



City of Aztec

REQUEST FOR PROPOSALS (RFP)

Solid Waste Collection Services for Residential, Commercial Customers and City Facilities

RFP# 2017-588

PROPOSALS DUE:

Thursday, October 13, 2016, 2:00 P.M.
City of Aztec Finance Conference Room
201 W Chaco
Aztec, NM 87410

FINAL DATE FOR QUESTIONS

September 28, 2016 10:00 AM

Tentative Commission Approval Date

November 22, 2016

For further information contact:

Kathy Lamb
Finance Director
City of Aztec
Phone: 505-334-7653
Fax: 505-334-7649
email: klamb@aztecnm.gov

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NOTICE TO OFFERORS
City of Aztec, NM
RFP 2017-588 Aztec Solid Waste Collection Services
Closing Date: Thursday, October 13, 2016 2:00 P.M.

The City of Aztec is accepting proposals from interested and qualified firms to solicit competitive sealed proposals for the award of a contract to provide solid waste collection services for residential and commercial customers and city facilities.

RFP documents may be obtained online by accessing the City's purchasing webpage through www.aztecnm.gov or by contacting Kathy Lamb at (505) 334-7653 or klamb@aztecnm.gov. Sealed proposals, plainly marked with the date and time of opening for RFP 2017-588, will be received by the Purchasing Office at 201 W. Chaco, Aztec, New Mexico 87410, until the hour of 2:00 p.m. on October 13, 2016.

Publication Date: September 14, 2016, Farmington Daily Times
September 16, 2016, TALON

I. INTRODUCTION

A. PURPOSE OF THIS REQUEST FOR PROPOSALS

The City of Aztec (City) is requesting sealed proposals for services to collect commercial and residential municipal solid waste (MSW or refuse). The City will select one Contractor to develop and implement a program that provides comprehensive waste collection services. Services shall be provided to all areas within the corporate limits of the City of Aztec, and any tracts, territories and areas hereafter annexed to, or acquired by the City of Aztec. Services shall include the provision of containers for both commercial and residential pickup (wheeled carts and dumpsters).

The City is committed to and the Offer is contractually obligated to:

- Provide citizens with refuse removal services at a reasonable cost to the customer;
- Minimize the environmental impacts associated with the collection, processing, disposal and recycling of materials;
- Provide citizens with two (2) community clean-up programs per year for the free removal of rubbish and clutter of each year;
- Provide recycling opportunities that target electronic waste (computers and related material), plastics, metals, paper, appliances “white goods” twice a year;
- Identify inappropriate waste practices and recommend solutions;
- Recommend ways for Provider to become involved as a part of the Aztec community;
- Enhance appearance of trucks;
- Propose possibilities of implementation of Compressed Natural Gas truck use;
- Expand customer access via phone, internet, after-hours service, and other types of availability;
- Address truck heavy-haul street damage costs.

The City seeks to enter into a multi-year agreement for refuse collection with a provider willing and able to explore opportunities to provide or respond to alternative refuse collection or disposal methods which may become available to or requested by the City of Aztec.

In addition to refuse collection disposed of through legally permitted and licensed methods to an EPA-approved landfill, the City requests Offeror proposals to include, but not limited to:

- Mix stream curbside recycling program to substantially enhance the reduction, reuse, and recycling of solid waste materials that will benefit both residential and commercial customers within the City limits. The City currently does not provide curbside recycling and proposal should identify all necessary aspects and projected timeline to implement curb side recycling.
- The City currently operates a drop off convenience center for sorted items. The proposal should include the conversion to single stream recycling. Containers and pickup to be provided by the Offeror.
- Waste to Energy refuse collection wherein all refuse collected under this agreement is delivered to a designated site within the city limits for disposal processing which may provide an alternative energy source to the City and minimize the environmental impacts associated with municipal solid waste. The City potentially could enter into an alternative waste disposal agreement during any term or portion of term in the agreement.
- Electronic Waste program. The City currently does not offer an electronic waste program to City utility customers. Proposal should identify all components necessary to implement service.

B. BACKGROUND INFORMATION

The City of Aztec is located in the northwest corner of New Mexico, 15 miles northeast of Farmington, New Mexico and 36 miles south of Durango, Colorado. The City provides for the collection of residential solid waste for Residential,

Commercial, and City facilities. As of August 31, 2016, the City serves a total of 3,045 (2,780 residential, 255 commercial, 10 city facility) customers in an area of about 13.1 square miles by a private provider.

C. TERM OF AGREEMENT

1. It is the City's intent to enter into a single agreement with a selected Provider to provide collection, transportation and disposal of municipal solid waste as defined by the contract, as is determined to be in the best interests of the City.
2. The fee proposal, as negotiated prior to contract execution (if required), shall become the final unit price under the terms of this contract, for the initial term of the contract.
3. The maximum proposed term of the Contract for Solid Waste Collection Services, including contract renewals, is for a total of six (6) years. The original term of this contract will be for one (1) year. The parties may renew the initial contract on an annual basis for the second year (1 year term) and then a four (4) year term for a total of six (6) years or any portion thereof for the purpose of continuity of contractual services. In no case will the contract(s), including all renewals, exceed a total of six (6) years in duration. Subsequent contracts for MSW collection services are subject to a new RFP process and to Commission or Management approval as called for by law and City ordinances and policies.
4. The contract resulting from this Proposal shall commence upon the date of contract execution by both parties and extend for an initial period of one-year. The City shall have the option of renewing this contract for two additional terms (one year and four years) renewable one term at a time. The decision to renew shall be solely the City's. Notice of intent to renew shall be made at least two-months prior to normal contract expiration. The City and the selected Provider shall reconfirm or renegotiate the unit rates prior to the contract renewal. If renewal results in changes in the terms or conditions, such changes shall be reduced to writing, as an amendment to this contract and such amendment shall not become effective until fully executed by both parties.
5. In the event the City does not opt to renew the contract as stated under Sec C (4) above; or the City and Provider are unable to reconfirm or renegotiate unit rates for another term, the City shall have the option of extending this contract at the current rates for a period of six months total for the purpose of completion of services started prior to current contract expiration or until a new contract can be established.

D. SCOPE OF WORK

Customer rates for the removal and disposal of solid waste refuse and recyclable solid waste shall be determined by the City of Aztec Commission using the Offeror and City negotiated Contract as the basis for such determination. The following shall apply:

- a. Offeror shall supply all necessary ancillary equipment, labor, utilities and supplies necessary to the fulfillment of services.
- b. Offeror will procure all licenses and give all notices necessary and incidental to the lawful fulfillment of the services provided.
- c. All services performed under this contract will be to the highest industry standards for services of this type and will be performed by those customarily engaged in refuse collection and disposal services business.
- d. Offeror shall establish and maintain an office within the city limits of Aztec, New Mexico for processing concerns/issues and providing any needed special services. Such offices will remain open during regular City business hours. Offeror shall also keep a current telephone listing in the local telephone directory, City website, Offeror website and post on office, signs, trucks, bins, containers and dumpsters.

- e. Contribution addressing the costs of heavy-haul truck damage caused by garbage trucks shall be negotiated to reimburse the City's road fund for the associated costs of the fair share of resulting damage.
- f. Offeror shall meet all performance targets set in the final agreement and address all failures with the identified remedies for the same.

Collection

Collection Schedule: It is the Offeror's responsibility to schedule collection day routes. The Offeror will develop a collection schedule such that all customers receive refuse collection a minimum of one collection per week. Offeror shall notify the City of residential and commercial collection routes and schedules.

Refuse Collection: Residential refuse collection shall be between 7:00 AM and 8:00 PM Monday through Friday. Commercial collection shall be between the hours of 4:00 AM and 8:00 PM Monday through Friday and 4:00 AM to 1:00 PM on Saturday. Collection beyond the hours established for residential or commercial customers shall be permitted only in the event of extra heavy workload, excessive equipment breakdown, or unusually heavy inclement weather. The City Manager or his/her designee shall first approve any deviations for the established work hours.

Containers

Offeror shall furnish, at no cost to the City or customer, hinged covered trash containers of the size and quantity required. Residential customers shall be furnished one 96 gallon wheeled polycart container with hinged lid. Commercial customers shall be furnished a 96 gallon wheeled polycart container with hinged lid or larger metal container; depending on customer requirements. Residential polycarts shall be differentiated for refuse and recyclables by a standardized, uniform color (Offeror's choice) or clearly labeled as such. City shall notify Offeror of the customer enrollment and the customer's container needs.

Offeror shall furnish overflow or additional containers at the request of the City for an additional monthly charge.

Offeror shall transport the waste from the waste containers to an EPA-approved landfill.

Special Services

The Provider shall, upon request of the customer, provide special services as follows:

Dead Animals: Provider shall make all necessary arrangements to allow its residents to dispose of dead animals for a fee at the sanitary landfill used by Provider. The Provider shall assist the City in disposal of dead animals at no cost to the City.

Special Services: Upon request and for a fee, the Provider shall provide special services for items that do not conform to the weight or size limitations for regular pick-up, such as the removal of bulky wastes, white goods and tree trimming. White goods are defined as appliances (stoves, refrigerators, freezers, etc.).

Special Wastes or Hazardous Waste: The Provider shall, upon request, provide for the collection and removal of special wastes or hazardous wastes, if Provider is licensed to do so, according to any applicable federal, state or local requirements. The disposal of such waste is a matter of private agreement between the parties, and the rates shall not be set by the City. Provider shall dispose of all such waste only in an appropriately permitted facility. Special waste means a solid waste which may require chemical analysis prior to acceptance or which

may require special handling or disposal procedures. Special wastes include, but are not limited to: asbestos, bulk tires or other bulk materials, biomedical waste, sludges and contaminated soil.

Recyclable: PROVIDER will implement any specialized recycling program established by the City. Cost of removal and disposal will be mutually agreed upon in advance by PROVIDER and the City.

Use of Landfill: Provider shall make all necessary arrangements to allow the City or its residents to use the sanitary landfill. The cost for municipal waste directly hauled to the Provider's Landfill by any City resident shall be free. A resident of Aztec may dispose of household trash, at no cost, in an amount not to exceed three (3) cubic yards every two-(2) months. Household trash is defined as waste generated in the confines of the residence, which may also include leaves. Free disposal shall not be extended to commercial customers and disposal of any construction debris. Residents will be required to show proof of residency.

Services to the City

Provider shall provide reasonable solid waste collection and disposal service to the City government, free of charge. Such service shall include but not be limited to:

1. Emptying outside solid waste receptacles (carts or dumpsters) placed throughout the corporate area of the City to include: Hartman Park, Minium Park, Riverside Park, Cap Walls Park, Florence Park, Kokopelli Park, Tiger Park, Tiger Sports Complex, Rio Animas Park, Armijo Plaza, Swire-Townsend Refuge, Kart Club and Motor Cross Track; and other public areas designated by the City, in writing, during the term of the agreement.
2. Monthly roll-off (30 yd container) at the City's recycling center for the public's use for the disposal of debris. Requirements exceeding one roll-off per month will be billed to the City at a rate negotiated with the agreement.
3. Participating in general city wide cleanup programs; two weeks a year, including delivery, transport and pickup in a timely manner a minimum of five (5) 30 cy metal containers at City direction;
4. A Christmas Tree Recycling Program;
5. Quarterly roll-off provided to the City, upon request, for yard and construction debris; and
6. Disposal of dead animals at the Animal Care and Control facility. The Provider will provide assistance to the City Staff to load the dead animals from the facility to the Provider's equipment.

Vehicles and Equipment

Offeror shall provide an adequate number of vehicles to collect solid waste in accordance with the terms of this agreement. The vehicles shall be licensed in the State of New Mexico and shall be operated in compliance with all applicable state, federal and municipal regulations. The vehicles shall be manufactured and maintained to conform to the appropriate American National Standard Institute's standards. Offeror shall comply with applicable U.S. Environmental Protection Agency standards and New Mexico Department of Transportation regulations.

Each vehicle shall bear at a minimum the name and telephone number of the Provider plainly visible on both sides of the vehicle.

Each vehicle shall be uniquely numbered in numbers at least three (3) inches high on the front and rear. Each vehicle shall have at least one broom and shovel to clean up solid waste that may be spilled or otherwise scattered during the process of collection.

The Offeror shall be responsible for an immediate response to spilled fluids and any damage caused by the Offeror in accordance with City, State and Federal regulations. Offeror shall promptly notify the City of such spills or damages.

The successful Offeror shall propose a Compressed Natural Gas truck option and cost to consider in the negotiation process.

All trucks or other equipment used in collecting solid waste shall be thoroughly cleaned at least once each week, and deodorized or maintained in a sanitary and non-offensive condition. No solid waste material shall be allowed to remain in a truck or other collection equipment while parked overnight. Offeror must comply with all applicable noise and pollution control laws, rules, ordinances and regulations.

Qualifications of Proposers

The Provider may be a single firm or a joint venture and must show evidence of its technical capability in this work. The Provider shall also be knowledgeable in accordance with all applicable federal, state, and local government laws and regulations. Work shall be done in conformance with current professional practices in the State of New Mexico.

E. INFORMATION PROVIDED BY THE CITY

1. Offerors are solely responsible for conducting their own independent research, due diligence or other work necessary for the preparation of proposals, negotiation of agreements, and the subsequent delivery of services pursuant to any agreement. In no event may Offerors rely on any oral statement.
2. Should an Offeror find discrepancies in, or omissions from, this RFP and related documents, or should Offeror be in doubt as to meaning. Offeror shall immediately notify the City's designated representative and, if necessary, written addenda will be emailed to each Offeror who has returned the "Acknowledgement of Receipt" form, Appendix A. Each Offeror requesting an interpretation will be responsible of such requests to the City's designated representative in writing as outlined in this RFP. The City will not be bound by, nor responsible for, any explanation or interpretation of the proposed documents other than those given in writing.

F. INTENT

It is the City's intent to award the contract to the most qualified, responsible Offeror(s) as detailed in the Scope of Work, and with consideration of the potential costs for services. The City will negotiate with the Offeror(s) deemed most qualified by the City to address the specific services to be provided, the time and order of services, staffing, area of responsibility and proposed fee structure, including the amount and method of payment.

G. PROCUREMENT SPECIALIST

1. The City of Aztec Procurement Specialist responsible for the conduct of this procurement whose name, address, telephone number and e-mail address are listed below:

Name: Kathy Lamb, Finance Director

Address: City of Aztec Purchasing Office
201 W Chaco
Aztec NM 87410

Telephone: (505) 334-7653
Fax: (505) 334-7649
Email: klamb@aztecnm.gov

2. All deliveries of responses via express carrier, regular mail, or hand delivery must be addressed as follows (City of Aztec is NOT located in a guaranteed delivery area):

Name: Kathy Lamb
Reference RFP Name: RFP 2017-588 Solid Waste Collection Services
Address: City of Aztec Purchasing Office
201 W Chaco
Aztec NM 87410

3. **Any inquiries or requests** regarding this procurement should be submitted, in writing, to the Procurement Specialist. Respondents may contact ONLY the Procurement Specialist regarding this procurement. Other City employees or Evaluation Committee members do not have the authority to respond on behalf of the Purchasing Office.
4. **Protests of the solicitation or award must be delivered by mail to the Protest Manager.** As A Protest Manager has been named in this Request for Proposals, pursuant to NMSA 1978, § 13-1-172, ONLY protests delivered directly to the Protest Manager in writing and in a timely fashion will be considered to have been submitted properly and in accordance with statute, rule and this Request for Proposals. Emailed protests will not be considered as properly submitted nor will protests delivered to the Procurement Specialist be considered properly submitted.

H. DEFINITION OF TERMINOLOGY

This section contains definitions of terms used throughout this procurement document, including appropriate abbreviations:

“Addendum” means a written or graphic instrument issued prior to the opening of Proposals, which clarifies, correct, or changes the Request for Proposals. Plural: addenda

“Agency” means the City of Aztec.

“Authorized Purchaser” means an individual authorized by the City to place orders against this contract.

“Award” means the final execution of the contract document.

“Business Hours” means 8:00 AM thru 5:00 PM Mountain Standard or Mountain Daylight Time, whichever is in effect on the date given.

“City” means the City of Aztec.

“Close of Business” means 5:00 PM Mountain Standard or Daylight Time, whichever is in use at that time.

"Confidential" means confidential financial information concerning respondent's organization and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act NMSA 1978 57-3-A-1 to 57-3A-7. See NMAC 1.4.1.45. As one example, no information that could be obtained from a source outside this request for proposals can be considered confidential information.

"Contract" means any agreement for the procurement of items of tangible personal property, services or construction.

"Contractor" means any business having a contract with the City.

"Determination" means the written documentation of a decision of a procurement officer including findings of fact required to support a decision. A determination becomes part of the procurement file to which it pertains.

"Desirable" the terms "may", "can", "should", "preferably", or "prefers" identify a desirable or discretionary item or factor.

"Electronic Version/Copy" means a digital form consisting of text, images or both readable on computers or other electronic devices that includes all content that the Original and Hard Copy proposals contain. The digital form may be submitted using a compact disc (cd) or USB flash drive. The electronic version/copy can NOT be emailed.

"Evaluation Committee" means a body appointed to perform the evaluation of Respondents' proposals.

"Evaluation Committee Report" means a report prepared by the Procurement Specialist and the Evaluation Committee for contract award. It will contain written determinations resulting from the procurement.

"Finalist" means a Respondent who meets all the mandatory specifications of this Request for Proposals and whose score on evaluation factors is sufficiently high to merit further consideration by the Evaluation Committee.

"Hourly Rate" means the proposed fully loaded maximum hourly rates that include travel, per diem, fringe benefits and any overhead costs for contractor personnel, as well as subcontractor personnel if appropriate.

"IT" means Information Technology.

"Mandatory" – the terms "must", "shall", "will", "is required", or "are required", identify a mandatory item or factor. Failure to meet a mandatory item or factor will result in the rejection of the Respondent's proposal.

"Minor Technical Irregularities" means anything in the proposal that does not affect the price quality and quantity or any other mandatory requirement.

"Multiple Source Award" means an award of an indefinite quantity contract for one or more similar services, items of tangible personal property or construction to more than one Respondent.

"Respondent" is any person, corporation, or partnership who chooses to submit a proposal.

"Price Agreement" means a definite quantity contract or indefinite quantity contract which requires the contractor to furnish items of tangible personal property, services or construction to a state agency or a local public body which issues a purchase order, if the purchase order is within the quantity limitations of the contract, if any.

"Procurement Specialist" means any person or designee authorized by the City of Aztec to enter into or administer contracts and make written determinations with respect thereto.

"Purchasing Office" means the City of Aztec allowed by law to entertain procurements.

"Project" means a temporary process undertaken to solve a well-defined goal or objective with clearly defined start and end times, a set of clearly defined tasks, and a budget. The project terminates once the project scope is achieved and project acceptance is given by the project executive sponsor.

"Redacted" means a version/copy of the proposal with the information considered confidential as defined by NMAC 1.4.1.45 and defined herein and outlined in Section II.C.8 of this RFP blacked out BUT NOT omitted or removed.

"Request for Proposals (RFP)" means all documents, including those attached or incorporated by reference, used for soliciting proposals.

"Responsible Respondent" means an Respondent who submits a responsive proposal and who has furnished, when required, information and data to prove that his financial resources, production or service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the services, or items of tangible personal property described in the proposal.

"Responsive Offer" or means an offer which conforms in all material respects to the requirements set forth in the request for proposals. Material respects of a request for proposals include, but are not limited to price, quality, quantity or delivery requirements.

"Sealed" means, in terms of a non-electronic submission, that the proposal is enclosed in a package which is completely fastened in such a way that nothing can be added or removed. Open packages submitted will not be accepted except for packages that may have been damaged by the delivery service itself. The State reserves the right, however, to accept or reject packages where there may have been damage done by the delivery service itself. Whether a package has been damaged by the delivery service or left unfastened and should or should not be accepted is a determination to be made by the Procurement Specialist. By submitting a proposal, the Respondent agrees to and concurs with this process and accepts the determination of the Procurement Specialist in such cases.

"Staff" means any individual who is a full-time, part-time, or an independently contracted employee with the Respondents' company.

"State (the State)" means the State of New Mexico.

"Statement of Concurrence" means an affirmative statement from the Respondent to the required specification agreeing to comply and concur with the stated requirement(s). This statement shall be included in Respondents proposal. (E.g. "We concur", "Understands and Complies", "Comply", "Will Comply if Applicable" etc.)

"Unredacted" means a version/copy of the proposal containing all complete information including any that the Respondent would otherwise consider confidential, such copy for use only for the purposes of evaluation.

"Written" means typewritten on standard 8 ½ x 11 inch paper. Larger paper is permissible for charts, spreadsheets, etc.

II. CONDITIONS GOVERNING THE PROCUREMENT

This section of the RFP contains the schedule, description and conditions governing the procurement.

A. SEQUENCE OF EVENTS

The Procurement Specialist will make every effort to adhere to the following schedule:

Action	Responsible Party	Due Dates
1. Issue RFP	City	September 14, 2016
2. Acknowledgement of Receipt Form	Potential Respondents	September 28, 2016
3. Deadline to submit Questions	Potential Respondents	September 28, 2016
4. Response to Written Questions	Procurement Specialist	October 3, 2016
5. Submission of Proposal	Potential Respondents	October 13, 2016
6. Proposal Evaluation	Evaluation Committee	October 17, 2016 to October 24, 2016
7. Selection of Finalists	Evaluation Committee	October, 2016
8. Oral Presentation(s)	Finalist Respondents	November, 2016
9. Finalize Contractual Agreements	City/Finalist Respondents	November, 2016
10. Contract Awards	City/ Finalist Respondents	November, 2016
11. Protest Deadline	City	+15 days

B. EXPLANATION OF EVENTS

The following paragraphs describe the activities listed in the sequence of events shown in Section II. A., above.

Issuance of RFP

This RFP is being issued on behalf of the City of Aztec on September 14, 2016.

Acknowledgement of Receipt

Potential Respondents should email, hand deliver, return by facsimile or mail the "Acknowledgement of Receipt of Request for Proposals Form" that accompanies this document, APPENDIX A, to have their organization placed on the procurement distribution list. The form should be signed by an authorized representative of the organization, dated and returned to the Procurement Specialist by 3:00 pm MST or MDT on **September 28, 2016**.

The procurement distribution list will be used for the distribution of written responses to questions. Failure to return the Acknowledgement of Receipt form shall constitute a presumption of receipt and rejection of the RFP, and the potential Respondent's organization name shall not appear on the distribution list.

Deadline to Submit Written Questions

Potential Respondents may submit written questions to the Procurement Specialist as to the intent or clarity of this RFP until **September 28, 2016 10:00 AM** Mountain Standard Time/Daylight Time as indicated in the sequence of events. All written questions must be addressed to the Procurement Specialist as declared in Section I, Paragraph D. Questions shall be clearly labeled and shall cite the Section(s) in the RFP or other document which form the basis of the question.

Response to Written Questions

Written responses to written questions will be distributed as indicated in the sequence of events to all potential Respondents whose organization name appears on the procurement distribution list. An e-mail copy will be sent to all Respondent's that provide Acknowledgement of Receipt Forms described in II.B.2 before the deadline. Additional copies will be posted to: <http://www.aztecnm.gov/purchasing/office.html>.

Submission of Proposal

ALL RESPONDENT PROPOSALS MUST BE RECEIVED FOR REVIEW AND EVALUATION BY THE PROCUREMENT SPECIALIST OR DESIGNEE NO LATER THAN **2:00 PM** MOUNTAIN STANDARD TIME/DAYLIGHT TIME ON **October 13, 2016**. Proposals received after this deadline will not be accepted. The date and time of receipt will be recorded on each proposal.

Proposals must be addressed and delivered to the Procurement Specialist at the address listed in Section I, Paragraph D2. Proposals must be sealed and labeled on the outside of the package to clearly indicate that they are in response to the RFP 2017-588 Aztec Solid Waste Collection Services. Proposals submitted by facsimile, or other electronic means, will not be accepted.

A public log will be kept of the names of all Respondent organizations that submitted proposals. Pursuant to NMSA 1978, § 13-1-116, the contents of proposals shall not be disclosed to competing potential Respondents during the negotiation process. The negotiation process is deemed to be in effect until the contract is awarded pursuant to this Request for Proposals. Awarded in this context means the final required state agency signature on the contract(s) resulting from the procurement has been obtained.

Proposal Evaluation

An Evaluation Committee will perform the evaluation of proposals. This process will take place as indicated in the sequence of events, depending upon the number of proposals received. During this time, the Procurement Specialist may initiate discussions with Respondents who submit responsive or potentially responsive proposals for the purpose of clarifying aspects of the proposals. However, proposals may be accepted and evaluated without such discussion. Discussions SHALL NOT be initiated by the Respondents.

Selection of Finalists

The Evaluation Committee will select and the Procurement Specialist will notify the finalist Respondents as per schedule Section II. A., Sequence of Events or as soon as possible. A schedule for the oral presentation and demonstration will be determined at this time.

Oral Presentations

Finalist Respondents may be required to conduct an oral presentation at a location to be determined as per schedule Section II. A., Sequence of Events or as soon as possible. Whether or not oral presentations will be held is at the discretion of the Evaluation Committee and SPD.

Finalize Contractual Agreements

Any Contractual agreement(s) resulting from this RFP will be finalized with the most advantageous Respondent(s) as per schedule Section II. A., Sequence of Events or as soon thereafter as possible. This date is subject to change at the discretion of the City Purchasing Office. In the event mutually agreeable terms cannot be reached with the apparent most advantageous Respondent in the time specified, the City reserves the right to finalize a contractual agreement with the next most advantageous Respondent(s) without undertaking a new procurement process.

Contract Awards

After review of the Evaluation Committee Report and the signed contractual agreement, the City Purchasing Office will recommend award as per the schedule in Section II. A., Sequence of Events or as soon as possible thereafter. This date is subject to change at the discretion of the Purchasing Office.

The contract shall be awarded to the Respondent (or Respondents) whose proposals are most advantageous to the City of Aztec, taking into consideration the evaluation factors set forth in this RFP. The most advantageous proposal may or may not have received the most points. The award is subject to appropriate City approval.

Protest Deadline

Any protest by a Respondent must be timely and in conformance with NMSA 1978, § 13-1-172 and applicable procurement regulations. As a Protest Manager has been named in this Request for Proposals, pursuant to NMSA 1978, § 13-1-172, ONLY protests delivered directly to the Protest Manager in writing and in a timely fashion will be considered to have been submitted properly and in accordance with statute, rule and this Request for Proposals. The 15 calendar day protest period shall begin on the day following the award of contracts and will end at 5:00 pm Mountain Standard Time/Daylight Time on the 15th day. Protests must be written and must include the name and address of the protestor and the request for proposal number. It must also contain a statement of the grounds for protest including appropriate supporting exhibits and it must specify the ruling requested from the party listed below. The protest must be delivered to:

Kris Farmer
Protest Manager
201 W Chaco
Aztec NM 87410

Protests received after the deadline will not be accepted.

C. GENERAL REQUIREMENTS

Acceptance of Conditions Governing the Procurement

Potential Respondents must indicate their acceptance of the Conditions Governing the Procurement section in Submittal Form. Submission of a proposal constitutes acceptance of the Evaluation Factors contained in Section IV of this RFP.

Incurring Cost

Any cost incurred by the potential Respondent in preparation, transmittal, and/or presentation of any proposal or material submitted in response to this RFP shall be borne solely by the Respondent. Any cost incurred by the Respondent for set up and demonstration of the proposed equipment and/or system shall be borne solely by the Respondent.

Prime Contractor Responsibility

Any contractual agreement that may result from this RFP shall specify that the prime contractor is solely responsible for fulfillment of all requirements of the contractual agreement with the City which may derive from this RFP. The City entering into a contractual agreement with a vendor will make payments to only the prime contractor.

Subcontractors/Consent

The use of subcontractors is allowed. The prime contractor shall be wholly responsible for the entire performance of the contractual agreement whether or not subcontractors are used. Additionally, the prime contractor must receive approval, in writing, from the agency awarding any resultant contract, before any subcontractor is used during the term of this agreement.

Amended Proposals

A Respondent may submit an amended proposal before the deadline for receipt of proposals. Such amended proposals must be complete replacements for a previously submitted proposal and must be clearly identified as such in the transmittal letter. City personnel will not merge, collate, or assemble proposal materials.

Respondent's Rights to Withdraw Proposal

Respondents will be allowed to withdraw their proposals at any time prior to the deadline for receipt of proposals. The Respondent must submit a written withdrawal request addressed to the Procurement Specialist and signed by the Respondent's duly authorized representative.

The approval or denial of withdrawal requests received after the deadline for receipt of the proposals is governed by the applicable procurement regulations.

Proposal Offer Firm

Responses to this RFP, including proposal prices for services, will be considered firm for one hundred twenty (120) days after the due date for receipt of proposals or ninety (90) days after the due date for the receipt of a best and final offer, if the Respondent is invited or required to submit one.

Disclosure of Proposal Contents

- A. Proposals will be kept confidential until negotiations and the award are completed by the City. At that time, all proposals and documents pertaining to the proposals will be open to the public, except for material that is clearly marked proprietary or confidential. The Procurement Specialist will not disclose or make public any pages of a proposal on which the potential Respondent has stamped or imprinted "proprietary" or "confidential" subject to the following requirements:
 - a. Proprietary or confidential data shall be readily separable from the proposal in order to facilitate eventual public inspection of the non-confidential portion of the proposal.
 - b. Confidential data is restricted to:

1. confidential financial information concerning the Respondent's organization;
2. and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, NMSA 1978 § 57-3A-1 to 57-3A-7.
3. PLEASE NOTE: The price of products offered or the cost of services proposed **shall not be designated** as proprietary or confidential information.

If a request is received for disclosure of data for which a Respondent has made a written request for confidentiality, the City Purchasing Office shall examine the Respondent's request and make a written determination that specifies which portions of the proposal should be disclosed. Unless the Respondent takes legal action to prevent the disclosure, the proposal will be so disclosed. The proposal shall be open to public inspection subject to any continuing prohibition on the disclosure of confidential data.

No Obligation

This RFP in no manner obligates the City of Aztec to the use of any Respondent's services until a valid written contract is awarded and approved by appropriate authorities.

Termination

This RFP may be canceled at any time and any and all proposals may be rejected in whole or in part when the agency determines such action to be in the best interest of the City of Aztec.

Sufficient Appropriation

Any contract awarded as a result of this RFP process may be terminated if sufficient appropriations or authorizations do not exist. Such terminations will be effected by sending written notice to the contractor. The City's decision as to whether sufficient appropriations and authorizations are available will be accepted by the contractor as final.

Legal Review

The City requires that all Respondents agree to be bound by the General Requirements contained in this RFP. Any Respondent's concerns must be promptly submitted in writing to the attention of the Procurement Specialist.

Governing Law

This RFP and any agreement with an Respondent which may result from this procurement shall be governed by the laws of the State of New Mexico.

Basis for Proposal

Only information supplied, in writing, by the City through the Procurement Specialist or in this RFP should be used as the basis for the preparation of Respondent proposals.

Contract Terms and Conditions

The contract between the City and a contractor will follow the format specified by the City and contain the terms and conditions set forth in the Sample Contract **Appendix C**. However, the City reserves the right to negotiate provisions in addition to those contained in this RFP (Sample Contract) with any Respondent. The

contents of this RFP, as revised and/or supplemented, and the successful Respondent's proposal will be incorporated into and become part of any resultant contract.

The City discourages exceptions from the contract terms and conditions as set forth in the RFP Sample Contract. Such exceptions may cause a proposal to be rejected as nonresponsive when, in the sole judgment of the City (and its evaluation team), the proposal appears to be conditioned on the exception, or correction of what is deemed to be a deficiency, or an unacceptable exception is proposed which would require a substantial proposal rewrite to correct.

Should a Respondent object to any of the terms and conditions as set forth in the RFP Sample Contract (**APPENDIX D**) strongly enough to propose alternate terms and conditions in spite of the above, the Respondent must propose **specific** alternative language. The City may or may not accept the alternative language. General references to the Respondent's terms and conditions or attempts at complete substitutions of the Sample Contract are not acceptable to the City and will result in disqualification of the Respondent's proposal.

Respondents must provide a brief discussion of the purpose and impact, if any, of each proposed change followed by the specific proposed alternate wording.

If a Respondent fails to propose any alternate terms and conditions during the procurement process (the RFP process prior to selection as successful Respondent), no proposed alternate terms and conditions will be considered later during the negotiation process. Failure to propose alternate terms and conditions during the procurement process (the RFP process prior to selection as successful Respondent) is an **explicit agreement** by the Respondent that the contractual terms and conditions contained herein are **accepted** by the Respondent.

Respondent's Terms and Conditions

Respondents must submit with the proposal a complete set of any additional terms and conditions they expect to have included in a contract negotiated with the City. Please see Section II.C.15 for requirements.

Contract Deviations

Any additional terms and conditions, which may be the subject of negotiation (such terms and conditions having been proposed during the procurement process, that is, the RFP process prior to selection as successful Respondent), will be discussed only between the City and the Respondent selected and shall not be deemed an opportunity to amend the Respondent's proposal.

Respondent Qualifications

The Evaluation Committee may make such investigations as necessary to determine the ability of the potential Respondent to adhere to the requirements specified within this RFP. The Evaluation Committee will reject the proposal of any potential Respondent who is not a Responsible Respondent or fails to submit a responsive offer as defined in NMSA 1978, § 13-1-83 and 13-1-85.

Right to Waive Minor Irregularities

The Evaluation Committee reserves the right to waive minor irregularities. The Evaluation Committee also reserves the right to waive mandatory requirements provided that all of the otherwise responsive proposals failed to meet the same mandatory requirements and the failure to do so does not otherwise materially affect the procurement. This right is at the sole discretion of the Evaluation Committee.

Change in Contractor Representatives

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

Notice of Penalties

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

By law, NMSA 1978 § 13-1-191, Offerors are informed of the following:

1. It is a third degree felony under New Mexico law to commit the offense of bribery of public officer or public employee (NMSA 1978 § 30-24-1);
2. It is a third degree felony to commit the offense of demanding or receiving a bribe by a public officer or public employee (NMSA 1978 § 30-24-2);
3. It is a fourth degree felony to commit the offense of soliciting or receiving illegal kickbacks (NMSA 1978 § 30-41-1);
4. It is a fourth degree felony to commit the offense of offering or paying illegal kickbacks (NMSA 1978 § 30-41-2);

City Rights

The City in agreement with the Evaluation Committee reserves the right to accept all or a portion of a potential Respondent's proposal.

Right to Publish

Throughout the duration of this procurement process and contract term, Respondents and contractors must secure from the City written approval prior to the release of any information that pertains to the potential work or activities covered by this procurement and/or City contracts deriving from this procurement. Failure to adhere to this requirement may result in disqualification of the Respondent's proposal or removal from the contract.

Ownership of Proposals

All documents submitted in response to the RFP shall become property of the City.

Confidentiality

Any confidential information provided to, or developed by, the contractor in the performance of the contract resulting from this RFP shall be kept confidential and shall not be made available to any individual or organization by the contractor without the prior written approval of the City.

The Contractor(s) agrees to protect the confidentiality of all confidential information and not to publish or disclose such information to any third party without the Purchasing Office's written permission.

Electronic mail address required

A large part of the communication regarding this procurement will be conducted by electronic mail (e-mail). Respondent must have a valid e-mail address to receive this correspondence. (See also Section II.B.5, Response to Written Questions).

Use of Electronic Versions of this RFP

This RFP is being made available by electronic means. In the event of conflict between a version of the RFP in the Respondent's possession and the version maintained by the City, the Respondent acknowledges that the version maintained by the City shall govern. Please refer to: <http://www.aztecnm.gov/purchasing/office.html>

Campaign Contribution Disclosure Form

Respondent must complete, sign, and return the Campaign Contribution Disclosure Form, **APPENDIX A**, as a part of their proposal. This requirement applies regardless whether a covered contribution was made or not made for the identified official positions. Failure to complete and return the signed unaltered form will result in disqualification.

Submittal Form

Respondent's proposal must be accompanied by the Submittal Form located on Page 2 which must be completed and signed by an individual person authorized to obligate the company.

Disclosure Regarding Responsibility

- A. Any prospective Contractor and any of its Principals who enter into a contract greater than sixty thousand dollars (\$60,000.00) with the City of Aztec for professional services, tangible personal property, services or construction agrees to disclose whether the Contractor, or any principal of the Contractor's company:
1. 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. has within a three-year period preceding this offer, been convicted in a criminal matter or had a civil judgment rendered against them for:
 - a. the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) contract or subcontract;
 - b. violation of Federal or state antitrust statutes related to the submission of offers; or
 - c. the commission in any federal or state jurisdiction of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violation of Federal criminal tax law, or receiving stolen property;
 3. is presently indicted for, or otherwise criminally or civilly charged by any (federal state or local) government entity with the commission of any of the offenses enumerated in paragraph A of this disclosure;
 4. has, preceding this offer, been notified of any delinquent Federal or state taxes in an amount that exceeds \$3,000.00 of which the liability remains unsatisfied. Taxes are considered delinquent if the following criteria apply.
 - a. The tax liability is finally determined. The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge of the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.

- b. The taxpayer is delinquent in making payment. A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.
 - c. Have within a three year period preceding this offer, had one or more contracts terminated for default by any federal or state agency or local public body.)
- B. 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 Purchasing Office 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.
- D. 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 render the Respondent nonresponsive.
- E. 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.
- F. 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 of Aztec Purchasing Office. If it is later determined that the Contractor knowingly rendered an erroneous disclosure, in addition to other remedies available to the Government, the City of Aztec may terminate the involved contract for cause. Still further the City Purchasing Office 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 Purchasing Office.

New Mexico Preferences

To ensure adequate consideration and application of NMSA 1978, § 13-1-21 (as amended), Respondents must include a copy of their preference certificate with their proposal. Certificates for preferences must be obtained through the New Mexico Department of Taxation & Revenue <http://www.tax.newmexico.gov/Businesses/in-state-veteran-preference-certification.aspx>.

A. New Mexico Business Preference

B. New Mexico Resident Veterans Business Preference

In addition to a copy of the certification, the Respondent should sign and complete the Resident Veterans Preference Certificate form, as provided in this RFP, **APPENDIX B**.

An agency shall not award a business both a resident business preference and a resident veteran business preference.

The New Mexico Preferences shall not apply when the expenditures for this RFP includes federal funds.

III. RESPONSE FORMAT AND ORGANIZATION

A. NUMBER OF RESPONSES

Respondents shall submit only one proposal in response to this RFP.

B. NUMBER OF COPIES

One (1) ORIGINAL, four (4) identical HARD COPIES, and one (1) electronic copy of the proposal. **The electronic copy can NOT be emailed.**

C. PROPOSAL FORMAT

All proposals must be submitted as outlined below. The original copy shall be clearly marked as such on the front of the document. Envelopes, packages or boxes containing the original and the copies must be clearly labeled and submitted in a sealed envelope, package or box bearing:

RFP 2017-588 Solid Waste Collection Services

Original proposal, hard copies and electronic copy must be received no later than the time and date indicated in Section II.B.5.

Proposals shall contain concise written material and illustrations that enable a clear understanding and evaluation of the capabilities of the Respondent. Legibility, clarity, and completeness are essential. An 8-1/2" x 11" format is required for typed submissions and an 11" x 17" format may be used for illustrations. Submittals may utilize either single-sided or double-sided copying and be bound in a three-ring binder with numbered tab dividers corresponding to the requirements contained in the balance of this section. If double-sided pages are used, each side shall be numbered and counted as separate pages. Any 17" x 11" pages shall be numbered as two pages. Drawings on 24" x 36" sheets shall be numbered as four pages. The page limitation will only be increased by addendum.

D. PROPOSAL OUTLINE

Respondents to RFPs must adhere to the following outline. Failure to adhere to this outline format or failure to provide all items listed under each topic may result in low evaluation scores by Evaluation Committee members. Maximum page limitation: 30 (single sided).

1. Signed Submittal Form, Page 2 of RFP *
2. Table of Contents *
3. Cover Letter
4. Qualifications and Experience
5. Offerors Knowledge
6. Approach to the services for the collection and additional services requested in proposal
7. References
8. Contractual considerations
9. Fee Proposal

10. Signed Campaign Contribution Form, **APPENDIX A** of RFP *
11. New Mexico Preferences (if applicable) **APPENDIX B** of RFP *
12. Certification Regarding Debarment, **APPENDIX C** of RFP *

* items do not count towards maximum page limitation

Within each section of the proposal, Respondents should address the items in the order indicated above. All forms provided in this RFP must be thoroughly completed and included in the appropriate section of the proposal.

E. GUIDELINES

Cover Letter

The cover letter should introduce the proposal, indicate to who all proposal communications should be addressed, including an email address, and location of office from which service will be provided including hours of operation.

Qualifications and Experience

The Proposal shall include the identification and organization of the team proposed to be assigned to this project, with individual resumes and the specific areas of responsibility of key personnel concentrating on both breadth of experience and experience on similar projects. The same information for any sub-providers proposed to be involved in any work under this proposal shall also be included.

Knowledge

Offerors knowledge of the Solid Waste Collection industry.

Approach

Provider shall indicate proposed methods of proceeding with the scope of work and other services requested in this Request for Proposals.

References

References (three minimum) shall be provided identifying each client, a contact person and the client's mailing address and telephone number for similar projects done by the personnel to be involved in these projects. One of the clients shall be a government agency.

Contractual Considerations

All commercial, technical, legal or other conditions or exceptions relating to the provisions of the RFP and the draft Agreement must be clearly stated in this section of the proposal. Respondents should be aware that any conditions or exceptions are made solely at the risk of the Respondent and the City reserves the right to reject proposals containing any unacceptable conditions or exceptions. Respondents shall use this section to discuss guarantees and warranties that the Respondent will offer the City and the risks it is willing to take.

Fee Proposal

Provider shall submit a financial statement in accordance with generally accepted accounting standards and practices as part of their response to the RFP. The fee proposal (Attachment “B” – submitted in the separate sealed envelope) shall be completed. List any other fees or charges, which may be levied to the City in connection with the collection of solid waste at City facilities and for collection of residential solid waste Residential Commercial Customers. The Total Proposed Fee then becomes the basis from which the negotiations will commence if required. Selection to be based upon a qualifications-based procedure in general conformance to the evaluation criteria.

IV. EVALUATION

A. PROPOSAL EVALUATION

All Respondent proposals will be reviewed for compliance with the requirements and specifications stated within the RFP. Proposals deemed non-responsive will be eliminated from further consideration. The Procurement Specialist may contact the Respondent for clarification of the response as specified in Section II. B.7.

The Selection Committee will review each Offerors proposal. Points will be allocated, by each member, as outlined in below (Evaluation Criteria). Each member's point totals will be translated into a numeric ranking of all proposals. The individual member rankings will be totaled together to determine the overall ranking of proposals.

The Selection Committee may hold interviews with the highest-ranked proposals if deemed necessary. The Selection Committee may award the selection based on the results of the interviews. If fewer than three proposals are received the Selection Committee may recommend an award to the City Commission for approval or direct that the RFP be reissued.

B. EVALUATION CRITERIA

Selection of a consultant will be based on evaluation of consultants' qualifications, work plan, and references.

The evaluation criteria to be used by the Selection Committee for the proposal shortlist and the corresponding point values for each criterion are as follows:

25 Points	Experience, Knowledge, References and Responsiveness to Proposal
20 Points	Approach
30 Points	Community service orientation, customer centered methods, proven commitment to performance measures standards.
25 Points	Cost
Up to 10 Points	In-State Preference OR Veterans Preference
110 Points	Proposals will be evaluated based on the above 110 points. If oral presentations are held, the oral presentations will be scored based on responses to the questions presented at the interview meeting.

Application of In-State/Veterans Preference

Offeror shall include in-state preference certificates for themselves and for any sub-contractors listed in the proposal.

Pursuant to Section 13-1-21(C)(2), NMSA 1978, When a public body makes a purchase using a formal request for proposals process:

1. If the contract is awarded based on a point-based system, a resident business shall be awarded the equivalent of five percent of the total possible points to be awarded based on the resident business possessing a valid resident business certificate.

2. The City's RFP award process is based on a point system, with 100 points possible. With the in-state preference applied, 105 points will be possible.

Pursuant to Section 13-1-21(D), NMSA 1978, When a joint bid or joint proposal is submitted by both resident and nonresident businesses, the resident business preference provided pursuant to Subsection B or C of this section 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 nonresident business as specified in the joint bid or proposal.

Offeror will complete the following table if submitting a joint proposal:

Firm Name, Location Of Resident Businesses
Firm Name, Location Of Non-Resident Businesses
Work to be Performed
% of Work Performed Compared to Total Scope

Points shall be distributed by the percent of work identified above calculated as follows:

Example: 35% of work will be performed by the certified resident business: 35% of 5 points = 1.75 points

In accordance with Sections 13-1-21 and 13-1-22 NMSA 1978 and effective July 1, 2012, a resident veteran's business preference has been implemented. The Taxation and Revenue Department (TRD) will be issuing a three (3) year certificate to each qualified business. Businesses are required to reapply to TRD every three (3) years with the proper documentation to renew their certificate.

Attached is one form to be completed and returned with your bid if your firm will qualify for this preference. The veteran's preference will not be extended without the certificate from TRD and the attached Resident Veterans Preference Certification.

This preference is separate from the in-state preference and is not cumulative with that preference.

C. EVALUATION PROCESS

1. All Respondent proposals will be reviewed for compliance with the requirements and specifications stated within the RFP. Proposals deemed non-responsive will be eliminated from further consideration.
2. The Procurement Specialist may contact the Respondent for clarification of the response as specified in Section II. B.7.
3. The Evaluation Committee may use other sources of to perform the evaluation as specified in Section II. C.18.
4. Responsive proposals will be evaluated on the factors in Section IV, which have been assigned a point value. The responsible Respondents with the highest scores will be selected as finalist Respondents, based upon the proposals submitted. The responsible Respondents whose proposals are most advantageous to the City taking into consideration the evaluation factors in Section IV will be recommended for award (as specified in Section II. B.8). Please note, however, that a serious deficiency in the response to any one factor may be grounds for rejection regardless of overall score.

D. ORAL PRESENTATION

If selected as a finalist, Respondents agree to provide the Evaluation Committee the opportunity to interview proposed staff members identified by the Evaluation Committee, at the option of the City. The Evaluation Committee may request a finalist to provide an oral presentation of the proposal as an opportunity for the Evaluation Committee to ask questions and seek clarifications.

E. CONTRACT NEGOTIATIONS

After selection of the successful Provider(s) the City shall negotiate and enter into a contract, the City shall negotiate the contract under which the work is to be performed. All items submitted in the proposal shall be subject to negotiation. Additionally, the City reserves the right to enter into single or multiple contract(s) with a selected Provider or Providers for any or all of the components of this project.

If negotiations for fees and services are successful with the selected Provider, as determined by the City, a contract for service will be prepared. In the event that negotiations for fees or services are not successful, the City will terminate negotiations in writing and begin negotiations with the next Provider in descending order of approval to negotiate.

The Provider will not assign or transfer any or all of its rights, duties or obligations without the prior written consent of the City.

A sample contract ([Appendix D](#)) is attached for reference. The Providers' proposal shall indicate if there are any problems with meeting the terms of the general standard contract and this proposal, including all insurance requirements as specified in the Scope of Work. Depending on the proposals, the contract will be revised to incorporate the details of the negotiated agreement of the parties. The sample contract is provided merely as a sample of the general format of the contract to be negotiated as a result of the response of the successful Provider(s).

APPENDIX A: ACKNOWLEDGEMENT OF RECEIPT FORM

RFP 2017-588 Aztec Solid Waste Collection Services
ACKNOWLEDGEMENT OF RECEIPT FORM

In acknowledgement of receipt of this Request for Proposal the undersigned agrees that s/he has received a complete copy, beginning with the title page and table of contents, and ending with **APPENDIX G**.

The acknowledgement of receipt should be signed and returned to the Procurement Specialist no later than September 28, 2016 5:00 PM. Only potential Respondents who elect to return this form completed with the indicated intention of submitting a proposal will receive copies of all Respondent written questions and the written responses to those questions as well as RFP amendments, if any are issued.

FIRM: _____

REPRESENTED BY: _____

TITLE: _____ PHONE NO.: _____

E-MAIL: _____ FAX NO.: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

SIGNATURE: _____ DATE: _____

This name and address will be used for all correspondence related to the Request for Proposal.

Firm does/does not (circle one) intend to respond to this Request for Proposal.

Kathy Lamb
RFP 2017-588 Aztec Solid Waste Collection Services
City of Aztec
Purchasing Office
201 W Chaco, Aztec NM 87410
Phone: 505-334-7653
Fax: 505-334-7649
E-mail: klamb@aztecnm.gov

APPENDIX B: REQUEST FOR PROPOSALS SUBMITTAL FORM

RFP 2017-588 Aztec Solid Waste Collection Services**REQUIRED INFORMATION**

 COMPANY NAME/ADDRESS/CITY/STATE/ZIP

 CONTACT PERSON

 TELEPHONE NUMBER

 TITLE

 EMAIL ADDRESS

If a corporation, state of incorporation: _____

In-State Preference will be applied only to those in-state certified businesses that have completed the following:

Bidder has received certification from the State of New Mexico for Resident Business Certification. Bidder has been issued Certification # _____ and is therefore eligible for the 5% preference. In-state certification approval is required at the time of the proposal opening to be eligible for in-state preference.

Resident Veterans Preference will be applied only to those bidders who have completed the following along with the Resident Veterans Preference Certification form included in this RFP:

Bidder has received certification from the State of New Mexico for Resident Veterans Preference. Offeror has been issued Certification # _____. Bidder must include their State of New Mexico certificate with their proposal. Resident veterans preference certification approval is required at the time of the proposal opening to be eligible for resident veterans preference.

IMPORTANT - PROPOSALS MUST BE SUBMITTED IN A SEALED ENVELOPE WITH THE RFP NUMBER AND OPENING DATE CLEARLY INDICATED ON THE FRONT OF THE ENVELOPE. EMAILED OR FAXED BIDS WILL NOT BE ACCEPTED.

As required by 13-1-111 NMSA 1978 the City of Aztec (City) is requesting competitive sealed proposals solid waste collection services.

Sealed proposals will be received until **October 13, 2016, 2:00 P.M. MDT** and then opened at the **City of Aztec Finance Conference Room**. The opening of proposals shall be conducted in private in order to maintain the confidentiality of the contents of all proposals during the negotiation process.

Proposals deposited with the City may be withdrawn or modified prior to the time set for opening of proposals by delivering written notice on company letterhead.

Respondents submitting proposals may be afforded an opportunity for discussion and revision of proposals. Revisions may be permitted after submission of proposals and prior to award. The City will open all proposals, assign an evaluation committee and evaluate all proposals; determine the need for, conduct any negotiations; and make a final recommendation to the City Commission for award of the agreement or contract.

The agreement or contract award shall be made to the responsible Respondent or Respondents whose proposal is most advantageous to the City of Aztec, taking into consideration the evaluation factors set forth in the RFP. The award of an agreement or contract for professional services shall be made based upon the criteria which does not include price.

The City reserves the right to reject any or all proposals, cancel the RFP in its entirety or to waive irregularities at its option when it is in the best interest of the City of Aztec.

Award of an agreement or contract is contingent upon the budgeting and appropriation of funds for continuation of the professional services contemplated by this RFP.

The undersigned declares that the amount and nature of the service to be furnished is understood and that the nature of this proposal is in strict accordance with the conditions set forth and is a part of this proposal, and that the undersigned Respondent has read and understands the scope and conditions of the proposal.

The Respondent further warrants 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 or services required under the Agreement. The Respondent certifies that the requirements of the Governmental Conduct Act, Sections 10-16-1 through 10-16-18, NMSA 1978, regarding Contracting with a public officer or City employee or former City employee have been followed.

The undersigned, in submitting this proposal, represents that Respondent is an equal opportunity employer, and will not discriminate with regard to race, age, religion, color, national origin, ancestry, sex, or physical or mental handicap as specified in Sec. 28-1-7 NMSA 1978 in the performance of this contract.

If applicable, RESPONDENT ACKNOWLEDGES RECEIPT OF THE FOLLOWING AMENDMENT(S):

Addendum No. _____	Dated _____	Addendum No. _____	Dated _____
Addendum No. _____	Dated _____	Addendum No. _____	Dated _____

To be a valid proposal, Bidder must sign here:

_____	<i>Title</i> _____
-------	------------------------------

RETURN THIS FORM WITH YOUR PROPOSAL

APPENDIX C: CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Campaign Contribution Disclosure Form

Pursuant to NMSA 1978, § 13-1-191.1 (2006), any person seeking to enter into a contract with any state agency or local public body for professional services, a design and build project delivery system, or the design and installation of measures the primary purpose of which is to conserve natural resources must file this form with that state agency or local public body. This form must be filed even if the contract qualifies as a small purchase or a sole source contract. The prospective contractor must disclose whether they, a family member or a representative of the prospective contractor has made a campaign contribution to an applicable public official of the state or a local public body during the two years prior to the date on which the contractor submits a proposal or, in the case of a sole source or small purchase contract, the two years prior to the date the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor, a family member or a representative of the prospective contractor to the public official exceeds two hundred and fifty dollars (\$250) over the two year period.

Furthermore, the state agency or local public body shall void an executed contract or cancel a solicitation or proposed award for a proposed contract if: 1) a prospective contractor, a family member of the prospective contractor, or a representative of the prospective contractor gives a campaign contribution or other thing of value to an applicable public official or the applicable public official's employees during the pendency of the procurement process or 2) a prospective contractor fails to submit a fully completed disclosure statement pursuant to the law.

THIS FORM MUST BE FILED BY ANY PROSPECTIVE CONTRACTOR WHETHER OR NOT THEY, THEIR FAMILY MEMBER, OR THEIR REPRESENTATIVE HAS MADE ANY CONTRIBUTIONS SUBJECT TO DISCLOSURE.

The following definitions apply:

"Applicable public official" means a person elected to an office or a person appointed to complete a term of an elected office, who has the authority to award or influence the award of the contract for which the prospective contractor is submitting a competitive sealed proposal or who has the authority to negotiate a sole source or small purchase contract that may be awarded without submission of a sealed competitive proposal.

"Campaign Contribution" means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made to or received by an applicable public official or any person authorized to raise, collect or expend contributions on that official's behalf for the purpose of electing the official to either statewide or local office. "Campaign Contribution" includes the payment of a debt incurred in an election campaign, but does not include the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate or political committee, nor does it include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee.

"Family member" means spouse, father, mother, child, father-in-law, mother-in-law, daughter-in-law or son-in-law.

"Pendency of the procurement process" means the time period commencing with the public notice of the request for proposals and ending with the award of the contract or the cancellation of the request for proposals.

"Person" means any corporation, partnership, individual, joint venture, association or any other private legal entity.

"Prospective contractor" means a person who is subject to the competitive sealed proposal process set forth in the Procurement Code or is not required to submit a competitive sealed proposal because that person qualifies for a sole source or a small purchase contract.

“Representative of a prospective contractor” means an officer or director of a corporation, a member or manager of a limited liability corporation, a partner of a partnership or a trustee of a trust of the prospective contractor.

DISCLOSURE OF CONTRIBUTIONS MADE TO: Mayor Sally Burbridge, Mayor-ProTem Sherri A. Sipe, Commissioner Katee McClure, Commissioner Austin R. Randall, or Commissioner Sheri L. Rogers.

Contribution Made By: _____

Relation to Prospective Contractor: _____

Name of Applicable Public Official: _____

Date Contribution(s) Made: _____

Amount(s) of Contribution(s) _____

Nature of Contribution(s) _____

Purpose of Contribution(s) _____

(Attach extra pages if necessary)

Signature

Date

Title (position)

—OR—

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

Signature

Date

Title (Position)

APPENDIX D: RESIDENT VETERANS CERTIFICATION

New Mexico Preference Resident Veterans Certification

Reminder, a copy of Resident Veterans Preference Certificate must be submitted with the proposal in order to ensure adequate consideration and application of NMSA 1978, § 13-1-21 (as amended).

_____ (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 \$1M allowing me the 10% preference on this solicitation. I understand that knowingly giving false or misleading information about this fact constitutes a crime.
- ☐ I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is more than \$1M but less than \$5M allowing me the 8% preference on this solicitation. I understand that knowingly giving false or misleading information about this fact constitutes a crime.
- ☐ I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is more than \$5M allowing me the 7% preference 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 NMSA 1978, § 13-1-21 or 13-1-22, 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 termination of award of the procurement involved if the statements are proven to be incorrect.

In addition to a copy of the certification, the Respondent should sign and complete the Resident Veterans Preference Certificate form, as provided in this RFP, **APPENDIX B**.

An agency shall not award a business both a resident business preference and a resident veteran business preference.

The New Mexico Preferences shall not apply when the expenditures for this RFP includes federal funds.

APPENDIX E: DEBARMENT/SUSPENSION CERTIFICATION FORM

CITY OF AZTEC

DEBARMENT/SUSPENSION CERTIFICATION FORM

THE FOLLOWING MUST BE CERTIFIED IF THIS PROCUREMENT IS \$60,000 OR GREATER

CONFLICT OF INTEREST

No elected official or employee of the City of Aztec (COA) has a direct or indirect financial interest in the Vendor or in the proposed transaction. Vendor neither employs, nor is negotiating to employ, any COA elected official or employee, with the exception of the person(s) identified below. Vendor did not participate, directly or indirectly, in the preparation of specifications upon which the quote or offer is made.

DEBARMENT/SUSPENSION STATUS

The Vendor certifies that it is not suspended, debarred or ineligible from entering into contracts with any federal entity, state agency or local public body. The Vendor agrees to provide immediate notice to the COA Purchasing Office in the event of being suspended, debarred or declared ineligible by any entity (federal, state or local), or upon receipt of a notice of proposed debarment that is received after the submission of the quote or offer but prior to the award of the purchase order or contract.

CERTIFICATION

The undersigned hereby certifies that he/she has read the above CONFLICT OF INTEREST AND DEBARMENT/SUSPENSION STATUS requirements RFP SEC II Conditions Governing The Procurement: C General Requirements: Disclosure Regarding Responsibility and that he/she understands and will comply with these requirements. The undersigned further certifies that they have the authority to certify compliance for the vendor named and that the information contained in this document is true and accurate to the best of their knowledge.

Signature: _____ Title: _____ Date: _____

Names Typed: _____ Company Name: _____

Address: _____ City/State/Zip: _____

APPENDIX F: COST PROPOSAL

Monthly Rates For Garbage Collection Service

Residential service includes single family and multi-unit residential
Pricing to include community clean ups and all other inclusive costs outlined in the Draft Agreement, [Sections](#)

COST PROPOSAL 1 REFUSE COLLECTION, DISPOSAL TO EPA-APPROVED LANDFILL

Residential Service:

Container Size	Weekly Collection Frequency					
	1	2	3	4	5	6
96 Gallon Cart			N/A	N/A	N/A	N/A
Extra Cart			N/A	N/A	N/A	N/A

Commercial Service

Container Size	Weekly Collection Frequency					
	1	2	3	4	5	6
96 Gallon Cart			N/A	N/A	N/A	N/A
Extra Cart			N/A	N/A	N/A	N/A
2 CY Dumpster						
3 CY Dumpster						
4 CY Dumpster						
6 CY Dumpster						
8 CY Dumpster						

City Facilities Service

Container Size	Weekly Collection Frequency					
	1	2	3	4	5	6
96 Gallon Cart			N/A	N/A	N/A	N/A
Extra Cart			N/A	N/A	N/A	N/A
2 CY Dumpster						
3 CY Dumpster						
4 CY Dumpster						
6 CY Dumpster						
8 CY Dumpster						
	DELIVERY FEE	EXCHANGE FEE				
30 YD ROLLOFF			N/A	N/A	N/A	N/A
40 YD ROLLOFF			N/A	N/A	N/A	N/A
	TREATED SLUDGE REMOVAL (EMPTY AND RETURN FEE)					
20 YD		N/A	N/A	N/A	N/A	N/A

COST PROPOSAL 2

MIX STREAM RECYCLING TO PROVIDER IDENTIFIED RECYCLING DROP OFF CENTER

Residential Service:

Container Size	Weekly Collection Frequency					
	1	2	3	4	5	6
96 Gallon Cart			N/A	N/A	N/A	N/A
Extra Cart			N/A	N/A	N/A	N/A

Commercial Recycle Service:

Container Size	Weekly Collection Frequency					
	1	2	3	4	5	6
96 Gallon Cart			N/A	N/A	N/A	N/A
Extra Cart			N/A	N/A	N/A	N/A

City Facility Recycle Service:

Container Size	Weekly Collection Frequency					
	1	2	3	4	5	6
96 Gallon Cart			N/A	N/A	N/A	N/A
Extra Cart			N/A	N/A	N/A	N/A

COST PROPOSAL 3

REFUSE COLLECTION AND TRANSPORT TO CITY LOCATION

Residential Service

Container Size	Weekly Collection Frequency					
	1	2	3	4	5	6
96 Gallon Cart			N/A	N/A	N/A	N/A
Extra Cart			N/A	N/A	N/A	N/A

Commercial Service

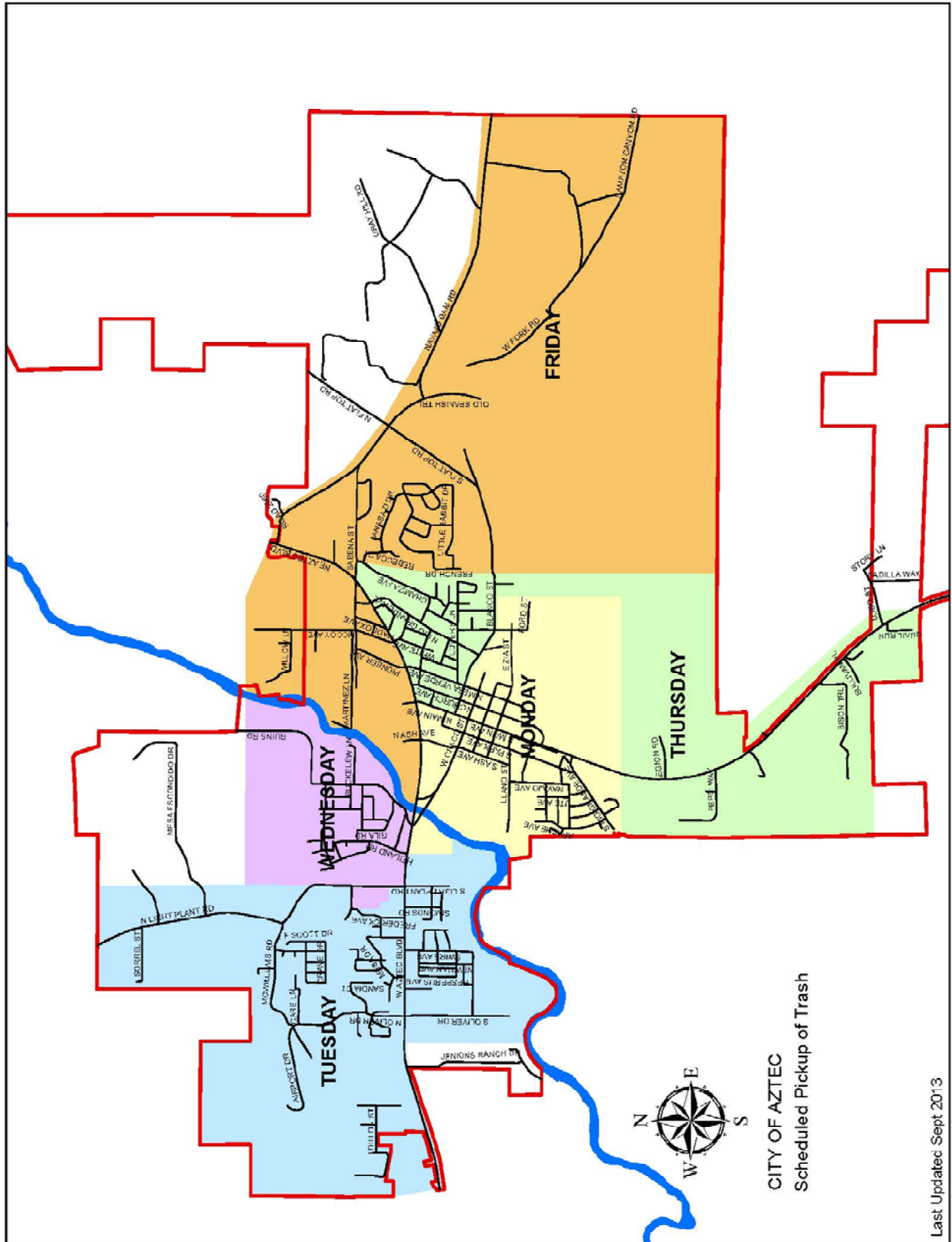
Container Size	Weekly Collection Frequency					
	1	2	3	4	5	6
96 Gallon Cart			N/A	N/A	N/A	N/A
Extra Cart			N/A	N/A	N/A	N/A
2 CY Dumpster						
3 CY Dumpster						
4 CY Dumpster						
6 CY Dumpster						
8 CY Dumpster						

City Facility Service

Container Size	Weekly Collection Frequency					
	1	2	3	4	5	6
96 Gallon Cart			N/A	N/A	N/A	N/A
Extra Cart			N/A	N/A	N/A	N/A
2 CY Dumpster						
3 CY Dumpster						

4 CY Dumpster						
6 CY Dumpster						
8 CY Dumpster						
	DELIVERY FEE	EXCHANGE FEE				
30 YD ROLLOFF			N/A	N/A	N/A	N/A
40 YD ROLLOFF			N/A	N/A	N/A	N/A
	TREATED SLUDGE REMOVAL (EMPTY AND RETURN FEE)					
20 YD		N/A	N/A	N/A	N/A	N/A

APPENDIX G: CURRENT TRASH PICKUP SCHEDULE



APPENDIX H: SAMPLE AGREEMENT

**SOLID WASTE MANAGEMENT AGREEMENT
BETWEEN CITY OF AZTEC, NEW MEXICO
AND _____**

THIS AGREEMENT is made and entered into this _____, between the City of Aztec, New Mexico, a municipal corporation in San Juan County, New Mexico, hereinafter for convenience called the "City", and _____, hereinafter called the "Contractor".

I. GENERAL PROVISIONS

1. Authority.

Pursuant to the provisions of New Mexico Statutes Annotated §3-48-3 et seq.(1978) and Aztec Municipal Code, the City does hereby retain the services of the Contractor and the Contractor hereby agrees to perform solid waste collection for the City for the consideration and upon the terms and conditions set forth in this agreement.

2. Findings.

(1) Disposal Facilities.

The City finds that disposal facilities need to be designed and situated to prevent a threat to human health or the environment; to comply with federal or state laws and regulations; and to result in demonstrably safe and environmentally more acceptable processes. The City presently does not have such facilities in the City or its immediate surroundings and must arrange for the collection and disposal of its solid waste in an approved landfill. The City must therefore arrange for the collection, transportation and disposal of its solid waste in a compliant landfill.

3. Construal of Agreement.

(1) Headings.

Section and subsection headings are included for convenience only. Such headings are not to be utilized for the purpose of determining the meaning of the agreement.

(2) Terms.

Unless the context otherwise requires: the singular shall include the plural; the plural shall include the singular; male shall include female; female shall include male; "may,"

"can," and "should," shall be permissive; "must," "shall," and "will" shall be mandatory; "or" shall be disjunctive; and "and" shall be conjunctive.

(3) Severability.

The provisions of this agreement are severable. If any provision is held invalid, the other provisions shall not be affected thereby but will remain in full force and effect.

4. Exclusive Agreement for Commercial and Residential Service.

The City hereby grants the Contractor the exclusive contract during the term of this agreement for collection, disposal and management of residential and commercial solid waste located within the City except as limited herein. The City reserves solely unto the City the right to engage in the collection and disposal of solid waste or any other similar activity that may affect this exclusive grant to the Contractor. The City warrants that it has the authority to make such a grant. The City shall require mandatory collection of solid waste by the contracted collector.

5. Term and Renewal.

Subject to termination as herein elsewhere provided, the term of this contract shall commence at 12:01 AM on the 1st day of _____, 20____ and terminate on the last day of _____, 20____, at 11:59 PM. This term shall be automatically extended for an additional year from _____ unless the City notifies the Contractor in writing one hundred twenty (120) days prior to _____ that it desires to terminate the Contract. Thereafter, the Contract will be automatically extended for one – four year term unless the one hundred twenty (120) days written notice of termination is given by the City in the same manner and method specified above for each additional _____ year terms.

6. Binding on Successors and Assigns.

Subject to any restrictions on the transfer and assignment of the rights granted under this agreement, this agreement will be for the benefit of, and will be binding upon, the parties hereto, and their respective successors and assigns.

7. Interface with Local Solid Waste Ordinance.

The City and the Contractor shall comply with the terms of any City ordinance relating to solid waste. All terms and phrases used in this agreement shall be interpreted consistent

with the provisions in any Solid Waste Ordinance, unless otherwise expressly provided herein.

10. Status as Independent Contractor.

The parties acknowledge and agree that the Contractor shall carry out all the terms of this agreement as an Independent Contractor and not as an agent, servant, employee or partner of the City.

II. CITY PROVISIONS

1. City Solid Waste Ordinance.

City agrees to make such modifications to its Solid Waste Ordinance as shall be necessary to implement the terms of this agreement where determined to be necessary by the City, including any continuing modification of said Solid Waste Ordinance during the term of this agreement and any optional extension hereof.

2. Payment to Contractor and to the City.

Subject to revisions in the schedules of payments

3. Tort Claims Act; City Liability.

To the extent of the City's liability insurance coverage, and only to the extent allowed by law, City agrees to hold Contractor harmless from claims, demands and costs which may be asserted against Contractor by reason of the City's acts or omissions under this agreement. The Contractor agrees to hold the City harmless from claims demands and costs that may be asserted against City by reason of the Contractor's acts or omissions under this agreement.

4. Franchise Fees.

The contractor shall pay to the City an additional franchise fee on all hauling services provided by the Contractor to customers within the City of Aztec's area of service that are performed under direct bill between the Contractor and customer. Said franchise fees shall be six percent (6%) of all of the Contractor's revenues collected for such services and shall be payable to the City within twenty-five (25) days after the end of the month in which such revenues were collected.

III. CONTRACTOR PROVISIONS

1. *Service.*

The Contractor shall:

- (a) Provide complete and adequate refuse collection service (hereinafter "Service") to all persons and entities in the City entitled to such Service under the provisions of Chapter 21 of the Aztec City Code;
- (b) Collect, remove, and dispose of all refuse in the City of Farmington except where individuals or entities are authorized to remove and dispose of refuse under Chapter 21 of the Aztec City Code;
- (c) Furnish all labor, tools, apparatus, office facilities, materials and equipment necessary to provide such Service;
- (d) Provide regularly scheduled Service to residential areas not less than once per week;
- (e) Provide regularly scheduled Service to commercial and industrial areas, and establish frequency of collection and container capacity as are necessary to adequately affect such Service;
- (f) In any event provide Service sufficiently adequate to prevent accumulation of refuse in the City of Aztec which would constitute environmentally unacceptable conditions, a public nuisance or health hazard;
- (g) Respond promptly to any request of the City for special service caused by failure of the Contractor to provide regular Service;
- (h) Not litter any street or premises in the process of providing Service and promptly remove and clean up any spillage;
- (i) Establish and maintain an office and local contact phone number in the City as provided in Section III.10, Complaints Procedure, of this Contract;
- (j) Without delay, after removing refuse from any container, cause such container to be replaced at its designated position with lid or cover on and in place;
- (k) Exercise reasonable care in the handling of refuse, disposal bins, and containers. Any spills shall be the responsibility of the contractor for immediate clean-up;
- (l) Require its employees and personnel to avoid crossing private or public planted and landscaped areas and to avoid climbing or jumping over hedges, fences, curbs or shrubbery;

(m) Require its employees and personnel to make all collections in a quiet and orderly manner, to avoid unnecessary noise and disturbances, yelling or shouting, and to avoid unnecessary banging or throwing of cans or containers, squealing of tires or brakes, blowing of horns and other unnecessary noise.

(n) Provide a complete collection and disposal curbside single source program together with all required staff, infrastructure facilities and equipment as required in the proposed contract.

2. Areas to be Served; Routes, Schedule.

(1) Areas to be served.

Service shall be provided to all areas within the corporate limits of the City of Aztec, and any tracts, territories and areas hereafter annexed to, or acquired by the City of Aztec. Service may also be provided to areas outside the corporate limits that are currently being served any utilities by the City. This service shall be at a rate agreed upon by both parties and provided for by ordinance.

(2) Routes and Schedule of Collections.

The Contractor shall provide the City with maps and schedules of residential and commercial collection routes and keep such information current at all times. In the event of changes in routes or schedules that will affect the day of pickup, the Contractor shall so notify the City and each consumer affected, in a manner and time as is reasonable. Any changes in routes and/or schedules will also be subject to the City's approval, which will not be unreasonably withheld.

Not more than thirty (30) days after the commencement of this contract, the Contractor shall furnish for the City's approval, the initial schedules and maps of all routes to be used in servicing the areas specified in this agreement.

3. Location and Frequency of Collection.

(1) Residential Collection.

All collections made by Contractor for other than a qualified physically disabled resident, shall be made at curbside from the streets, except where special circumstances warrant otherwise and where approved by the City. The City shall require owners to deliver receptacles to such point for collection, and return empty receptacles from said points to the usual place of storage.

The Contractor shall collect solid waste from residential units once a week. It is the responsibility of the customer to see that solid waste is placed at curbside, or as close as practicable to the collection point, by the time and in the manner specified in the City's Solid Waste Ordinance on the designated collection day. Curbside refers to that portion of the right-of-way adjacent to paved or traveled roadways.

Physically disabled persons may request (in writing) and receive service whereby their waste containers (polycarts) are moved by Contractor from a convenient location, as provided by city ordinance, to the curbside for pickup. Containers qualifying for the physically disabled service will display the "handicapped" symbol. The resident will not incur additional cost for this service.

(2) Commercial Collection.

The City Utilities Service Director or designee and the Contractor shall determine the placement of commercial containers. The specific location of a container will be determined in the planning and/or building permit process. The Contractor shall have input as to the location of containers on new commercial sites. The Contractor shall provide collection service for the collection of solid waste from commercial units a minimum of once per week, according to the procedure set forth in the Solid Waste Ordinance. The frequency of collection and the placement and type of container shall be based on health, safety and convenience.

4. Hours of Collection.

- (1) Normal hours of collection shall be as specified below. Exceptions will be approved by the City only when necessary to complete collection of a route due to unusual circumstances.
- (2) Residential collection shall be between the hours of 7:00 a.m. to 8:00 p.m. Monday through Friday.
- (3) Commercial collection shall be between the hours of 4:00 a.m. to 8:00 p.m. Monday through Friday, and 4:00 a.m. to 1:00 p.m. on Saturday.
- (4) Mixed Collection (mixed collection is the collection of residential commercial in one area) shall be between 7:00 – 8:00 p.m. Monday through Friday, and 7:00 a.m. to 3:00 p.m. on Saturday.
- (5) Collection beyond the hours established for residential or commercial customers shall be permitted only in the event of extra heavy workload, excessive equipment breakdown, or unusually heavy inclement weather. The City Manager or his/her designee shall first approve any deviations for the established work hours.

5. Holidays.

- (1) When the regular pick-up falls on a holiday, as herein defined (New Years Day, Memorial Day, July 4th Independence Day, Labor Day, Thanksgiving Day, and Christmas Day), the pick-up shall be made on the following day.
- (2) Contractor reserves the right to delete, add, or change above stated holidays. Contractor will notify the City of any alterations within thirty (30) days.

6. Missed Collections.

- (1) In the event that a regularly scheduled collection is missed and a complaint is received by either the City or the Contractor, a special collection of the solid waste will be required of the Contractor within (twenty-four) 24 hours. The City shall notify the Contractor of any such complaint it receives within four (4) business hours.
- (2) In the event of missed pickups due to the customer or resident's negligence, at the customer's request, a special pickup will be made within 24 hours and the customer charged per the rate schedule. In the event of missed pickup due to acts of God, weather, or events outside the control of the Contractor, pickup will be made as soon as possible when conditions are safe to continue service.

7. Special Services.

The Contractor shall, upon request of the customer, provide special services as follows:

(1) Dead Animals.

Contractor shall make all necessary arrangements to allow its residents to dispose of dead animals for a fee at the sanitary landfill used by Contractor. The Contractor shall allow the City to dispose of dead animals at no cost to the City.

(2) Special Services.

Upon request and for a fee, the Contractor shall provide special services for items that do not conform to the weight or size limitations for regular pick-up, such as the removal of bulky wastes, white goods and tree trimming. White goods are defined as appliances (stoves, refrigerators, freezers, etc.).

(3) Special Wastes or Hazardous Waste.

The Contractor shall, upon request, provide for the collection and removal of special wastes or hazardous wastes, if Contractor is licensed to do so, according to any applicable federal, state or local requirements. The disposal of such waste is a matter of private agreement between the parties, and the rates shall not be set by the City. Contractor shall dispose of all such waste only in an appropriately permitted facility. Special waste means a solid waste which may require chemical analysis prior to acceptance or which may require special handling or disposal procedures. Special wastes include, but are not limited to: asbestos, bulk tires or other bulk materials, biomedical waste, sludges and contaminated soil.

(4) Recyclable.

Contractor will implement any specialized recycling program established by the City. Cost of removal and disposal will be mutually agreed upon in advance by the Contractor and the City.

(5) Use of Landfill.

Contractor shall make all necessary arrangements to allow the City or its residents to use the sanitary landfill. The cost for municipal waste directly hauled to the _____ by any City resident shall be free. A resident of Aztec may dispose of household trash, at no cost, in an amount not to exceed three (3) cubic yards every two-(2) months. Household trash is defined as waste generated in the confines of the residence, which may also include leaves. Free disposal shall not be extended to commercial customers and disposal of any construction debris. Residents will be required to show proof of residency.

8. Containers, Size; Providing for.

(1) Residential.

The City shall specify in its Solid Waste Ordinance the maximum size for mechanically receptacles not to exceed ninety-six (96) gallon capacity and/or one-hundred fifty (150) pounds, and bundles not to exceed four (4) feet and/or fifty (50) pounds. The Contractor shall provide mechanically loaded receptacles, and the City shall specify a weight limit in the Solid Waste Ordinance as recommended by the Contractor.

(2) Commercial.

The use of compactors, containers, dumpsters, and roll-off containers shall be the subject of private agreements between the Contractor and users to the extent possible, if not regulated by the Solid Waste Ordinance. When conflicts exist as to the type, size or frequency of collection, the City Manager or Designee will make the final determination, or the City may specify requirements in the Solid Waste Ordinance.

(3) Approval of Containers.

Upon the effective date of this agreement, Contractor shall receive approval from City before using any new type of container other than provided herein or in the Solid Waste Ordinance.

(4) Noncompliance with Regulations.

Contractor may not collect solid waste from containers that do not conform to the requirements of the City as to size, weight, type, condition, et cetera. Contractor shall reasonably inform the City of all non-standard containers, or of containers that exceed restrictions in weight and size, and shall further place on each such container, or at the residence, a tag indicating the problem with the container.

9. Operations.

(1) Services to the City.

Contractor shall provide reasonable solid waste collection and disposal service to the City government, free of charge. Such service shall include but not be limited to:

- (a) Emptying outside solid waste receptacles (carts or dumpsters) placed throughout the corporate area of the City to include: Hartman Park, Minium Park, Riverside Park, Cap Walls Park, Florence Park, Kokopelli Park, Tiger Park, Tiger Sports Complex, Rio Animas Park, Armijo Plaza, Swire-Townsend Refuge, Kart Club and Motor Cross Track; and other public areas designated by the City, in writing, during the term of the agreement.
- (b) Monthly roll-off (30 yd container) at the City's recycling center for the public's use for the disposal of debris. Requirements exceeding one roll-off per month will be billed to the City at a rate negotiated with the agreement.
- (c) Participating in general city wide cleanup programs; two weeks a year, including delivery, transport and pickup in a timely manner a minimum of five (5) 30 cy metal containers at City direction;
- (d) A Christmas Tree Recycling Program;

- (e) Quarterly roll-off provided to the City, upon request, for yard and construction debris; and
- (f) Disposal of dead animals at the Animal Care and Control facility. The Provider will provide assistance to the City Staff to load the dead animals from the facility to the Provider's equipment.

(2) Notices to Customers.

The Contractor shall cooperate with the City to inform all customers about relevant complaint procedures, rates and billing procedures, collection and recycling regulations, days and hours of scheduled collection service, and any other relevant notices. In addition to other means of informing customers, the Contractor shall provide information as necessary to the City for customers.

(3) Necessary Equipment and Containers; Repair and Maintenance.

Contractor shall provide an adequate number of vehicles to collect solid waste in accordance with the terms of this agreement. The vehicles shall be licensed in the State of New Mexico and shall be operated in compliance with all applicable state, federal and municipal regulations. The vehicles shall be manufactured and maintained to conform to the appropriate American National Standard Institute's standards. Contractor shall comply with applicable U.S. Environmental Protection Agency standards and New Mexico Department of Transportation regulations.

- (a) Each vehicle shall bear at a minimum the name and telephone number of the Contractor plainly visible on both sides of the vehicle. Each vehicle shall be uniquely numbered in numbers at least three (3) inches high on the front and rear.
- (b) Each vehicle shall have at least one broom and shovel to clean up solid waste that may be spilled or otherwise scattered during the process of collection. All vehicles shall be sufficiently secured and/or maintained so as to prevent any littering of solid waste and/or leakage of fluids of any type. Fluid spills from vehicles operating on routes must be soaked up and cleaned up in an appropriate manner immediately. No vehicles will be overloaded.
- (c) The Offeror shall be responsible for an immediate response to spilled fluids and any damage caused by the Offeror in accordance with City, State and Federal regulations. Offeror shall promptly notify the City of such spills or damages.
- (d) All trucks or other equipment used in collecting solid waste shall be thoroughly cleaned at least once each week, and deodorized or maintained in a sanitary and non-offensive condition. No solid waste material shall be allowed to remain in a

truck or other collection equipment while parked overnight.

Contractor must comply with all applicable noise and pollution control laws, rules, ordinances and regulations.

- (e) The Contractor shall not transfer, sell, assign, lease, surrender, abandon, or permit to lapse its title or right of possession in and to any real or personal property used in the performance of this agreement, without replacing such property with property of comparable serviceability for use in performance of the work required. Any attempt to do so without permission of the City shall constitute a material breach of the agreement.
 - (f) The Contractor shall properly maintain all Contractor owned collection equipment, vehicles, and containers, and endeavor to keep the same serviceable. When they are no longer serviceable, such items of equipment should be replaced with property in proper operating condition.
 - (g) The Contractor will perform all maintenance and repairs upon Contractor provided containers in order to keep them in proper operating order. The Contractor shall maintain, repair, or repaint a container upon the reasonable request of the customer. The Contractor may be entitled to seek restitution for all maintenance or repairs occasioned by the negligent or intentional acts of third parties, from such responsible third party.
 - (h) The Contractor may make private collections with the same vehicles used for collections under this agreement, provided that such use in no way impairs the delivery of service required under this agreement.
 - (i) Contractor further agrees that it will, upon request and for a reasonable fee, return solid waste containers to its repair yard for purposes of thoroughly cleaning said containers (commercial containers).
 - (j) The Contractor's vehicles are not to interfere unduly with vehicular or pedestrian traffic and vehicles are not to be left standing on streets and alleys unattended.)
- (4) Inspection of Equipment.

The City shall have the right to inspect all vehicles, equipment and containers used by the Contractor in carrying out the requirements of this agreement. Contractor shall promptly perform all corrections of conditions found to be in violation of any City ordinances or state or federal laws.

(5) Supervision of Employees.

Contractor shall:

- (a) Employ and retain supervisors and employees who are experienced and qualified to assure performance of this agreement;
- (b) Provide adequate number of qualified personnel properly trained to conduct the tasks required by this Scope of Work and identified in a Contract between the City and Provider and as may be required to satisfy the New Mexico Environment Department (NMED) and/or the Occupational Safety and Health Administration (OSHA). Provider and subcontractor may be required to provide list of personnel fulfilling requirements of Scope of Work, and evidence of their qualifications. The City shall retain the right to reject personnel if they do not meet City qualifications;
- (c) The awarded Provider must submit their drug-alcohol free workplace policy to the City within 48 hours of Notice of Award. If applicable, CDL drug/alcohol testing policies and procedures must comply Department of Transportation (DOT) drug-testing regulations. In addition, the drug-alcohol free workplace policy must apply to all applicable employees and include provisions for reasonable suspicion, pre-employment, and post accident drug/alcohol testing.
- (d) Provide adequate operating and safety training for all of its employees and personnel including, but not limited to hazardous waste management.
- (e) Furnish, upon the request of the City, information concerning the background and experience of any supervisor, agent or employee of the Contractor;
- (f) Require the appropriate field employees to wear a company uniform clearly labeled with the name of the company and employee. Such clothing will be as neat and clean as circumstances permit. Shirts will be required at all times;
- (g) Allow the City to make a complaint regarding any employee or agent of the Contractor who violates any provision hereof or who is wanton, negligent or discourteous in the performance of his or her duties; who is unnecessarily noisy or violates the motor vehicle code. Any disciplinary action suggested by the City shall not be binding on the Contractor;
- (h) Require that employees follow regular walkways for pedestrians while on private property, not trespass or loiter on private property; not cross property to adjoining property, and not meddle or tamper with property which does not or should not concern them;
- (i) Require that each employee assigned to drive a vehicle shall, at all times carry a valid drivers license for the type of vehicle being driven, and shall comply with all other state and local laws, ordinances, rules, and regulations;

- (j) Encourage that each employee be trained in first aid;
- (k) Assure that each employee that drives or operates vehicles or equipment is properly trained in the operation thereof;
- (l) Contractor will cleanup any spilled debris associated with pickup;
- (m) Employees shall not accept gratuities for any reason whatsoever from residents, tenants or other persons.

10. Complaints Procedure/Process and Liquidated Damages.

1. Procedure/Process.

- (a) The Contractor shall perform a service of high quality and keep the number of legitimate complaints to a minimum. (The term legitimate complaint means after the customer has contacted the Utility office with an initial complaint and the complaint has not been resolved in a 24 hour period and the customer makes a 2nd call to complain on the same complaint.)
- (b) In order that the City may be informed of the quality of service, the Contractor agrees to maintain a record of all complaints for inspection by the City.
- (c) The Contractor agrees to furnish a monthly report listing the name and address of the person complaining, the nature of the complaint, and the disposition of each complaint.
- (d) All complaints whether received in person, by mail or telephone, shall be recorded in triplicate, one (1) copy to go to the City and two (2) copies to be retained by the Contractor. Complaints received shall be serviced within 24 hours. For each month in which the number of legitimate complaints reaches ten (10) or more for any cause the City shall be entitled to claim liquidated damages of ten dollars (\$10.00) per complaint. Each claim shall be considered legitimate unless satisfactory disposition of the claim is furnished. The claim may be brought to the City of Aztec Utility Advisory Board for dispute of a legitimate claim.

2. Disagreements.

To prevent all disputes or litigation of the liquidated damages fees, it is understood that all questions rising as to the proper performance and the amount of work to be paid for under this Agreement shall be subject to the decision of the City of Aztec Utility Advisory Board.

3. Appeal of Complaints.

Contractor retains the right to appeal any decision by the City of Aztec Utility Advisory Board to the City Commission.

4. Liquidated Damages.

The following acts or omissions shall be considered a breach of the contract and for the purpose of computing damages under the provision of this Section, it is agreed that the City may deduct from payments due or to become due to the Contractor, the following amounts as liquidated damages:

- (a) Collection of residential solid waste prior to 7:00am or after 8:00pm Monday through Friday. (Section III, Subsection 3 – Hours of Collection) \$150.00 each case
- (b) Collection of commercial waste prior to 4:00 a.m. to 8:00 p.m. Monday through Friday, and 4:00 a.m. to 1:00 p.m. Saturday. (Section III, Subsection 3– Hours of Collection) \$150.00 each case
- (c) Collection of mixed solid waste prior to 6:00 a.m or after 8:00 pm Monday through Friday, and prior to 7:00am or after 3:00 p.m. on Saturday. (Section III, Subsection 3– Hours of Collection) \$150.00 each case
- (d) Legitimate Complaints (Section V, Subsection 4 – Complaints Procedure/Process and Liquidated Damages) (Over ten (10) per month.) \$10.00 additional legitimate complaint
- (e) Failure to clean vehicles and maintain in good working condition. (Section III, Subsection 9. (3) Necessary Equipment Containers; Repair and Maintenance and Subsection \$24.00 each vehicle
- (f) Failure to keep vehicles closed or covered. (Section III, Subsection 9. (3). Necessary Equipment Containers; Repair and Maintenance and Section III Subsection 9 (5) Supervision of Employees (e) \$100.00 each vehicle
- (g) Loaded vehicles left standing on the street unnecessarily. (Section III, Subsection 9. C. (h) Necessary Equipment Containers; Repair and Maintenance) \$25.00 each vehicle
- (h) Failure to maintain schedule established and given as a requirement of this Agreement, in writing to the public and the City. (Section III, Subsection 9, B. – Notices to Customers) \$25.00 per violation of route schedule.

- (i) Failure to pick up scattered debris which was caused by driver \$10.00 error. Each vehicle shall have at least one broom and shovel to each case clean up solid waste that may be spilled or otherwise scattered during the process of collection. (Section III, Subsection 9. (3) and Section III Subsection 9 (5) Supervision of Employees.

11. Landfill/Disposal Site.

The location of the disposal site to be used under the terms of this agreement is the _____ although in any time of emergency or convenience the Contractor may use any compliant landfill. The choice of this site was made by the Contractor, who will assume all related fees. Compensation for hazardous waste fee and unanticipated costs will be subject to this agreement's provision for petitioning for extraordinary costs. Contractor may, at any reasonable time, be asked to provide evidence that the disposal site, upon which its rates are based, is the site actually used, and that the said site is operated according to State and federal Regulations. Primary use of different sites is subject to the approval of both parties.

12. Performance.

(1) Performance Bond

- (a) Contractor shall furnish to the City and keep in force during the term of this agreement or any renewal or extension thereof, a performance a bond not less than the amount paid by the City for solid waste services during the previous calendar year. The bond shall guarantee the Contractor's faithful performance of its duties and obligations under this Agreement and shall be in such form as has been approved by the City Attorney.
- (b) The surety on the bond shall be a duly authorized corporate surety company qualified under New Mexico law and regulation to issue such bonds in the State of New Mexico. Attorneys-in-fact who sign performance bonds must file with each bond an effectively dated copy of their power of attorney, bearing the seal of the company evidencing such agent's authority to execute the bond. Said bond shall be kept in force throughout the term of this Agreement or any renewal or extension thereof. In the event of the surety's insolvency the Contractor shall provide a new bond in no less than fifteen (15) days.
- (c) This Agreement shall be subject to termination by the City at any time if said bond shall be canceled, or the surety thereon relieved from liability for any reason. Notice of cancellation of the bond must be served upon the City six (6) months prior to the effective date of said cancellation. The agreement will not be terminated if, within

thirty (30) days of such notice, the Contractor files with the City a similar bond to be effective for the balance of the contract period.

13. Books, Records; Access to Reports.

The Contractor shall keep detailed, accurate and complete records in such reasonable form as the City may require, and the City has the right to inspect the same to show compliance with this agreement. The Contractor shall provide an annual corporate financial report to the City.

14. Joint and Several Liability.

If the Contractor is comprised of more than one individual, corporation or other entity, each of the entities comprising the Contractor shall be jointly and severally liable.

15. Indemnification.

The Contractor assumes all risk of loss or injury to property or persons arising from any of its operations or omissions under this agreement. The Contractor will indemnify and hold harmless the City, its officers and agents, servants and employees from any and all such suits, actions, legal proceedings, claims, demands, damages, costs, expenses, and attorney's fees arising from any claims, willful or negligent act or omission of the Contractor, its officers, agents, servants and employees in the performance of this agreement. However, Contractor shall not be liable for any suits, actions, legal proceedings, claims, demands, damages, costs, expenses and attorney's fees arising out of the award of this agreement or a willful or negligent act or omission of the City, its officers, agents, servants and employees.

16. Insurance.

- (1) The Contractor shall maintain in full force and effect throughout the term of this Agreement and throughout any extension or renewal thereof, insurance in the minimum amounts as follows. Employer's liability coverage will be required of the Contractor or any subcontractor for any class of employee engaged in work under this agreement that is not protected under the Workmen's Compensation Statute. All insurance will be by Insurers acceptable to the City and authorized to do business in the State of New Mexico.
- (2) Fire and extended related coverage and liability insurance for all collection equipment and facilities shall also be provided. Prior to the effective date of this agreement, the Contractor shall furnish the City with Certificates of Insurance or other satisfactory evidence that such insurance has been procured and is in force. Such policy shall not thereafter be canceled, permitted to expire, or changed without ninety (90) days advance written notice to the City.

(3) Minimum Limits of Liability.

(a) Workman's Compensation	Statutory
(b) Employer's Liability	\$1,000,000 Each accident \$1,000,000 Disease Each employee \$5,000,000 Disease – Aggregate
(c) General Liability Including Fire and Environmental Bodily Injury	\$5,000,000 Each occurrence \$5,000,000 Aggregate
(d) Property Damage	\$2,000,000 Each occurrence \$5,000,000 Aggregate
(e) Bodily Injury and Property Damage	\$5,000,000 Each occurrence

- (4) The Contractor shall name the City as an additional Insured, and shall insure the City in the same general terms and to the same general effect as any agreement of the Contractor, to indemnify and hold harmless the City. Insurance limits and coverage requirements shall be renewed at annual intervals from the effective date hereof, and may then be adjusted at the option of the City. City shall not require an increase greater than the average insurance coverage required by cities of similar size in the southwest United States. All policies must contain a provision requiring the Insurer to notify the City at least ninety (90) days prior to cancellation of any policy. The City, its officers or employees will not be responsible for any claims or actions occasioned by the failure of the Contractor to comply with the provisions of this paragraph.

17. Lawsuits/Litigation.

The Contractor shall pay any judgment which may be obtained against the City either alone or jointly with said Contractor, for injury or damage to persons or property by reason of the performance or non-performance by the Contractor of the terms of this agreement, or in connection with the infringement by the Contractor of any patents. If the City alone shall be sued for such injury or damage, Contractor shall be provided immediate written notice by the City and Contractor shall appear and defend such action unless caused solely by the negligence of the City.

18. Waivers.

A waiver by either party of any breach of any provisions hereof shall not be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of any provision itself. No payment or acceptance of compensation for any period subsequent to any breach shall be deemed a waiver of any right or acceptance of defective performance.

19. Permits; Licenses; Taxes.

The Contractor shall obtain and assume the cost of all licenses and permits and promptly pay all taxes required by the City or other public entities.

20. Compliance with Law.

In its performance of the terms and conditions of this agreement, the Contractor shall comply with all city, state and federal laws, ordinances and regulations which are now or which may hereafter regulate the activities which are the subject of this agreement. The Contractor shall keep informed of all existing and future laws, ordinances and regulations which in any manner affect those engaged or employed in the work, or the materials used in the work, or which in any way affect the conduct of the work, and of all such orders and decrees of bodies or tribunals having jurisdiction or authority over the same. Contractor shall at all times observe and comply with, and shall cause all its agents and employees to observe and comply with all such existing and future laws, ordinances, regulations, orders and decrees. Contractor shall protect and indemnify the City and all its officers, agents, and servants against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order and decree.

21. Training.

Contractor shall avail itself and its employees of the training in solid waste management provided from time to time by the New Mexico Environmental Division, or by any other recognized entity, and generally keep itself abreast of the advances made in the field of solid waste disposal.

IV. MUTUAL PROVISIONS

1. Interruption/Continuity of Service.

An interruption of service due to a vacancy, whether temporary or permanently, in which the customer requires service for a period of less than ten (10) days will not constitute a full month of service and therefore no billing of charges. A period of service to ten (10) days or greater will be deemed a continuation of service for an entire month and subject to charges for a complete month.

2. Duty of Contractor to Notify City of Condition of Streets.

Contractor agrees to cooperate with City by notifying City of any problem area in streets and alleys. Contractor shall promptly notify the City Manager, in writing, of any street or alley which is impassable.

3. Rate Changes.

(a) CPI Adjustments.

Except as otherwise provided herein, and subject to the Quality and Cost of Service Study paragraphs, in July of each year, the rates and payments set forth and established in the current **Exhibit 1** (rates) to the Contract shall be increased or decreased by an amount which is equal to seventy-five (75%) of the percent change in the National Consumer Price Index for All Urban Consumers (CPI-U) with fuel and energy cost excluded, as calculated using the month of **March** from the current year and rounded to the nearest hundredth, provided that any such increase or decrease shall not exceed eight percent of the rates set forth in **Exhibit 1** (rates), as from time to time amended, in any one year.

(b) Fuel Cost Adjustment.

Except as otherwise provided herein and subject to subsection (f) below, in July of each year, if fuel costs have changed materially in relation to the cost per gallon for diesel fuel used to calculate the rates and payments (the "Base Fuel Cost:"), the rates and payments shall be increased or decreased to reflect a Material Change in Fuel Cost. The Base Fuel Cost used to calculate the rates and payments for the first year of this Agreement shall be \$_____ per gallon. A Material Change in Fuel Cost shall be defined as a ten percent (10%) or greater increase or decrease in the cost of fuel from one year to the next. The adjustment shall be based on the price reported by United States Department of Energy, Energy Information Administration, in the Retail on Highway Diesel Prices Index for the Rocky Mountain Region

(www.eia.gov/petroleum/gasdiesel/) for the week including March 1 of the year of the adjustment (the "Current Fuel Cost") compared to the Base Fuel Cost for the previous year.

(c) Effective Date of Increase.

Any increase as provided above will be effective with the first billing cycle in July of the subject year. The Contractor will furnish to the City on or before May 1, the appropriate statistics justifying any increase. The City will notify the Contractor of any objections to the data supplied on or before May 15th. Unless such an objection is made, the new rates will be effective the first billing cycle in July and will be reflected in the City's payment for that month.

(d) Additional Rate Adjustments.

The Contractor may request an adjustment to the rates set forth in Exhibit 2 to recover changes in the cost of operations for circumstances which are not within the reasonable control of the Contractor. Such circumstances may include, and are limited to: (i) a change in Contractor operations due to Force Majeure (as defined in Section IV.10); (ii) any change in law, statute, rule, regulation, or local government that is effective after the date of this Agreement, including but not limited to increases in surcharges, fees, assessments, or taxes levied upon waste collection or disposal; or (iii) changes in the scope or method of operations provided by Contractor required, initiated, or approved by the City. Such circumstances may not include changes in the cost of fuel. The Contractor's request shall include a report detailing the increased expenses associated with performance. The City will process such a request in a reasonable and timely manner and approval of such a request shall not unreasonably be withheld.

(e) City's Discretion.

Nothing contained herein shall be construed as a prohibition upon the right of the City to exercise its power to change rates at any time pursuant to its police power or to restrict in any way the City's full exercise of discretion in establishing charges to its citizens for Services to any premises in the corporate limits of the City of Aztec, so long as the Contractor receives compensation for the Services provided herein.

(f) Quality & Cost of Service Study.

At the beginning of the second term of the Agreement, a Quality & Cost of Service study shall be performed by a City-hired, outside consultant. The study may include a Customer Satisfaction Survey. The Contractor shall contribute 50% or a maximum of \$50,000 to this study. The Contractor shall provide full access to employees and records to facilitate a comprehensive evaluation by the consultant. The Contractor

implementation of the study recommendations shall determine eligibility and viability of any potential Agreement renewal for the third term.

4. Performance Bond – City May Withhold Payment.

The moneys to be collected monthly by the City from customers shall constitute a cash performance bond for assurance and guarantee to the City of the faithful performance by the Contractor of all of the terms and conditions of this Agreement. Subject to the right of the Contractor to appeal any such decision to the City Commission, payment hereunder may, at any time, be reduced or withheld by the City, if, in the opinion of the City Manager, the Contractor is not diligently and efficiently endeavoring to comply with the intent of the Contract, or if the Contractor shall fail to pay for labor and material used in the performance of this Contractor when such payments become due. The City may in good faith apply a portion of or all of such cash performance bond to cover City's expenses incurred by reason of default of Contractor or to pay labor and material liens used to affect the performance of this Contract.

5. Billing of Accounts; Basis of Method of Payment.

(a) City Billing.

Except as otherwise specifically provided herein, the City has established by ordinance a schedule of fees for the various classes of Service provided by the Contractor. Fees for Service shall be collected by the City. The City shall maintain full and complete records which accurately reflect the total number of customers billed and the amounts billed. The City will pay the Contractor, according to rates established, on a monthly basis on or before the 15th day of the month following the month for which services are rendered. The City and Contractor shall cooperate in providing the necessary information and billing on a timely basis so that payment may be made as set out above.

(b) Special Services.

Charges for special services not provided for by ordinance, and charges which are the subject of private agreements between the Contractor and the customer, shall be billed and collected by the Contractor. A record of these charges and collection shall be included in the Contractor's report, required elsewhere in this Contract.

6. Delinquent Accounts – Commercial Service.

The Contractor agrees to discontinue commercial Services to delinquent accounts when requested to do so by the City, provided the City notifies the Contractor in writing at least five (5) days prior to the date Service is to be discontinued. Any questions by the customer as to such delinquent accounts shall be referred to the City.

7. Assignment.

The rights authorized by this agreement are not assignable either voluntarily or by operation of law without the consent of the City, which consent shall not be unreasonably conditioned, delayed or withheld. In the event the Contractor becomes insolvent or bankrupt, then the rights authorized hereby may be immediately canceled or annulled, and the City shall have the right to provide collection services or substitute another Contractor in its place and stead in a manner provided by law.

8. Subcontractors.

Contractor shall not subcontract the work or business that it has contracted to perform, without the prior written consent of the City.

9. Force Majeure: Default, Breach, Termination.

- (1) The parties mutually agree and recognize that for the health, safety, and well-being of the residents of the City of Aztec it is necessary to have an efficient, regular and continuous garbage and refuse collection service. It is further recognized that alleviation or cessation of such service entered for even a short period of time adversely and materially affects the health of the people and the sanitation of the city. It is further understood that circumstances may arise which will either prevent or materially affect the ability of the Contractor to perform its obligations under this Contract.
- (2) Should the City, through its City Commission at a public hearing after not less than five (5) days written notice to the Contractor based upon substantial evidence, find and determine that the Contractor is unable or unwilling to perform its obligations under this Contract, then the Commission may, at its election, terminate this Contract and utilize the Contractor's equipment as provided in subparagraph (d), or it may seek any other legal remedy available to the City.
- (3) In the event the Contractor fails to perform any of the provisions hereof, the City Manager shall give the Contractor written notice specifying the provisions hereof that have been breached or defaulted, and shall so notify the City Commission. Contractor shall have ten (10) days from receipt of such written notice from the City Manager within which to correct any such breach or default. In the event the Contractor does not make such correction within said 10-day period as hereinabove provided, then the City Commission may order the termination of the Contract after public hearing upon the matter of Contractor's default before the City Commission following not less than five (5) days written notice of such hearing to the Contractor.
- (4) Should a breach of contract or default result from an act of God, strike, public enemy or

similar cause beyond the control of the Contractor, the City shall have the right during such period in addition to other remedies to take over the collection of refuse and utilize all the equipment owned by Contractor, and used by it in the performance of this contract. The City shall be reimbursed by the Contractor during the period of time that said collections are made by the City. Such reimbursement would be equal to and not more than Contractor's cost in a like preceding period.

- (5) In the event no transportation and disposal of refuse, as provided in this Contract, is provided for a period of seven (7) consecutive days, in order that the public health and safety shall not be endangered, Contractor agrees that upon determination thereof made by the City Commission without written notice to the Contractor, the City shall have the right, but not requirement, to immediately take over the collection of all refuse and utilize all equipment owned by the Contractor and used by him in the performance of this Contract. Such utilization by the City shall be limited to that period during which Contractor fails to so collect refuse as required by this Contract, and during said period the Contractor shall reimburse the City as in paragraph (4) above.

(6) *Option to Lease Equipment at Termination.*

At the end or sooner termination of the contract, the City shall have an option to lease all usable equipment and other property belonging to the Contractor, providing mutually satisfactory terms can be agreed upon between the parties. In the event the parties are unable to agree as to rental and other lease terms, the City shall have the right and option to buy all usable equipment and other property owned by the Contractor in the operation of its garbage business at a price to be agreed upon between the parties, or in the event parties are unable to agree at a price designated by three appraisers, one of whom shall be appointed by each of the parties hereto and a third by the appraisers so appointed, provided that the City's right and option to lease or buy may be assigned.

10. Change of Ownership; Sale of Assets; Notice.

In the event that the Contractor's business assets are sold, the City maintains the right to hold the original owner solely or jointly liable. If, however, the City determines that the new ownership or management can adequately and faithfully render the services called for in this agreement for the remaining term of the agreement, then the City may elect to execute an approval allowing the new owner to assume the rights and duties of this agreement. Such approval shall release the previous owner of any obligation and liability. The City shall be provided courtesy written notice of any purchase or acquisition offer received by the Contractor within thirty (30) days of receipt of such offer.

11. Public Rights-of-Way; Use.

The Contractor shall have the right to use any and all streets, alleys, bridges and other public rights-of-way within the City, for the purpose of providing its services and performance under this agreement. Such rights shall be subject to all other regulations, laws or requirements of the city, state or federal government. The City may exempt Contractor's collection vehicles from any City imposed weight limit on a City street when said vehicle is on a collection route and when in the best interest of the City; said approval shall not be unreasonably withheld.

12. Conflict of Interest.

No officer, member or employee of the Contractor or the City shall have any financial interest or other conflict of interest in the terms of this agreement, without full disclosure and/or a waiver by the other party. Such waiver may be granted based on a good faith determination that the best interests of the City are being met.

13. Emergency Use of Equipment.

Contractor shall provide equipment and personnel to the City during a declared state of emergency. There shall be no cost to the City for the first forty (40) hours of assistance per Contractor's employee or piece of equipment. However, the City shall reimburse the Contractor for the expense of such assistance if the City receives reimbursement from state or federal governments for such assistance.

14. Bankruptcy, Assignment; Trustee.

Contractor's insolvency or voluntary or involuntary bankruptcy shall not constitute prospective unwillingness or inability to perform, or a repudiation of this agreement by the Contractor. However, Contractor must provide written, timely and adequate assurance and commitment of its ability to perform. Without such, the City may suspend, if it deems commercially reasonable, the terms of this agreement and may terminate the exclusive contract granted hereunder. If the Contractor fails to provide adequate assurance and commitment, the City may also terminate this agreement with thirty (30) days written notice. Assumption of this agreement and the underlying contract by any of the Contractor's trustees or receivers shall be deemed to give rise to a reasonable sense of insecurity. However, the City shall not be bound to the terms of this agreement in the event of the filing of any bankruptcy or by the Insolvent Contractor's trustee or receiver. In such event, the City retains and shall exercise all rights and remedies available at law and equity. Should the Contractor be rendered unable to perform its obligations hereunder, the City

shall maintain the perpetual first right to purchase the containers and vehicles associated with the performance of this Agreement.

15. Bond/Notes: Contractor's Indebtedness.

This agreement, and the underlying exclusive contract, does not authorize the Contractor to incur indebtedness or liability on behalf of or payable by the City. All expenses incurred and necessary in carrying out the provisions of this agreement shall be payable solely from Contractor's resources. By this agreement, the City does not assume any debts, or pledge its faith and credit or taxing power for the repayment of any Contractor's debt. Contractor shall have no right to have taxes levied, or the taxing authority of the City utilized, for the payment of any of Contractor's debts.

VI. MISCELLANEOUS PROVISIONS

1. Reservation.

This contract is subject to the limitations now or hereafter provided by law. The City reserves the right to alter and amend the ordinance and the Aztec Municipal Code in any manner necessary for the safety and welfare of the public, or to protect public interests. This Agreement is subject to the provisions of the Constitution and laws of the State of New Mexico and all ordinances enacted by the City Commission of the City of Aztec.

2. Illegal Provisions.

If any provisions of the Agreement shall be declared illegal, void, or unenforceable, the other provision shall not be affected but shall remain in full force and effect.

3. Notices; Points of Contact.

Contractor shall maintain an office in _____. All notices or other communications to be given hereunder shall be in writing and shall be deemed given when mailed by registered or certified United States mail:

Municipality:

City Manager
City of Aztec
201 W. Chaco
Aztec, New Mexico 87410

Contractor:

Any change of address by either party shall be by notice given to the other in the same manner as specified herein.

4. Number of Copies.

This Agreement may be executed in any number of counterparts, all of which shall have full force and effect of an original for all purposes.

5. Discriminatory Practices Prohibited.

Neither the Contractor nor any subcontractor, or any persons acting on Contractor's behalf shall discriminate against any person because of race, sex, age, creed, color, religion or national origin.

6. Applicable Law.

This agreement will be governed by the laws of the State of New Mexico both as to interpretation and performance.

7. Merger of Agreements.

This agreement constitutes the entire agreement and understanding between the parties hereto, and it will not be considered modified, altered, changed or amended in any respect unless in writing and signed by the parties hereto.

8. Right to Require Performance.

The failure of either party at any time to require performance by the other party of any provisions of this agreement will in no way affect the right of that party thereafter to enforce the same. No waiver of either party of any breach of any of the provisions hereof will be taken, or held to be a waiver of any succeeding breach of such provision, or as a waiver of any other provision.

9. Grace Period.

In the event that certain requirements contained herein cannot be immediately accomplished or performed by the Contractor upon the execution of this contract, or upon a later date as may be specified herein, and upon notice to the City, it is agreed that there shall be a three (3) month grace period during which the Contractor shall make every effort

to come into compliance. During this grace period, the Contractor shall not be in default and the City agrees to take no action to terminate this agreement under the provisions herein, if in the determination of the City, the Contractor is making a good faith effort to come into compliance before the expiration of the grace period. The City may extend the grace period for extraordinary circumstances beyond the control of the Contractor, when in the best interest of the City. The grace period will not apply to the initial month of the agreement.

10. Contract Changes.

Changes to the Agreement may only be made by written amendment of the Parties. Any such change shall be executed by authorized representatives of the Contractor and the City.

11. Drug and Alcohol Policy.

During the term of the Contract, Contractor is required to have in place, and comply with a Drug and Alcohol Policy that meets or exceeds the requirements of the New Mexico Department of Transportation. Contractor will provide the City with an electronic or written copy of any such policy and related procedure upon request by the City Manager. Contractor's policy, at a minimum, must provide for a work environment that is free from the use, consumption, possession, sale or distribution of illegal drugs or alcohol and from the misuse of legal drugs on the Contractor's premises or on the premises of its clients. This requirement must include Contractor vehicles (owned or leased) used for the purpose of performing Contractor's work or the management thereof. Accordingly, for reasonable cause or to comply with the requirements of the New Mexico Department of Transportation, the Contractor will require that employees and subcontractors alike will be subject to testing to determine the presence of illegal drugs, alcohol or inappropriately used legal drugs while performing work. Consumption of alcohol or ingestion/injection of illegal drugs during employee breaks or lunch is strictly prohibited. Employees must be fit for duty and not be under the influence of alcohol or controlled substances (without a valid prescription for the controlled substances) when employees present for duty and at all times while at work or on duty. Contractor's policy shall include reasonable testing procedures and full compliance with all New Mexico Department of Transportation requirements for covered functions. Contractor is responsible for testing and other related costs, for providing all required reports to any government agency, and, at the City's request, Contractor shall make its drug/alcohol testing statistics available to the City Manager upon request.

12. Arbitration.

(a) Arbitration. Any claim or dispute arising out of or in connection with this Contract not resolved by negotiation between the parties, shall be submitted for binding arbitration to a

panel of three arbitrators. Any such arbitration shall be conducted at Farmington, New Mexico. Either party may initiate the arbitration by giving written demand for arbitration to the other party in accordance with this Contract, setting forth the nature of the claim or dispute, including a short statement of the factual basis for the claim, the amount involved, if any, the remedy sought, and the name of one arbitrator.

(b) Appointment of Arbitration Panel. The party initiating the arbitration shall appoint one arbitrator and shall name the chosen arbitrator in the written demand for arbitration. Within 20 days after receipt of the written demand for arbitration, the other party shall appoint a second arbitrator by written notice to the initiating party given in accordance with this Contract. Within 30 days after the appointment of the second arbitrator, the two arbitrators so appointed shall appoint a third arbitrator by written notice to the two parties given in accordance with this Contract. If the party not initiating the arbitration fails to appoint an arbitrator as provided above, the original arbitrator shall propose a list of three arbitrators with substantial experience in commercial arbitration and send such list to the other party. If the first two arbitrators fail to appoint a third arbitrator, the two arbitrators shall each propose a list of three arbitrators with substantial experience in commercial arbitration and send such list to the other party. In either case, the party receiving such proposed list of arbitrators shall have five business days from the receipt of the list to strike two names from the list proposed by the other party's arbitrator and to notify the other party of the names stricken. If a party fails to timely strike its allowable number of names, then that party will be deemed to have only stricken the number of names it has timely stricken. If more than two names are stricken or if a party fails to timely strike any names, then that party will be deemed to have not stricken any names. If, after striking such names, only one unstricken name appears on the list(s), such unstricken arbitrator shall be the additional arbitrator. If more than one unstricken name appears on the list(s), the previously appointed arbitrator(s) shall randomly select the additional arbitrator from such unstricken arbitrators. No arbitrator shall have or previously have had any significant relationship with any of the parties. Notwithstanding the foregoing, if the only relief sought is for a monetary award of \$100,000.00 or less, then the dispute shall be resolved by one arbitrator in accordance with the Commercial Rules of Arbitration of the American Arbitration Association.

(c) Conduct of Arbitration. The arbitration shall be conducted in accordance with the Commercial Rules of Arbitration of the American Arbitration Association then in effect, except as such rules may be modified upon request of a party or the parties for the purpose of the arbitration proceeding by action of a majority of the arbitration panel by written notice to each party given in accordance with this Contract. The decision of the arbitrators shall be by majority vote. The award of the arbitrators shall be final and binding upon the parties, and the judgment thereon may be entered in any court of competent jurisdiction. Notwithstanding the foregoing, if the controversy or claim in question is not resolved by the arbitrators as provided herein within 180 days after selection of the third arbitrator, either party may pursue any remedy with respect thereto provided by law.

(d) Discovery. For any arbitration initiated under this Contract, the parties may conduct discovery in advance of the arbitration hearing in accordance with the New Mexico Rules of Civil Procedure. Upon the request of a party or the parties, the arbitration panel shall establish a discovery cut-off date.

(e) Costs of Arbitration and Attorneys Fees. The fees and expenses of the arbitrators and all other expenses of the arbitration and the legal fees and costs incurred by the prevailing party shall be assessed against the non-prevailing party by the arbitrators and included in any award or decision.

13. Incorporation By Reference and Precedence

(a) This Contract is derived from the following documents:

- (1) The Request for Proposal ("RFP"), written clarifications to the RFP and response to questions;
- (2) The Contractor's response to the RFP.

(b) In the event of a dispute under this Contract, 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 Contract in reverse chronological order;
- (2) The Contract;
- (3) The Contractor's response to the RFP; and
- (4) The RFP, including attachments thereto and written responses to questions and written clarifications.

IN WITNESS HEREOF, the parties have hereunto set their hands and seals this _____ day of _____, 20____.

CITY OF AZTEC

By: _____
Mayor

ATTEST:

By: _____
City Clerk

Approved to Form:

City Attorney

CONTRACTOR

By: _____

TITLE

Federal Taxpayer Identification or
Social Security Number

NM Taxpayer Identification Number