accepted in writing by the City, the City shall not pay for any products or services. Unless otherwise agreed upon between the City and the Contractor, within thirty (30) days from the date the City receives written notice from the Contractor that payment is requested for services or within thirty (30) days from the receipt of products, the City shall issue a written certification (by letter or email) of complete or partial acceptance or rejection of the products or services. Unless the City gives notice of rejection within the specified time period, the products or services will be deemed to have been accepted.

B. Payment of Invoice - Upon acceptance that the products or services have

been received and accepted, payment shall be tendered to the Contractor within thirty (30) days after the date of invoice. After the thirtieth day from the date that written certification of acceptance is issued, late payment charges shall be paid on the unpaid balance due on the contract to the Contractor at the rate of 1.5 % per month. Contractor may submit invoices for payment no more frequently than monthly. Payment will be made to the Contractor's designated mailing address. Payment on each invoice shall be due within 30 days from the date of the acceptance of the invoice. The City agrees to pay in full the balance shown on each account’s statement, by the due date shown on said statement.

5. **Term**

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED IN WRITING BY THE CITY. This Agreement shall begin on date approved by the City, and end on\_\_\_\_\_\_\_\_\_\_. The City reserves the right to renew the contract on an annual basis by mutual Agreement not exceed a total of four years in accordance with NMSA 1978, §§ 13-1-150 through 152.

6. **Default and Force Majeure**

The City reserves the right to cancel all or any part of any orders placed under this contract without cost to the City, if the Contractor fails to meet the provisions of this contract and, except as otherwise provided herein, to hold the Contractor liable for any excess cost occasioned by the City due to the Contractor's default. The Contractor shall not be liable for any excess costs if failure to perform the order arises out of causes beyond the control and without the fault or negligence of the Contractor; such causes include, but are not restricted to, acts of God or the public enemy, acts of the State or Federal Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and defaults of sub-contractors due to any of the above, unless the City shall determine that the supplies or services to be furnished by the sub-contractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery scheduled. The rights and remedies of the City provided in this paragraph shall not be exclusive and are in addition to any other rights now being provided by law or under this contract.

7. **Termination**

A. Grounds. The City may terminate this Agreement for convenience or cause. The Contractor may only terminate this Agreement based upon the City’s uncured, material breach of this Agreement.

B. Notice; City Opportunity to Cure.

1) Except as otherwise provided in Paragraphs 7.A and 17, the City shall give Contractor written notice of termination at least thirty (30) days prior to the intended date of termination.

2) Contractor shall give City written notice of termination at least thirty (30) days prior to the intended date of termination, which notice shall (i) identify all the City’s material breaches of this Agreement upon which the termination is based and (ii) state what the City must do to cure such material breaches. Contractor’s notice of termination shall only be effective (i) if the City does not cure all material breaches within the thirty (30) day notice period or (ii) in the case of material breaches that cannot be cured within thirty (30) days, the City does not, within the thirty (30) day notice period, notify the Contractor of its intent to cure and begin with due diligence to cure the material breach.

3) Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor (i) if the Contractor becomes unable to perform the services contracted for, as determined by the City; (ii) if, during the term of this Agreement, the Contractor is suspended or debarred by the City; or (iii) the Agreement is terminated pursuant to Paragraph 17, “Appropriations”, of this Agreement.

C. Liability. Except as otherwise expressly allowed or provided under this Agreement, the City’s sole liability upon termination shall be to pay for acceptable work performed prior to the Contractor’s receipt or issuance of a notice of termination; provided, however, that a notice of termination shall not nullify or otherwise affect either party’s liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. *THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE CITY’S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.*

8. **Amendment**

A. This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

B. If the City proposes an amendment to the Agreement to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Agreement, pursuant to the termination provisions as set forth in Paragraph 7 herein, or to agree to the reduced funding.

9. **Status of Contractor**

The Contractor, and Contractor’s agents and employees, are independent Contractors for the City and are not employees of the City. The Contractor, and Contractor’s agents and employees, shall not accrue leave, retirement, insurance, bonding, use of City vehicles, or any other benefits afforded to employees of the City as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are personally reportable by the Contractor for income tax purposes, including without limitation, self-employment tax and business income tax. The Contractor agrees not to purport to bind the City unless the Contractor has written authority to do so, and then only within the strict limits of that authority.

10. **Assignment**

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

11. **Subcontracting**

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the City. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the City.

12. **Non-Collusion**

In signing this Agreement, the Contractor/Contractor certifies the Contractor/Contractor has not, either directly or indirectly, entered into action in restraint of free competitive bidding in connection with this offer submitted to the City.

13. **Inspection of Plant**

The City may inspect, at any reasonable time during Contractor’s regular business hours and upon prior written notice, the Contractor’s plant or place of business, or any subcontractor’s plant or place of business, which is related to the performance of this contract.

14. **Commercial Warranty**

The Contractor agrees that the tangible personal property or services furnished under this Agreement shall be covered by the most favorable commercial warranties the Contractor gives to any customer for such tangible personal property or services, and that the rights and remedies provided herein shall extend to the City and are in addition to and do not limit any rights afforded to the City by any other clause of this order. Contractor agrees not to disclaim warranties of fitness for a particular purpose or merchantability.

15. **Condition of Proposed Items**

Where tangible personal property is a part of this Agreement, all proposed items are to be NEW and of most current production, unless otherwise specified.

16. **Records and Audit**

During the term of this Agreement and for three years thereafter, the Contractor shall maintain detailed records pertaining to the services rendered and products delivered. These records shall be subject to inspection by the City, the State Auditor and other appropriate state and federal authorities. The City shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the City to recover excessive or illegal payments.

17. **Appropriations**

The terms of this Agreement, and any orders placed under it, are contingent upon sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorization are not made by the legislature, this Agreement, and any orders placed under it, shall terminate upon written notice being given by the City to the Contractor. The City's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the City proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

18. **Release**

The Contractor, upon final payment of the amount due under this Agreement, releases the City, its officers and employees, from all liabilities, claims and obligations whatsoever arising from or under this Agreement. The Contractor agrees not to purport to bind the City, unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

19. **Confidentiality**

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

20. **Conflict of Interest**

A. The Contractor represents and warrants that it presently has no interest and,

during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement. The Contractor shall comply with any applicable provisions of the New Mexico Governmental Conduct Act and the New Mexico Financial Disclosures Act.

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978.

C. Contractor’s representations and warranties in Paragraphs A and B of this Paragraph are material representations of fact upon which the City relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the City if, at any time during the term of this Agreement, Contractor learns that Contractor’s representations and warranties in Paragraphs A and B of this Paragraph 20 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor’s representations and warranties in Paragraphs A and B of this Paragraph 20 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the City and notwithstanding anything in the Agreement to the contrary, the City may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this section.

21. **Approval of Contractor Representative(s)**

The City reserves the right to require a change in Contractor representative(s) if the assigned representative(s) are not, in the opinion of the City, adequately serving the needs of the City.

22. **Scope of Agreement; Merger**

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

23. **Notice**

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

24. **Equal Opportunity Compliance**

The Contractor agrees to abide by all federal and state laws, and local Ordinances,

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

25. **Indemnification**

The Contractor shall hold the City and its employees harmless and shall indemnify the City and its employees against any and all claims, suits, actions, liabilities and costs of any kind, including attorney's fees for personal injury or damage to property arising from the acts or omissions of the Contractor, its agents, officers, employees or subcontractors. The Contractor shall not be liable for any injury or damage as a result of any negligent act or omission committed by the City, its officers or employees.

26. **New Mexico Tort Claims Act**

Any liability incurred by the City of Santa Fe in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended. The City and its “public employees” as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

27. **Applicable Law**

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with NMSA 1978, § 38-3-2.By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

28. **Limitation of Liability**

The Contractor's liability to the City, for any cause whatsoever shall be limited to the purchase price paid to the Contractor for the products and services that are the subject of the City’s, claim. The foregoing limitation does not apply to paragraph 25 of this Agreement or to damages resulting from personal injury caused by the Contractor's negligence.

29. **Incorporation by Reference and Precedence**

If this Agreement has been procured pursuant to a request for proposals, this Agreement is derived from (1) the request for proposal, (including any written clarifications to the request for proposals and any City response to questions); (2) the Contractor’s best and final offer; and (3) the Contractor’s response to the request for proposals.

In the event of a dispute under this Agreement, applicable documents will be referred to for the purpose of clarification or for additional detail in the following order of precedence: (1) amendments to the Agreement in reverse chronological order; (2) the Agreement, including the scope of work and all terms and conditions thereof; (3) the request for proposals, including attachments thereto and written responses to questions and written clarifications; (4) the Contractor’s best and final offer if such has been made and accepted by the City; and (5) the Contractor’s response to the request for proposals.

30. **Workers’ Compensation**

The Contractor agrees to comply with state laws and rules applicable to workers’ compensation benefits for its employees. If the Contractor fails to comply with the Workers’ Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the City.

31. **Inspection**

If this contract is for the purchase of tangible personal property (goods), final inspection and acceptance shall be made at Destination. Tangible personal property rejected at Destination for non-conformance to specifications shall be removed at Contractor’s risk and expense promptly after notice of rejection and shall not be allowable as billable items for payment.

32. **Inspection of Services**

If this contract is for the purchase of services, the following terms shall apply.

1. Services, as used in this Article, include services performed, workmanship, and

material furnished or utilized in the performance of services.

1. The Contractor shall provide and maintain an inspection system acceptable to the

City covering the services under this Agreement. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the City and for as long thereafter as the Agreement requires. The City has the right to inspect and test all services contemplated under this Agreement to the extent practicable at all times and places during the term of the Agreement. The City shall perform inspections and tests in a manner that will not unduly delay or interfere with Contractor’s performance.

1. If the City performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of such inspections or tests.
2. If any part of the services do not conform with the requirements of this Agreement, the City may require the Contractor to re-perform the services in conformity with the requirements of this Agreement at no increase in contract amount. When the defects in services cannot be corrected by re-performance, the City may:
3. require the Contractor to take necessary action(s) to ensure that future

performance conforms to the requirements of this Agreement; and

1. reduce the contract price to reflect the reduced value of the services performed.
2. If the Contractor fails to promptly re-perform the services or to take the

necessary action(s) to ensure future performance in conformity with the requirements of this Agreement, the City may:

1. by contract or otherwise, perform the services and charge to the Contractor any cost incurred by the City that is directly related to the performance of such service; or
2. terminate the contract for default.

33. **Insurance**

If the services contemplated under this Agreement will be performed on or in City facilities or property, Contractor shall maintain in force during the entire term of this Agreement, the following insurance coverage(s), naming the City as additional insured.

1. **Commercial General Liability** insurance  shall be written on an occurrence basis and be a broad as ISO Form CG 00 01 with limits not less than $2,000,000 per occurrence and $2,000,000 in the aggregate for claims against bodily injury, personal and advertising injury, and property damage.  Said policy shall include broad form Contractual Liability coverage and be endorsed to name the City of Santa Fe their officials, officers, employees, and agents as additional insureds.

1. **Broader Coverage and Limits**. The insurance requirements under this Agreement shall be the greater of (1) the minimum coverage and limits specified in this Agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the Named Insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required herein. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of Contractor hereunder.
2. Contractor shall maintain the above insurance for the term of this Agreement and name the City as an additional insured and provide for 30 days cancellation notice on any Certificate of Insurance form furnished by Contractor. Such certificate shall also specifically state the coverage provided under the policy is primary over any other valid and collectible insurance and provide a waiver of subrogation.

34. **Impracticality of Performance**

A party shall be excused from performance under this Agreement for any period that the party is prevented from performing as a result of an act of God, strike, war, civil disturbance, epidemic, or court order, provided that the party has prudently and promptly acted to take any and all steps that are within the party's control to ensure performance. Subject to this provision, such non-performance shall not be deemed a default or a ground for termination.

35. **Invalid Term or Condition**

If any term or condition of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforceable.

36. **Enforcement of Agreement**

A party's failure to require strict performance of any provision of this Agreement shall not

waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

37. **Patent, Copyright and Trade Secret Indemnification**

A. The Contractor shall defend, at its own expense, the City against any claim that any product or service provided under this Agreement infringes any patent, copyright to trademark in the United States or Puerto Rico, and shall pay all costs, damages and attorneys’ fees that a court finally awards as a result of any such claim. In addition, if any third party obtains a judgment against the City based upon Contractor’s trade secret infringement relating to any product or services provided under this Agreement, the Contractor agrees to reimburse the City for all costs, attorneys’ fees and amount of the judgment. To qualify for such defense and or payment, the City shall:

1) give the Contractor prompt written notice within 48 hours of any claim;

2) allow the Contractor to control the defense of settlement of the claim; and

3) cooperate with the Contractor in a reasonable way to facilitate the defense or settlement of the claim.

1. If any product or service becomes, or in the Contractor’s opinion is likely to

become the subject of a claim of infringement, the Contractor shall at its option and expense:

1) provide the City the right to continue using the product or service and fully indemnify the City against all claims that may arise out of the City’s use of the product or service;

2) replace or modify the product or service so that it becomes non-infringing; or,

3) accept the return of the product or service and refund an amount equal to the value of the returned product or service, less the unpaid portion of the purchase price and any other amounts, which are due to the Contractor. The Contractor’s obligation will be void as to any product or service modified by the City to the extent such modification is the cause of the claim.

38. **Survival**

The Agreement paragraphs titled “Patent, Copyright, Trademark, and Trade Secret

Indemnification; Indemnification; and Limit of Liability” shall survive the expiration of this Agreement. Software licenses, leases, maintenance and any other unexpired Agreements that were entered into under the terms and conditions of this Agreement shall survive this Agreement.

39. **Disclosure Regarding Responsibility**

1. Any prospective Contractor and any of its Principals who enter into a contract greater than sixty thousand dollars ($60,000.00) with any City for professional services, tangible personal property, services or construction agrees to disclose whether the Contractor, or any principal of the Contractor’s company is presently debarred, suspended, proposed for debarment, or declared ineligible for award of contract by any federal entity, state agency or local public body.
2. Principal, for the purpose of this disclosure, means an officer, director, owner, partner, or

a person having primary management or supervisory responsibilities within a business entity or related entities.

C. The Contractor shall provide immediate written notice to the City if, at any time during the term of this Agreement, the Contractor learns that the Contractor’s disclosure was at any time erroneous or became erroneous by reason of changed circumstances.

1. A disclosure that any of the items in this requirement exist will not necessarily result in termination of this Agreement.  However, the disclosure will be considered in the determination of the Contractor’s responsibility and ability to perform under this Agreement.  Failure of the Contractor to furnish a disclosure or provide additional information as requested will be grounds for immediate termination of this Agreement pursuant to the conditions set forth in Paragraph 7 of this Agreement.
2. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the disclosure required by this document.  The knowledge and information of a Contractor is not required to exceed that which is the normally possessed by a prudent person in the ordinary course of business dealings.
3. The disclosure requirement provided is a material representation of fact upon which reliance was placed when making an award and is a continuing material representation of the facts during the term of this Agreement.   If during the performance of the contract, the Contractor is indicted for or otherwise criminally or civilly charged by any government entity (federal, state or local) with commission of any offenses named in this document the Contractor must provide immediate written notice to the City.  If it is later determined that the Contractor knowingly rendered an erroneous disclosure, in addition to other remedies available to the Government, the City may terminate the involved contract for cause.  Still further the City may suspend or debar the Contractor from eligibility for future solicitations until such time as the matter is resolved to the satisfaction of the City.

40. **Suspension, Delay or Interruption of Work**

The City may, without cause, order the Contractor, in writing, to suspend, delay or

interrupt the work in whole or in part for such period of time as the City may determine. The contract sum and contract time shall be adjusted for increases in cost and/or time associated with Contractor’s compliance therewith. Upon receipt of such notice, Contractor shall leave the jobsite and any equipment in a safe condition prior to departing. Contractor must assert rights to additional compensation within thirty (30) days after suspension of work is lifted and return to work is authorized. Any compensation requested for which entitlement is granted and the contract sum adjusted, shall have profit included (for work completed) and for cost only (not profit) for Contractor costs incurred directly tied to the suspension itself and not otherwise covered by Contract remedy. Any change in Total Compensation must be reflected in an Amendment executed pursuant to Section 8 of this Agreement.

41. **Notification**

Either party may give written notice to the other party in accordance with the terms of this Paragraph. Any written notice required or permitted to be given hereunder shall be deemed to have been given on the date of delivery if delivered by personal service or hand delivery or three (3) business days after being mailed.

To the City:

To the Contractor:

Either party may change its representative or address above by written notice to the other in accordance with the terms of this Paragraph. The carrier for mail delivery and notices shall be the agent of the sender.

To the Contractor:

42. **Succession**

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

**IN WITNESS WHEREOF**, the Parties have executed this Agreement as of the date of the signature by the required approval authorities below.

CITY OF SANTA FE: CONTRACTOR:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

CITY MAYOR/MANAGER NAME

DATE:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

TITLE

DATE:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

CRS#\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Registration # \_\_\_\_\_\_\_\_\_\_

ATTEST:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

KRISTINE BUSTOS MIHELCIC, CITY CLERK

CITY ATTORNEY’S OFFICE:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

FINANCE DIRECTOR

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Org.Name/Org.#