



**Request for Competitive Sealed Proposals
RFP # 2020-722**

**Sewer Pump Station
North Main Extension**

PROPOSAL DUE DATE/TIME/PLACE:

Thursday, October 10, 2019, 3:00 PM
City of Aztec Finance Conference Room
201 W Chaco
Aztec NM 87410

FINAL DATE FOR QUESTIONS

September 26, 2019 10:00 AM

Tentative Commission Contract Approval Date

October 2019

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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I. INTRODUCTION

A. PURPOSE OF THIS REQUEST FOR PROPOSALS

The City of Aztec seeks competitive sealed proposals from equipment suppliers for a Sewer Pump Station meeting the requirements for the North Main project as further described in this RFP.

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. Aztec is the county seat for San Juan County and has a population of approximately 6,328.

The City of Aztec is currently in the process of extending their North Main Corridor to connect the Aztec Ruins National Monument to the Aztec Trail System and historic downtown Main Avenue by providing a pedestrian friendly corridor including trails, landscaping, roadway, sidewalks, civic plaza and utilities. The first phases of the North Main Corridor included the construction of a pedestrian bridge across the Animas River and trail development which were completed in 2014.

As part of the Project improvements, sewer collections piping will be installed that will require sewage to be pumped off-site to tie into existing City sanitary sewer collections infrastructure.

C. SCOPE OF PROCUREMENT

The City of Aztec has determined that the use of a competitive sealed bid will be impractical or advantageous to the City in completing the acquisition described in this document. A competitive sealed proposal award method is being used.

It is the intent of the City 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 equipment.

TERM: A purchase order will be executed specific to the equipment requested.

D. PROCUREMENT MANAGER

1. The City of Aztec has assigned a Procurement Manager who is responsible for the conduct of this procurement whose name, address, telephone number and e-mail address are listed below:

Name:	Kathy Lamb, Procurement Manager
Address:	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 must be addressed as follows:

Name: Kathy Lamb
Reference RFP Name: **RFP 2020-722 N MAIN SEWER PUMP STATION**

Address: City of Aztec
Purchasing Office
201 W Chaco
Aztec, New Mexico 87410

Please note, Aztec, New Mexico is not a guaranteed delivery area by express carriers. Responses must be received by the due date and time to be considered, not the date when delivered to carrier. The City is closed on Fridays (4-10 work schedule, Monday through Thursday); documented attempted deliveries by the carrier may be considered as timely responses IF provided by the date and time proposals are due.

3. **Any inquiries or requests** regarding this procurement should be submitted, in writing, to the Procurement Manager. Offerors may contact **ONLY** the Procurement Manager regarding this procurement. Other city employees or Selection Committee members do not have the authority to respond on behalf of the Purchasing Office. **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 Manager be considered properly submitted.

E. DEFINITION OF TERMINOLOGY

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

“**Agency**” means the City of Aztec

“**Amendment**” means a written or graphic instrument issued prior to the opening of Proposal, which clarifies, corrects, or changes the Request for Proposal.

“**Award of Contract**” shall mean a formal written notice by the City that a firm has been selected to enter into a contract for services. Any Award of Contract that has not resulted in a written contract offer to the Offeror, within 6 months of written notice, shall not be considered an award for the purposes of the Project Listing Form.

“**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 Mountain Daylight Time, whichever is in effect on the date given.

“**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 the offeror selected by the City pursuant to this Request for Proposals..

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

“**Determination**” means the written documentation of a decision of a procurement manager and the Selection Committee including findings of fact supporting a decision. A determination becomes part of the procurement file to which it pertains.

“**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 Offerors’ proposals.

“**Evaluation Committee Report**” means a report prepared by The Procurement Manager and Evaluation Committee for contract award. It will contain written determinations resulting from the procurement.

“**Finalist**” means an Offeror 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.

“Mandatory” – the terms "must", "shall", "will", "is required", or "are required", identify a mandatory item or factor (as opposed to “desirable”). Failure to meet a mandatory item or factor will result in the rejection of the Offeror’s proposal.

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

“Offeror” is any person, corporation, or partnership who chooses to submit a proposal.

“Owner” is the City of Aztec (City).

“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 Manager” means any person or designee authorized by a state agency or local public body to enter into or administer contracts and make written determinations with respect thereto.

“Procuring Agency” means all State of New Mexico agencies, commissions, institutions, political subdivisions and local public bodies allowed by law to entertain procurements.

“Proposal” is the offeror’s response to this RFP

“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 Offeror” means an Offeror 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 **“Responsive Proposal”** means an offer or proposal, which conforms in all material aspects to the requirements set forth in the Request for Proposals (RFP). Material aspects of responses to the Request for Proposals (RFP) 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 City 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 Manager. By submitting a proposal, the Offeror agrees to and concurs with this process and accepts the determination of the Procurement Manager in such cases.

“Selection Committee” means a body appointed by the Procurement Manager to perform the evaluation of Offeror proposals.

“Selection Committee Report” means a report prepared by the Procurement Manager and the Selection Committee for submission to the Commission for contract award that contains all written determinations resulting from the conduct of a procurement requiring the of competitive sealed proposals.

“Staff” means any individual who is a full-time, part-time, or an independently contracted employee with the Offerors’ company.

“State (the State)” means the State of New Mexico.

“Statement of Concurrence” means an affirmative statement from the Offeror to the required specification agreeing to comply and concur with the stated requirement(s). This statement shall be included in Offerors 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 Offeror 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 Manager will make every effort to adhere to the following schedule:

Action	Responsible Party	Due Dates
1. Issue RFP	City	September 19, 2019
2. Acknowledgement of Receipt Form	Potential Offerors	September 30, 2019 by 10:00 AM MST/MDT
3. Pre-Proposal Conference	City	None
4. Deadline to submit Questions	Potential Offerors	September 26, 2019 by 10:00 AM MST/MDT
5. Response to Written Questions	Procurement Manager	October 1, 2019 By 10:00 AM MST/MDT Answers will be posted to website: www.aztecnm.gov
6. Submission of Proposal	Potential Offerors	October 10, 2019, 3:00 PM
7. Proposal Evaluation	Evaluation Committee	October 2019
8. Selection of Finalists	Evaluation Committee	October 2019
9. Best and Final Offers	Finalist Offerors	October 2019
10. Oral Presentation(s)	Finalist Offerors	October 2019
11. Finalize Contractual Agreements	City/Finalist Offerors	October 2019
12. Contract Awards	City/ Finalist Offerors	October 2019
13. Protest Deadline	City	October 2019

B. EXPLANATION OF EVENTS

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

1. Issuance of RFP

This RFP is being issued on behalf of the City of Aztec for the North Main Sewer Pump Station on September 19, 2019.

2. Acknowledgement of Receipt

Potential Offerors should email, hand deliver, return by facsimile, or by certified mail the "Acknowledgement of Receipt of Request for Proposals Form" that accompanies this document, APPENDIX D, 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 Manager by 10:00 am local time on September 30, 2019.

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

3. Pre-Proposal Conference

A pre-proposal conference will NOT be held as indicated in the sequence of events.

4. Deadline to Submit Written Questions

Questions and/or clarifications concerning this RFP will be accepted in writing through September 26, 2019, 10:00 am. Requests may be transmitted via facsimile (505-334-7649) or email (klamb@aztecnm.gov). Written responses to all written inquiries will be provided and distributed to all recipients of this RFP. Responses and addenda to this RFP, if necessary, are scheduled to be issued by October 1, 2019, 10:00 AM. No Offeror may rely upon oral responses made by any City employee or any representative of the City.

5. Response to Written Questions

Written responses to written questions will be distributed as indicated in the sequence of events to all potential Offerors whose organization name appears on the procurement distribution list. An e-mail copy will be sent to all Offerors 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>.

6. Submission of Proposal

ALL OFFEROR PROPOSALS MUST BE RECEIVED FOR REVIEW AND EVALUATION BY THE PROCUREMENT MANAGER OR DESIGNEE NO LATER THAN 3:00 PM MOUNTAIN STANDARD TIME/DAYLIGHT TIME ON October 10, 2019. 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 Manager 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 2020-722 N MAIN SEWER PUMP STATION. Proposals submitted by facsimile, or other electronic means will not be accepted.

A public log will be kept of the names of all Offeror organizations that submitted proposals. Pursuant to NMSA 1978, § 13-1-116, the contents of proposals shall not be disclosed to competing potential Offerors during the negotiation process.

Proposals will be reviewed for completeness and compliance with requirements by the Procurement Manager. If any proposal submitted is deemed non-responsive by the

Procurement Manager, the Offeror will be notified in writing of such determination and the method of protesting that determination (see Section II.C.1.).

Please note that after the proposal submission due date, Offerors are not allowed any contact with City staff, governing body or representatives regarding their proposal without the City of Aztec's Procurement Manager approval. The City of Aztec, may, however, contact Offerors for clarification purposes, changes in the Schedule of Events, notices of nonresponsiveness or responsiveness of proposals, and notices of evaluation status and/or interviews

7. Proposal Evaluation

The Evaluation Committee will review each Offerors proposal independently. Points will be allocated, by each member, as outlined in Section V of this RFP. Each member's point totals will be translated into a numeric ranking of all proposals. The evaluation committee may hold interviews with the three highest-ranked proposals if deemed necessary. The Evaluation Committee may award the selection based on the results of the interviews. If fewer than three proposals are received the Evaluation Committee may recommend an award to the City Commission for approval or direct that the RFP be reissued.

8. Selection of Finalists

The Evaluation Committee will select and the Procurement Manager will notify the finalist Offerors 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.

9. Best and Final Offers

Finalist Offerors may be asked to submit revisions to their proposals for the purpose of obtaining best and final offers as per schedule Section II. A., Sequence of Events or as soon as possible. Best and final offers may also be clarified and amended at finalist Offeror's oral presentation and demonstration.

10. Oral Presentations

Finalist Offerors 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. Oral presentations, if required, will be evaluated on the basis of 100 total points.

11. Finalize Contractual Agreements

Any Contractual agreement(s) resulting from this RFP will be finalized with the most advantageous Offeror(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 of Aztec Procurement office. In the event mutually agreeable terms cannot be reached with the apparent most advantageous Offeror in the time specified, the City of Aztec reserves the right to finalize a contractual agreement with the next most advantageous Offeror(s) without undertaking a new procurement process.

12. Contract Awards

After review of the Evaluation Committee Report and the signed contractual agreement, the City of Aztec Procurement Manager will 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 City Procurement Manager.

The contract shall be awarded to the Offeror (or Offerors) whose proposal(s) 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 Department and Commission approval.

The successful award will be issued a Notice of Award and/or Purchase Order. **The City assume no liability for goods and/or services provided with a Notice of Award and/or Purchase Order.**

13. Restriction on Communications

From the issue date of this RFP until a Offeror is selected and the award is announced, Offerors responding to this RFP are not allowed to communicate for any reason with regard to this RFP to any City staff or governing body member: 1) through the Procurement Manager name herein, 2) at the pre-proposal conference, if applicable or 3) as provided by existing work agreement(s). The City reserves the right to reject the proposal of any Offeror violating this provision.

14. Protest Deadline

In accordance with NMSA 1978, § 13-1-172, any Offeror who is aggrieved in connection with the award of a contract may protest to the City of Aztec Finance Department. The protest must be submitted in writing within fifteen (15) calendar days after knowledge of the facts or occurrences giving rise to the protest to:

Kathy Lamb
Finance Director/Chief Procurement Officer
City of Aztec
201 W Chaco
Aztec, NM 87410

The 15-day protest period shall begin on the day following the date of written notice of action from the Finance Department. Protests must include the name and address of the protestant, the solicitation number, and a statement of ground for protest, including appropriate supporting exhibits. Protests received after the deadline will not be accepted.

C. GENERAL REQUIREMENTS

1. Acceptance of Conditions Governing the Procurement

Potential Offerors must indicate their acceptance of the Conditions Governing the Procurement section in the letter of transmittal. Submission of a proposal constitutes acceptance of the Evaluation Factors contained in Section V of this RFP.

2. Information Provided by the City of Aztec

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.

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, a written addenda will be emailed to each Offeror who has returned the "Acknowledgement of Receipt" form, included in this document. Each Offeror requesting an interpretation will be responsible for the delivery 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.

3. Incurring Cost

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

4. 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 of Aztec which may derive from this RFP. The City of Aztec entering into a contractual agreement with a vendor will make payments to only the prime contractor.

5. Amended Proposals

An Offeror 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. The City of Aztec's personnel will not merge, collate, or assemble proposal materials.

6. Offeror's Rights to Withdraw Proposal

Offerors will be allowed to withdraw their proposals at any time prior to the deadline for receipt of proposals. The Offeror must submit a written withdrawal request addressed to the Procurement Manager and signed by the Offeror'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.

7. 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 Offeror is invited or required to submit one.

8. Disclosure of Proposal Contents

- A. Proposals will be kept confidential until negotiations and the award are completed by the City of Aztec. 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 Manager will not disclose or make public any pages of a proposal on which the potential Offeror has stamped or imprinted "proprietary" or "confidential" subject to the following requirements:
- B. 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.
- C. Confidential data is restricted to:
 - 1. confidential financial information concerning the Offeror'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 an Offeror has made a written request for confidentiality, the City of Aztec shall examine the Offeror's request and make a written determination that specifies which portions of the proposal should be disclosed. Unless the Offeror 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.

9. No Obligation

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

10. Termination

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

11. 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 of Aztec's decision as to whether sufficient appropriations and authorizations are available will be accepted by the contractor as final.

12. Legal Review

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

13. Governing Law

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

14. Basis for Proposal

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

15. Contract Terms and Conditions

The contract between the City of Aztec and a contractor will follow the format specified by the City of Aztec and contain the terms and conditions set forth in the Sample Contract Appendix I. However, the City of Aztec reserves the right to negotiate provisions in addition to those contained in this RFP (Sample Contract) with any Offeror. The contents of this RFP, as revised and/or supplemented, and the successful Offeror's proposal will be incorporated into and become part of any resultant contract.

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

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

Describe any work, whether by subject area or nature of work, which would not be covered by your compensation proposal.

If an Offeror fails to propose any alternate terms and conditions during the procurement process (the RFP process prior to selection as successful Offeror), 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 Offeror) is an **explicit agreement** by the Offeror that the contractual terms and conditions contained herein are **accepted** by the Offeror.

16. Offeror's Terms and Conditions

Offerors 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 of Aztec. Please see Section II.C.15 for requirements.

17. 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 Offeror), will be discussed only between the City of Aztec and the Offeror selected and shall not be deemed an opportunity to amend the Offeror's proposal.

18. Offeror Qualifications

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

19. 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.

20. Change in Contractor Representatives

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

21. 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.

22. City Rights

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

23. Right to Publish

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

24. Ownership of Proposals

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

25. 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 of Aztec.

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 procuring the City of Aztec's written permission.

26. Electronic mail address required

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

27. 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 Offeror's possession and the version maintained by the City of Aztec, the Offeror acknowledges that the version maintained by the City of Aztec shall govern. Please refer to: <http://www.aztecnm.gov/purchasing/office.html> or City's electronic e-procurement system through vendor registry.

28. Campaign Contribution Disclosure Form

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

29. Submittal Form

Offeror's proposal must be accompanied by the Submittal Form located in APPENDIX E which must be completed and signed by an individual person authorized to obligate the company. The letter of transmittal MUST:

1. Identify the submitting business entity.
2. Identify the name, title, telephone, and e-mail address of the person authorized by the Offeror organization to contractually obligate the business entity providing the Offer.
3. Identify the name, title, telephone, and e-mail address of the person authorized to negotiate the contract on behalf of the organization (if different than (2) above).
4. Identify the names, titles, telephone, and e-mail addresses of persons to be contacted for clarification/questions regarding proposal content.
5. Identify sub-contractors (if any) anticipated to be utilized in the performance of any resultant contract award.
6. Describe the relationship with any other entity which will be used in the performance of this awarded contract.
7. Identify the following with a check mark and signature where required:
 - a. **Explicitly** indicate acceptance of the Conditions Governing the Procurement stated in Section II. C.1;
 - b. **Explicitly** indicate acceptance of Section V of this RFP; and
 - c. Acknowledge receipt of any and all amendments to this RFP.
8. Be signed by the person identified in paragraph 2 above.

30. 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 of Aztec Procurement Manager or other party to this Agreement 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 Offeror 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 Procurement Manager. If it is later determined that the Contractor knowingly rendered an erroneous disclosure, in addition to other remedies available to the City of Aztec may terminate the involved contract for cause. Still further the City of Aztec 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 of Aztec.

31. New Mexico Preferences

To ensure adequate consideration and application of NMSA 1978, § 13-1-21 (as amended), Offerors **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 Offeror should sign and complete the Resident Veterans Preference Certificate form, as provided in this RFP.

The City of Aztec 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.

32. Bribery and Kickbacks

By law (Section 13-1-191, NMSA, 1978) the City is required to inform Offerors of the following: (1) it is a third-degree felony under New Mexico law to commit the offense of bribery of a public officer or public employee (Section 30-24-1, NMSA, 1978); (2) it is a third-degree felony to commit the offense of demanding or receiving a bribe by a public officer or public employee (Section 30-24-2, NMSA, 1978); (3) it is a fourth-degree felony to commit the offense of soliciting or receiving illegal kickbacks (Section 30-41-1, NMSA, 1978); (4) it is a fourth-degree felony to commit the offense of offering or paying illegal kickbacks (Section 30-41-2, NMSA, 1978).

33. Conflict of Interest

a. Offeror warrants that it presently has no interest and will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of service under this contract.

b. Offeror must notify the City's Chief Procurement Officer if any employee(s) of the requesting department or the Finance Department have a financial interest in the Offeror. If yes, the Offeror must specify the employee(s) name in their proposal.

III. RESPONSE FORMAT AND ORGANIZATION

A. NUMBER OF RESPONSES

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

B. PACKAGING OF PROPOSAL

The outside of the shipping package must be labeled as follows:

RFP 2020-722 N Main Sewer Pump Station

Inside the shipping container, the proposal in response to the RFP must be divided into two separate and appropriately labeled and sealed packages – a Technical Submission and a Cost Proposal.

1. The contents of the sealed, inner package labeled “**Technical Proposal – RFP 2020-722 N Main Sewer Pump Station**” will include an original Technical Proposal (marked “Original”) and five (5) copies and one (1) electronic copy. The Offeror’s name must be clearly visible on the package.

The electronic version/copy of the proposal **must** mirror the physical proposal submitted (i.e. One (1) **unredacted cd/usb**, one (1) **redacted cd/usb**). The electronic version can NOT be emailed.

The original, hard copy and electronic copy information **must** be identical. In the event of a conflict between versions of the submitted proposal, the Original hard copy shall govern.

2. The contents of the sealed, inner package labeled “**Cost Proposal – RFP 2020-722 N Main Sewer Pump Station**” will include ONLY the original Cost Proposal (marked “Original”) and five (5) copies and one (1) electronic copy. The Offeror’s name must be clearly visible on the package.

The electronic version/copy of the proposal **must** mirror the physical proposal submitted (i.e. One (1) **unredacted cd/usb**, one (1) **redacted cd/usb**). The electronic version can NOT be emailed.

The original, hard copy and electronic copy information **must** be identical. In the event of a conflict between versions of the submitted proposal, the Original hard copy shall govern.

Any proposal that does not adhere to the requirements of this Section and **Section III.C.1 Response Format and Organization**, may be deemed non-responsive and rejected on that basis.

C. PROPOSAL FORMAT

All proposals must be submitted as follows:

Hard copies must be typewritten on standard 8 ½ x 11 inch paper (larger paper is permissible for charts, spreadsheets, etc.) and placed within binders with tabs delineating each section.

Total pages allowed in the Technical Proposal: 30 – limited to items the proposal summary and technical specifications response. All other items required in the technical proposal do not count towards the total pages.

Proposal Content and Organization

Direct reference to pre-prepared or promotional material may be used if referenced and clearly marked. Promotional material should be minimal. The proposal must be organized and indexed in the following format and must contain, at a minimum, all listed items in the sequence indicated.

Technical Section:

- A. Signed Submittal Form
- B. Table of Contents
- C. Proposal Summary (Optional)
- D. Company Background & Structure
- E. Qualifications & Availability of Staff
- F. Equipment proposal
- G. References
- H. Business Specifications
 - 1) Signed Campaign Contribution Form
 - 2) Debarment/Suspension Form
 - 3) Current Insurance Certificate
 - 4) Completed W-9
 - 5) New Mexico Preferences (If applicable)
 - 6) Response to Contract Terms and Conditions
 - 7) Offeror's Additional Terms and Conditions
- I. Other Supporting Material (If applicable)

Cost Section:

- A. Cost Proposal

Within each section of the proposal, Offerors 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. All discussion of proposed costs, rates or expenses must occur only on the cost response form.

The proposal summary may be included by potential Offerors to provide the Evaluation Committee with an overview of the proposal; however, this material will not be used in the

evaluation process unless specifically referenced from other portions of the Offeror's proposal.

IV. SPECIFICATIONS

The City of Aztec is accepting Competitive Sealed Proposals for a sewer pump station for the North Main Extension Project.

Downstream Treatment and Collections Capacity

The City of Aztec has taken responsibility for verifying downstream capacity, including collections and treatment plant capacities. The scope of this report (and services provided by SEH and the selected Contractor) ends at the tie-in to existing City Sanitary Sewer Infrastructure.

Land Development Assumptions

The Pump Station capacity has been determined by anticipated flows from build out on lots adjoining the site. Table 1 (below) summarizes land use assumptions and anticipated sewage flows produced.

Table 1: land use and flow assumptions

Estimated Acreage =	26.3	Acres					
Lot coverage assumed =	20%						
Acres of building coverage =	5.3	Acres					
Proposed Use	% of Land Use	ACRES of coverage	Buildout	UNITS	UNIT FLOW RATE (GPD)	TOTAL FLOW (GPD)	Source ¹
Residential (4 people/DU)	10%	0.5	8	DU	380	3,040	2
Office	10%	0.5	22,921	SF	0.2	4,584	1
Restaurant	25%	1.3	57,303	SF	1.1	63,033	1
Retail	30%	1.6	68,764	SF	0.2	13,753	1
Market	10%	0.5	22,921	SF	0.2	4,584	1
Hotel/Motel	15%	0.8	34,382	SF	0.4	13,753	1
	100%	5.3				102,748	GPD
¹ Source 1	Commercial and Institutional End Uses of Water, B Dziegielewski et.al., 2000						
¹ Source 2	Aztec City Code - Chapter 23						
² Note	A total of (8) residential units were assumed on 2.6 total acres						

A. TECHNICAL SPECIFICATIONS

PUMP STATION REQUIREMENTS

1. Pump Capacity

From the calculated average daily flows, above, a peaking factor is applied to ensure the pump can handle high-demand scenarios:

$$\text{Avg Daily Flow (GPD)} \times \text{peaking factor} \times (1 \text{ day} / 1,440 \text{ minutes}) = \text{Peak Hourly Flow (GPM)}$$
$$102,748 \times 4.0 \times (1/1,440) = 285 \text{ GPM Peak flow}$$

2. Station and Force Main Geometry

See Appendices A, B and C for additional information on pump station location and the geometry of the force main from the pump station to its gravity outfall.

Pump Station Wetwell / manhole:

Invert in from Gravity Sewer: 5602.3
Approximate grade at station location: 5610.5

Force Main Routing to Outfall:

Length of force main required: 1,200 LF
Elevation at outfall to gravity sewer: 5615.0

The force main piping is anticipated to be 4-inch HDPE, but alternative materials will be considered. Sizing the force main for operational constraints is the responsibility of the Supplier.

Wetwell sizing and configuration is the responsibility of the Supplier.

PROPOSAL CONTENTS

Proposals will address the following Pump Station considerations. Each section should include discussion on equipment selection or options, as well as line item costs for materials and installation for each section.

In addition to meeting the requirements of this request for Proposal, all proposals and equipment shall be compliant with the Aztec City Codes and standards. All equipment and proposed operations shall be in compliance with the New Mexico Environment Department's Recommended Standards for Wastewater Facilities, Chapter 40 (2003).

1. Pump and Appurtenances

Pumps proposed will need to meet the following criteria:

Replaceable without wetwell entry by personnel.

Shown appropriate to the station requirements.

Able to handle very low flow conditions prior to site buildout. The method provided to meet initial flows (150 - 500 GPD) and future maximum flow will be an important evaluation factor.

2. Wells

Wetwells (or drywells if proposed) are to specified by the Supplier. Buoyancy calculations may be necessary as the project progresses.

3. Controls and Monitoring

The City currently maintains a SCADA network for utility controls. Controls for the pump station will be required to integrate and interface with the City's current SCADA system.

4. Inlet Protection

Protection for the pump intake from large or otherwise destructive objects needs to be addressed.

5. Redundancy and Backups

Suppliers will provide emergency pumping or adequate storage capacity.

6. Pump and Controls Housing

Suppliers may propose above- or below-grade housing for pumps, controls, and any other appurtenances required (e.g. inlet screen disposal containers).

Suppliers should note that the pump station will be located in a public area with anticipated recreational foot traffic. Low visibility and aesthetics will be important evaluation factors, as will ease of access and maintenance.

7. Odor Control

Odor control should be addressed via pump cycle timing and septic condition avoidance, as well as air filtering as desired. Once again the public and pedestrian nature of the area should be noted, and a plan for odors will be an important evaluation factor.

8. Operations and Maintenance

An operations and maintenance manual, including system startups, hand-off and staff training is to be accounted for in proposals.

B. BUSINESS SPECIFICATIONS

Submittal Form

The Offeror's proposal **must** be accompanied by the Submittal Form located in APPENDIX E. The form **must** be completed and **must** be signed by the person authorized to obligate the company.

Campaign Contribution Disclosure Form

The Offeror **must** complete an unaltered Campaign Contribution Disclosure Form and submit a signed copy with the Offeror's proposal. This must be accomplished whether or not an applicable contribution has been made. (See APPENDIX F)

Debarment/Suspension Form

The Offeror must complete the Debarment/Suspension Form and submit a signed copy with the Offeror's proposal. (APPENDIX G)

Certificate(s) of Insurance

The Offeror must include current Certificate(s) of insurance

W-9 Form

The Offeror must include a completed W-9 form. IRS link to current form and instructions: <https://www.irs.gov/forms-pubs/about-form-w-9>

Resident Business or Resident Veterans Preference

To ensure adequate consideration and application of NMSA 1978, § 13-1-21 (as amended), Offerors must include a copy of their preference certificate in this section. In addition, for resident Veterans Preference, the attached certification Form (APPENDIX H) must accompany any Offer and any business wishing to receive the preference must complete and sign the form.

C. COST PROPOSAL

Final costs for proposed equipment, as well as estimated installation costs by a future selected general contractor are to be included in the proposal. Proposal price to including shipping, packing, crating and unloading at project site located north of the intersection of NM516 and US550 in Aztec, New Mexico.

V. EVALUATION

A. EVALUATION POINT SUMMARY

Proposals for consideration for this project must contain evidence of the firm’s experience and abilities in the specified area and other disciplines directly related to the proposed services. Other information required by the City is included elsewhere in this solicitation.

It is important that Offerors emphasize information considered pertinent to the services to be provided within the proposal document submitted to the City.

The following is a summary of evaluation factors with point values assigned to each. These weighted factors will be used in the evaluation of individual potential Offeror proposals by sub-category.

Factors	Points Available
Technical Specifications	
Tech1. Background & Experience of the Offeror	40
Tech2. References	10
Tech3. Technical Approach	80
Tech4. Experience of Staff/Crew	10
Tech 4. Proposal Responsiveness	10
Business Specifications	
Bus1. Submittal Form	Pass/Fail
Bus2. Signed Campaign Contribution Disclosure Form	Pass/Fail
Bus3. Debarment/Suspension Form	Pass/Fail
Bus4. Certificate of Insurance	Pass/Fail
Bus5. W9 Complete	Pass/Fail
Bus6.A New Mexico Preference - Resident Vendor Points per Section IV C. 6 <u>Certification must be included to be considered</u>	
Bus6.B New Mexico Preference - Resident Veterans Points per Section IV C.6 <u>Certification must be included to be considered</u>	
Cost	
Cost1. Cost Proposal	50
TOTAL	200 points

Table 1: Evaluation Point Summary

B. POINT CALCULATIONS

Bus.6. New Mexico Preferences

Percentages will be determined based upon the point based system outlined in NMSA 1978, § 13-1-21 (as amended).

A. New Mexico Business Preference

If the Offeror has provided their Preference Certificate the Preference Points for a New Mexico Business is 5%.

B. New Mexico Resident Veterans Business Preference

If the Offeror has provided their Preference Certificate **and** the Resident Veterans Certification Form the Preference Point are one of the following:

- 10% for less than \$1M (prior year revenue)
- 8% for more than \$1M but less than \$5M (prior year revenue)
- 7% for more than \$5M(prior year revenue)

Cost1. Cost

The evaluation of each Offeror’s cost proposal will be conducted using the following formula:

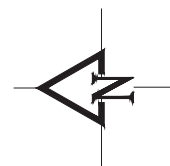
$$\frac{\text{Lowest Responsive Offer Bid}}{\text{This Offeror's Bid}} \quad \times \quad 50$$

C. EVALUATION PROCESS

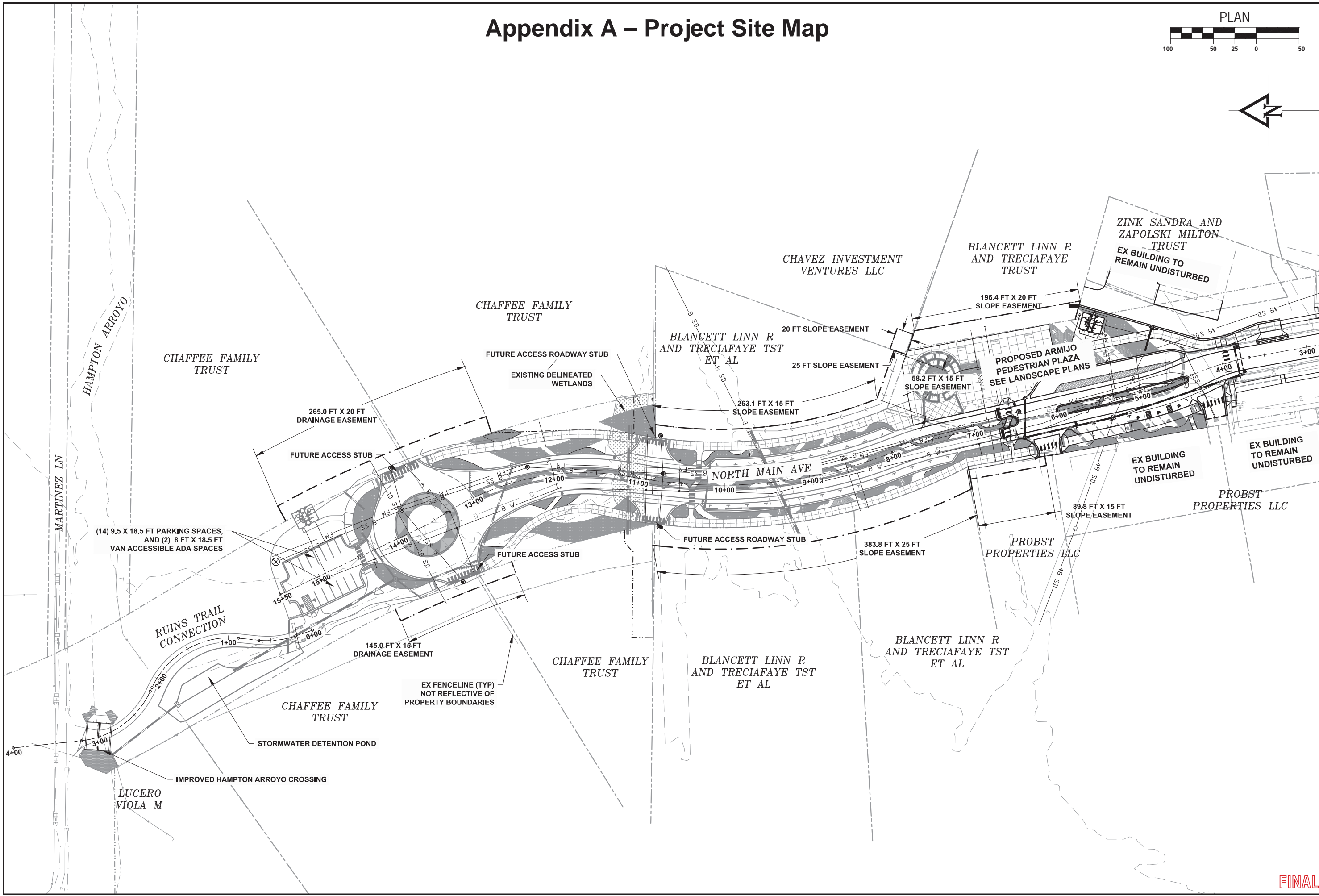
1. All Offeror proposals will be reviewed for compliance with the requirements and specifications stated within the RFP. Proposals deemed non-responsive will be eliminated from further consideration.
2. The Procurement Manager may contact the Offeror for clarification of the response as specified in Section II. B.7.
3. The Evaluation Committee may use other sources to perform the evaluation as specified in Section II. C.18.
4. Responsive proposals will be evaluated on the factors in Section V, which have been assigned a point value. The responsible Offerors with the highest scores will be selected as finalist Offerors, based upon the proposals submitted. The responsible Offerors whose proposals are most advantageous to the City of Aztec 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.

APPENDIX A: PROJECT SITE MAP

Appendix A – Project Site Map



CALL 811
TWO WORKING DAYS
BEFORE YOU DIG



REVISIONS:

AZTEC NORTH MAIN CORRIDOR

SITE PLAN - OVERALL

Short Elliott
Hendrickson, Inc.
994 Main Avenue, Unit C
Durango, Colorado 81301
Phone: (970) 385-4546
Fax: (970) 385-4502



Drawn: TM
Drafted: PT
Checked: DC

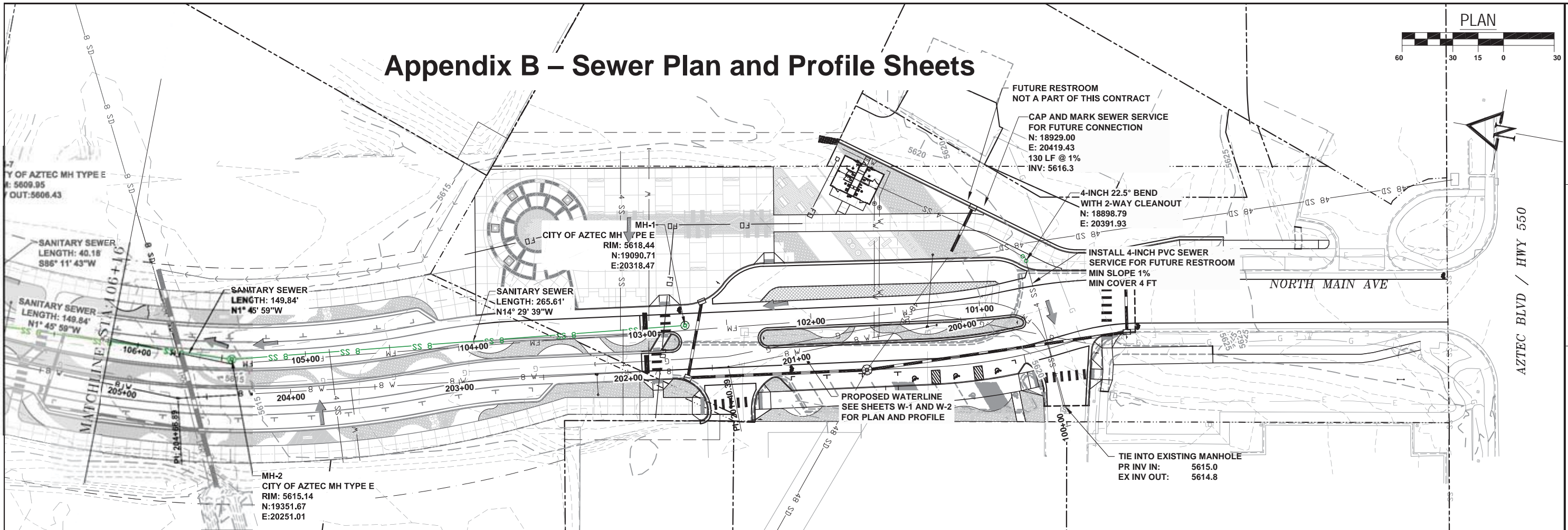
Date of Submittal
09/06/2019

1 of 1

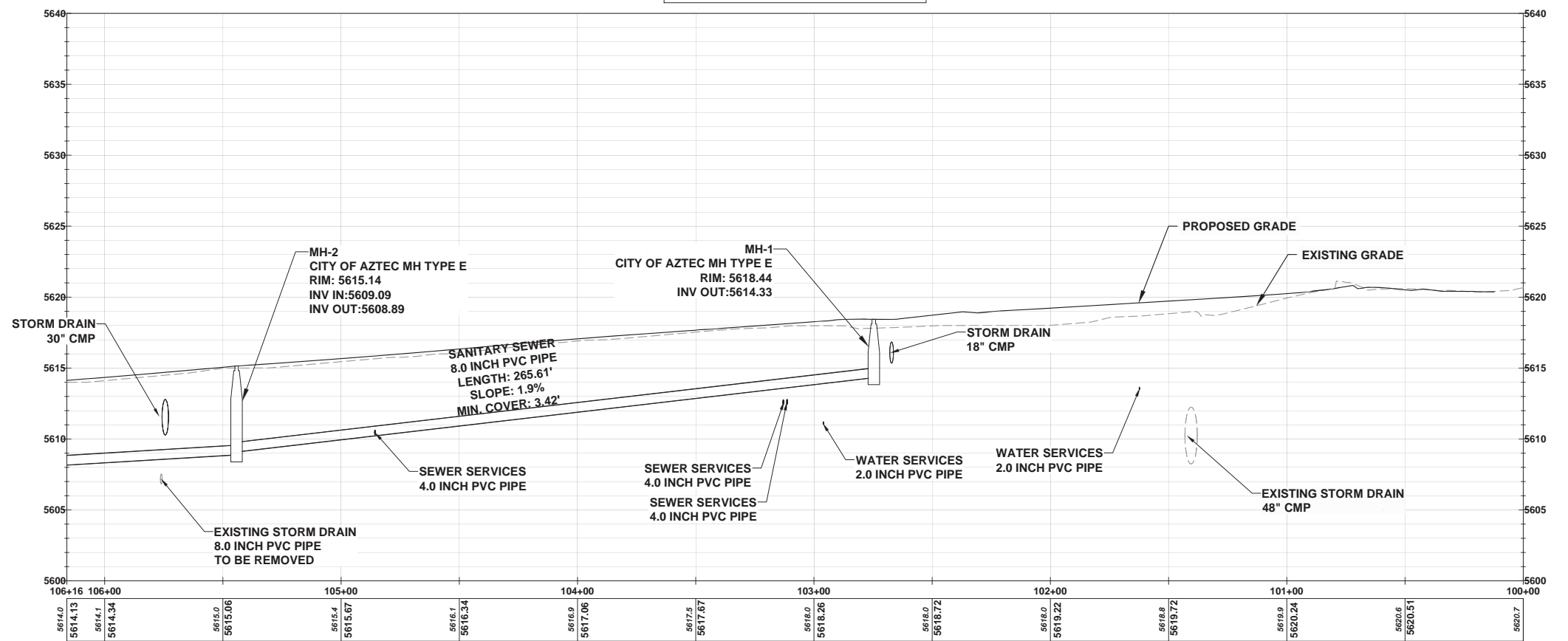
FINAL

APPENDIX B: SEWER PLAN AND PROFILE SHEETS

Appendix B – Sewer Plan and Profile Sheets



PROFILE VIEW OF SANITARY SEWER MAIN



FINAL

Short Elliott
Hendrickson, Inc.
994 Main Avenue, Unit C
Durango, Colorado 81301
Phone: (970) 385-4546
Fax: (970) 385-4502

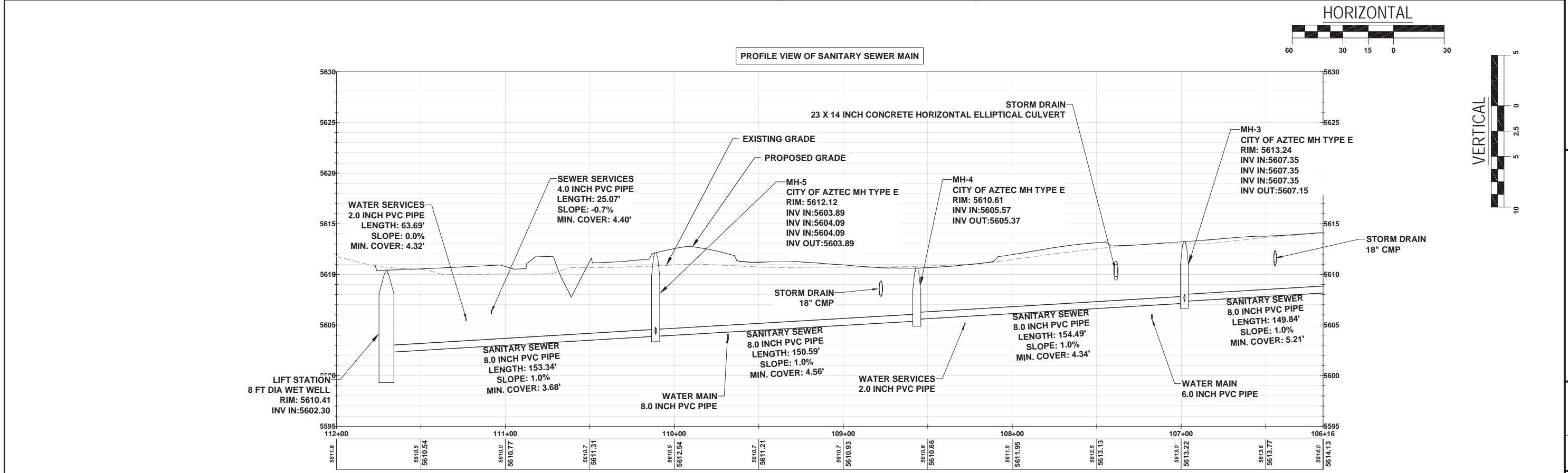
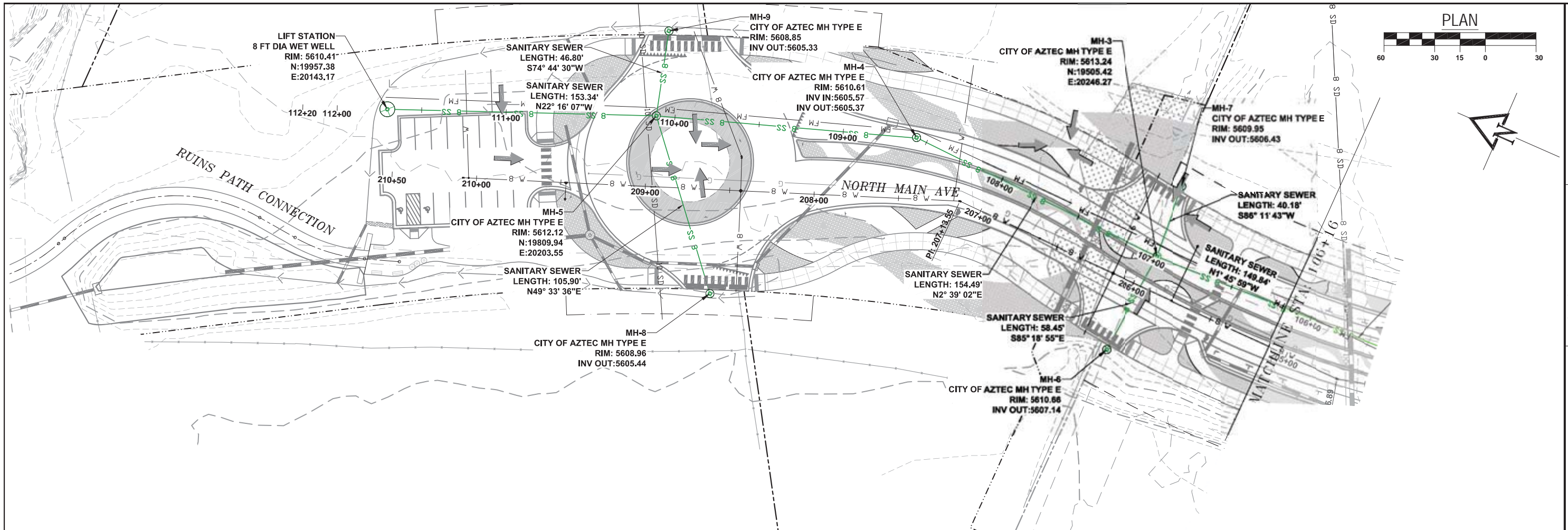
SEH

Drawn: TM
Drafted: PT
Checked: DC

Date of Submittal
09/06/2019

1 of 2

File Name: R:\Current Projects\Land Projects 3\Aztec - North Main Project\CAD\Level 3 Production Dwg\SP-PRO SEWER Plotted: 8/21/2019 9:37 AM Plot Style: HALF.STB Plotted By: PAUL THOMAS



REVISIONS:

**AZTEC NORTH MAIN CORRIDOR
SEWER PLAN AND PROFILE NORTH**

Short Elliott
Hendrickson, Inc.
994 Main Avenue, Unit C
Durango, Colorado 81301
Phone: (970) 385-4546
Fax: (970) 385-4502

SEH

Drawn: **TM**
Drafted: **PT**
Checked: **DC**

Date of Submittal
09/06/2019

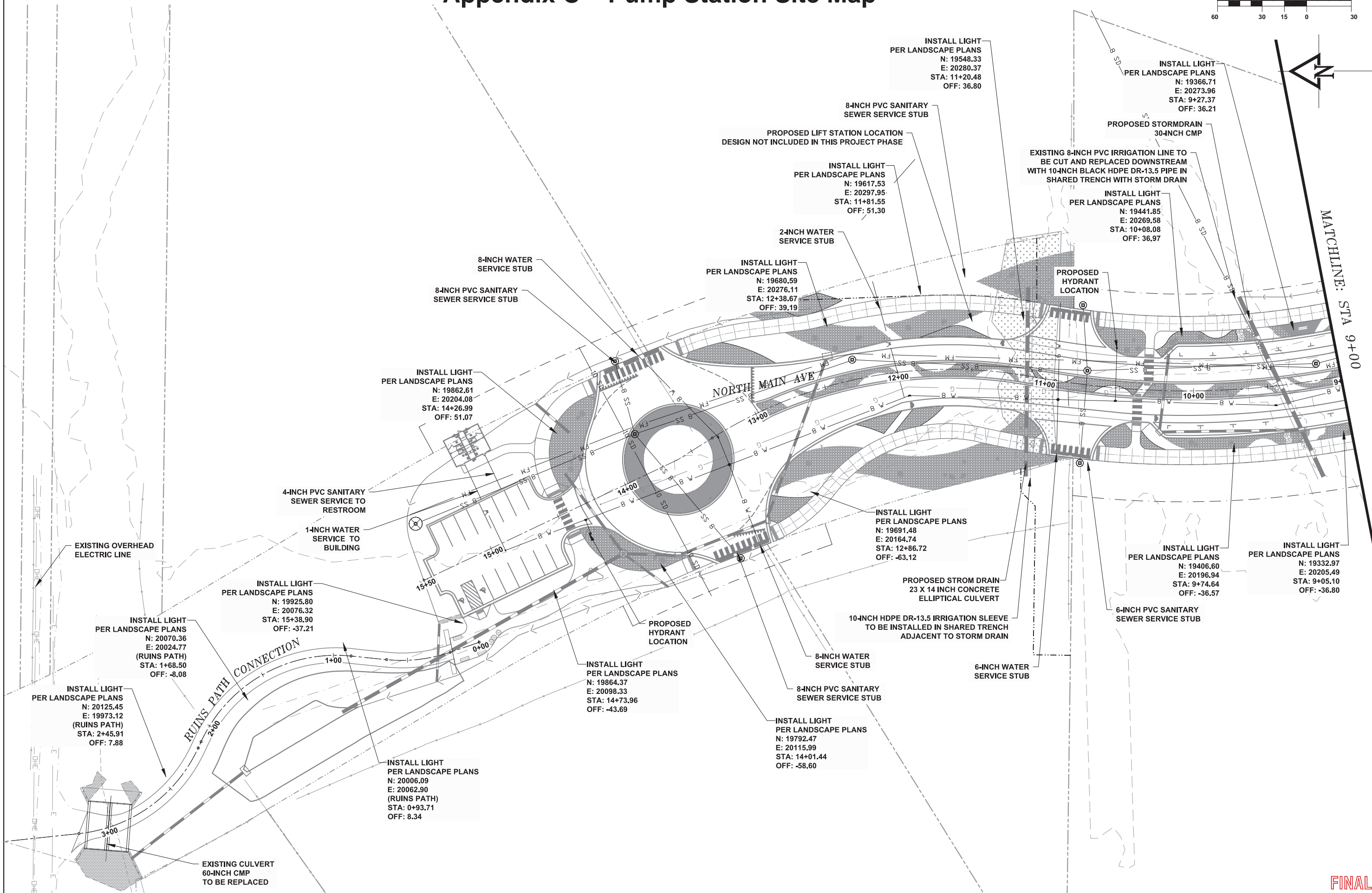
2 of 2

File Name: R:\Current Projects\Land Projects 3\Aztec - North Main Project\CAD\Level 3 Production Dwg\SP-PRO SEWER Plotted: 8/21/2019 9:37 AM Plot Style: HALF.STB Plotted By: PAUL THOMAS

FINAL

APPENDIX C: PUMP STATION SITE MAP

Appendix C – Pump Station Site Map



CALL 811
TWO WORKING DAYS
BEFORE YOU DIG

REVISIONS:

AZTEC NORTH MAIN CORRIDOR
UTILITY PLAN NORTH

Short Elliott
Hendrickson, Inc.
934 Main Avenue, Unit C
Durango, Colorado 81301
Phone: (970) 385-4546
Fax: (970) 385-4502



Drawn: **TM**
Drafted: **PT**
Checked: **DC**

Date of Submittal
09/06/2019

1 of 1

File Name: R:\Current Projects\Land Projects 3\Aztec - North Main Project\ACAD\Level 3 Production Dwg\UTILITY PLAN Plotted: 8/21/2019 9:25 AM Plot Style: HALF.STB Plotted By: PAUL THOMAS

FINAL

APPENDIX D: ACKNOWLEDGEMENT OF RECEIPT FORM

REQUEST FOR PROPOSAL
RFP 2020-722 N MAIN SEWER PUMP STATION
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 Manager no later than 10:00 AM MST/MDT on September 30, 2019. Only potential Offerors who elect to return this form completed with the indicated intention of submitting a proposal will receive copies of all Offeror 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, Procurement Manager
RFP 2020-722 N MAIN SEWER PUMP STATION
City of Aztec
201 W Chaco
Aztec NM 87410
Fax: 505-334-7649
E-mail: klamb@aztecnm.gov

APPENDIX E: SUBMITTAL FORM

REQUEST FOR PROPOSALS SUBMITTAL FORM
RFP 2020-722 N MAIN SEWER PUMP STATION
Sealed proposals due by **October 10, 2019, 3:00 P.M. MDT**

1. OFFEROR INFORMATION

COMPANY NAME

ADDRESS/CITY/STATE/ZIP

If a corporation, state of incorporation: _____

New Mexico Tax ID No: _____ Federal Tax Id No: _____

2. CONTACT PERSON TO CLARIFY/RESPOND TO INQUIRIES

NAME TELEPHONE NUMBER

TITLE EMAIL ADDRESS

3. PERSON AUTHORIZED TO CONTRACTUALLY OBLIGATE ON BEHALF OF THIS OFFER

NAME TELEPHONE NUMBER

TITLE EMAIL ADDRESS

4. PERSON AUTHORIZED TO NEGOTIATE ON BEHALF OF THIS OFFER

NAME TELEPHONE NUMBER

TITLE EMAIL ADDRESS

IMPORTANT – PROPOSALS SUBMITTED ELECTRONICALLY MUST BE SUBMITTED THROUGH THE CITY’S E-PROCUREMENT SYSTEM ONLY. HARD COPY 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 PROPOSALS WILL NOT BE ACCEPTED.

Sealed proposals will be received until **October 10, 2019, 3:00 P.M. MDT** and then opened at the **City of Aztec Finance Department**. 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.

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 Request for Proposal (“RFP”), and that the undersigned Offeror has read and understands the scope and conditions of the RFP.

The undersigned accepts the Conditions Governing the Procurement, as required in Section II.C.1.

The undersigned concurs that submission of our proposal constitutes acceptance of Section V of this RFP.

The undersigned acknowledges receipt of any and all amendments.

The undersigned hereby proposes to perform necessary professional services for the amount and upon the conditions stated in this proposal after notice of the contract.

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.

To be a valid proposal, person authorized to contractually obligate organization must sign:

Signature

Title

Date

APPENDIX F: 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 Victor C. Snover, Mayor-ProTem Rosalyn A. Fry, Commissioner Mark E. Lewis, Commissioner Austin R. Randall, and/or Commissioner Sherri A. Sipe.

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 G: DEBARMENT/SUSPENSION CERTIFICATION FORM

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 City 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 H: NEW MEXICO PREFERENCE 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.

APPENDIX H: REFERENCE FORM

**City of Aztec
Offeror Reference Form
RFP 2020-722 N Main Sewer Pump Station**

This form must be completed and returned with your proposal.

All references must be from customers for whom your company has provided similar equipment to the specifications of this bid. Attach additional page if necessary.

References for: _____
(Company Name)

1 Company: _____

StreetAddress: _____

City, State & Zip: _____

Contact Person Name and Title: _____

Phone: _____ FAX: _____ Email: _____

Describe Scope of Work and dates of project/service:

2 Company: _____

StreetAddress: _____

City, State & Zip: _____

Contact Person Name and Title: _____

Phone: _____ FAX: _____ Email: _____

Describe Scope of Work and dates of project/service:

3 Company: _____

StreetAddress: _____

City, State & Zip: _____

Contact Person Name and Title: _____

Phone: _____ FAX: _____ Email: _____

Describe Scope of Work and dates of project/service:

APPENDIX I: SAMPLE AGREEMENT

CITY OF AZTEC
DRAFT EQUIPMENT PURCHASE AGREEMENT

This Equipment Purchase Agreement (“Agreement”) is entered into this ____ day of _____, 20__, by and between the City of Aztec, a municipal corporation organized and operating under the laws of the State of New Mexico with its principal place of business at 201 W Chaco, Aztec, New Mexico 87410 (“City”), and _____, a _____ corporation, with its principal place of business at _____ (“Contractor”). City and Contractor are sometimes individually referred to as “Party” and collectively as “Parties” in this Agreement.

RECITALS

4 City issued a solicitation (“Solicitation”) seeking proposals, bids or quotes from qualified contractors to provide the required equipment, a copy of which is attached hereto as Exhibit “D” and incorporated herein by reference.

5 Contractor submitted a proposal in response to the Solicitation and City selected Contractor to provide the required equipment.

6 The Parties desire to enter into this Agreement for the purpose of setting forth the terms and conditions upon which Contractor shall provide the required equipment to City.

AGREEMENT

NOW, THEREFORE, the Parties hereto hereby agree as follows:

Section 1. DEFINITIONS.

A. “Equipment” means all machinery, equipment, items, parts, materials, labor or other services, including design, engineering and installation services, provided by Contractor as specified in Exhibit “A,” attached hereto and incorporated herein by reference.

B. “Delivery Date(s)” means that date or dates upon which the Equipment is to be delivered to City, ready for approval, testing and/or use as specified in Exhibit “B.”

Section 2. MATERIALS AND WORKMANSHIP.

When Exhibit “A” specifies machinery, equipment or material by manufacturer, model or trade name, no substitution will be made without City’s written approval. Machinery, equipment or material installed in the Equipment without the approval required by this Section 2 will be deemed to be defective material for purposes of Section 4. Where machinery, equipment or materials are referred to in Exhibit “A” as equal to any particular standard, City will decide the question of equality. When requested by City, Contractor will furnish City with the name of the manufacturer, the performance capabilities and other pertinent information necessary to properly determine the quality and suitability of any machines, equipment and material to be incorporated in the Equipment. Material samples will be submitted at City’s request.

The site of any installation work shall be kept clean and free of hazards at all times during performance of such installation services. After installation is completed at the site, as applicable, Contractor shall clean the surrounding area to the condition prior to delivery and installation.

Section 3. INSPECTIONS AND TESTS.

City shall have the right to inspect and/or test the Equipment prior to acceptance. If upon inspection or testing the Equipment or any portion thereof are found to be nonconforming, unsatisfactory, defective, of inferior quality or workmanship, or fail to meet any requirements or specifications contained in Exhibit "A," then without prejudice to any other rights or remedies, City may reject the Equipment or exercise any of its rights under Section 4.C. The inspection, failure to make inspection, acceptance of goods, or payment for goods shall not impair City's right to reject nonconforming goods, irrespective of City's failure to notify Contractor of a rejection of nonconforming goods or revocation of acceptance thereof or to specify with particularity any defect in nonconforming goods after rejection or acceptance thereof.

If the Contractor is responsible for providing installation services, finished installation work and/or equipment shall be subject to final inspection and acceptance or rejection by the City.

Section 4. WARRANTY.

A. Contractor warrants that the Equipment will be of merchantable quality and free from defects in design, engineering, material and workmanship for a period of two (2) years, or such longer period as provided by a manufacturer's warranty or as agreed to by Contractor and City, from the date of final written acceptance of the Equipment by City as required for final payment under Section 7. Contractor further warrants that any services provided in connection with the Equipment will be performed in a professional and workmanlike manner and in accordance with the highest industry standards.

B. Contractor further warrants that all machinery, equipment or process included in the Equipment will meet the performance requirements and specifications specified in Exhibit "A" and shall be fit for the purpose intended. City's inspection, testing, approval or acceptance of any such machinery, equipment or process will not relieve Contractor of its obligations under this Section 4.B.

C. For any breach of the warranties contained in Section 4.A and Section 4.B, Contractor will, immediately after receiving notice from City, at the option of City, and at Contractor's own expense and without cost to City:

1. Repair the defective Equipment;
2. Replace the defective Equipment with conforming Equipment, F.O.B. City's plant, office or other location of City where the Equipment was originally performed or delivered; or
3. Repay to City the purchase price of the defective Equipment.

If City selects repair or replacement, any defects will be remedied without cost to City, including but not limited to, the costs of removal, repair and replacement of the defective Equipment, and reinstallation of new Equipment. All such defective Equipment that is so remedied will be similarly warranted as stated above. In addition, Contractor will repair or replace other items of the Equipment which may have been damaged by such defects or the repairing of the same, all at its own expense and without cost to City.

D. Contractor also warrants that the Equipment is free and clear of all liens and encumbrances whatsoever, that Contractor has a good and marketable title to same, and that Contractor owns or has a valid license for all of the proprietary technology and intellectual property incorporated within the Equipment. Contractor agrees to indemnify, defend and hold City harmless against any and all third party claims resulting from the breach or inaccuracy of any of the foregoing warranties.

E. In the event of a breach by Contractor of its obligations under this Section 4, City will not be limited to the remedies set forth in this Section 4, but will have all the rights and remedies permitted by applicable law, including without limitation, all of the rights and remedies afforded to City under the New Mexico Commercial Code.

Section 5. PRICES.

Unless expressly provided otherwise, all prices and fees specified in Exhibit "C," attached hereto and incorporated herein by reference, are firm and shall not be subject to change without the written approval of City. No extra charges of any kind will be allowed unless specifically agreed to in writing by City's authorized representative. The total price shall include (i) all federal, state and local sales, use, excise, privilege, payroll, occupational and other taxes applicable to the Equipment furnished to City hereunder; and (ii) all charges for packing, freight and transportation to destination.

Section 6. CHANGES.

City, at any time, by a written order, and without notice to any surety, may make changes in the Equipment, including but not limited to, City's requirements and specifications. If such changes affect the cost of the Equipment or time required for its performance, an equitable adjustment will be made in the price or time for performance or both. Any change in the price necessitated by such change will be agreed upon between City and Contractor and such change will be authorized by a change order document signed by City and accepted by Contractor.

Section 7. PAYMENTS.

A. Terms of payment, are net thirty (30) days, less any applicable retention, after receipt of invoice, or completion of applicable Progress Milestones. Final payment shall be made by City after Contractor has satisfied all contractual requirements. Payment of invoices shall not constitute acceptance of Equipment.

B. If Progress Milestones have been specified Exhibit "B," then payments for the Equipment will be made as the requirements of such Progress Milestones are met. Progress payments for the Equipment will be made by City upon proper application by Contractor during the progress of the Equipment and according to the terms of payment as specified in Exhibit "B." Contractor's progress billing invoice will include progress payments due for the original scope of work and changes. Each "Item for Payment" shown in Exhibit "B" and each change order will be itemized on the invoice. Invoices for cost plus work, whether part of Exhibit "B" or a change order, must have subcontractor and/or supplier invoices attached to Contractor's invoice. Other format and support documents for invoices will be determined by City in advance of the first invoice cycle.

C. Payments otherwise due may be withheld by City on account of defective Equipment not remedied, liens or other claims filed, reasonable evidence indicating probable filing of liens or other claims, failure of Contractor to make payments properly to its subcontractors or for material or labor, the failure of Contractor to perform any of its other obligations under the Agreement, or to protect City against any liability arising out of Contractor's failure to pay or discharge taxes or other obligations. If the causes for which payment is withheld are removed, the withheld payments will be made promptly. If the said causes are not removed within a reasonable period after written notice, City may remove them at Contractor's expense.

D. Payment of the final Progress Milestone payment or any retention will be made by City upon:

1. Submission of an invoice for satisfactory completion of the requirements of a Progress Milestone as defined in Exhibit "B" and in the amount associated with the Progress Milestone;
2. Written acceptance of the Equipment by City;
3. Delivery of all drawings and specifications, if required by City;
4. Delivery of executed full releases of any and all liens arising out of this Agreement; and
5. Delivery of an affidavit listing all persons who might otherwise be entitled to file, claim or maintain a lien of any kind or character, and containing an averment that all of the said persons have been paid in full.

If any person refuses to furnish an actual release or receipt in full, Contractor may furnish a bond satisfactory to City to indemnify City against any claim or lien at no cost to City.

E. Acceptance by Contractor of payment of the final Progress Milestone payment pursuant to Section 7.D will constitute a waiver, release and discharge of any and all claims and demands of any kind or character which Contractor then has, or can subsequently acquire against City, its successors and assigns, for or on account of any matter or thing arising out of, or in any manner connected with, the performance of this Agreement. However, payment for the final Progress Milestone by City will not constitute a waiver, release or discharge of any claims or demands which City then has, or can subsequently acquire, against Contractor, its

successors and assigns, for or on account of any matter or thing arising out of, or in any manner connected with, the performance of this Agreement.

Section 8. SCHEDULE FOR DELIVERY.

A. The time of Contractor's performance is of the essence for this Agreement. The Equipment will be delivered in accordance with the schedule set forth in Exhibit "B." Contractor must immediately notify City in writing any time delivery is behind schedule or may not be completed on schedule. In addition to any other rights City may have under this Agreement or at law, Contractor shall pay City the sum of fifty dollars and zero cents (\$50.00) per item of Equipment for each calendar day for which the item of Equipment is unavailable beyond the scheduled delivery date(s) specified in Exhibit "B."

B. In the event that the Equipment is part of a larger project or projects that require the coordination of multiple contractors or suppliers, then Contractor will fully cooperate in scheduling the delivery so that City can maximize the efficient completion of such project(s).

Section 9. TAXES.

A. Contractor agrees to timely pay all sales and use tax (including any value added or gross receipts tax imposed similar to a sales and use tax) imposed by any federal, state or local taxing authority on the ultimate purchase price of the Equipment provided under this Agreement.

B. Contractor will withhold, and require its subcontractors, where applicable, to withhold all required taxes and contributions of any federal, state or local taxing authority which is measured by wages, salaries or other remuneration of its employees or the employees of its subcontractors. Contractor will deposit, or cause to be deposited, in a timely manner with the appropriate taxing authorities all amounts required to be withheld.

C. All other taxes, however denominated or measured, imposed upon the price of the Equipment provided hereunder, will be the responsibility of Contractor. In addition, all taxes assessed by any taxing jurisdiction based on Contractor property used or consumed in the provision of the Equipment such as and including ad valorem, use, personal property and inventory taxes will be the responsibility of Contractor.

D. Contractor will, upon written request, submit to City written evidence of any filings or payments of all taxes required to be paid by Contractor hereunder.

Section 10. INDEPENDENT CONTRACTOR.

Contractor enters into this Agreement as an independent contractor and not as an employee of City. Contractor shall have no power or authority by this Agreement to bind City in any respect. Nothing in this Agreement shall be construed to be inconsistent with this relationship or status. All employees, agents, contractors or subcontractors hired or retained by the Contractor are employees, agents, contractors or subcontractors of the Contractor and not of City. City shall not be obligated in any way to pay any wage claims or other claims made

against Contractor by any such employees, agents, contractors or subcontractors or any other person resulting from performance of this Agreement.

Section 11. SUBCONTRACTS.

Unless otherwise specified, Contractor must obtain City's written permission before subcontracting any portion of the Equipment. Except for the insurance requirements in Section 13.A, all subcontracts and orders for the purchase or rental of supplies, materials or equipment, or any other part of the Equipment, will require that the subcontractor be bound by and subject to all of the terms and conditions of the Agreement. No subcontract or order will relieve Contractor from its obligations to City, including, but not limited to Contractor's insurance and indemnification obligations. No subcontract or order will bind City.

Section 12. TITLE AND RISK OF LOSS.

Unless otherwise agreed, City will have title to, and risk of loss of, all completed and partially completed portions of the Equipment upon delivery, as well as materials delivered to and stored on City property which are intended to become a part of the Equipment. However, Contractor will be liable for any loss or damage to the Equipment and/or the materials caused by Contractor or its subcontractors, their agents or employees, and Contractor will replace or repair said Equipment or materials at its own cost to the complete satisfaction of City. Notwithstanding the foregoing, in the event that the City has paid Contractor for all or a portion of the Equipment which remains in the possession of Contractor, then City shall have title to, and the right to take possession of, such Equipment at any time following payment therefor. Risk of loss for any Equipment which remains in the possession of Contractor shall remain with Contractor until such Equipment has been delivered or City has taken possession thereof. Contractor will have risk of loss or damage to Contractor's property used in the construction of the Equipment but which does not become a part of the Equipment.

Section 13. INDEMNIFICATION.

A. Contractor shall defend, indemnify and hold the City, its elected officials, officers, employees, volunteers and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of or incident to any alleged acts, omissions, negligence or willful misconduct of Contractor, its officials, officers, employees, agents, subcontractors and subconsultants arising out of or in connection with the Equipment or the performance of this Agreement, including without limitation the payment of all consequential damages and attorneys' fees and other related costs and expenses except such loss or damage which was caused by the sole negligence or willful misconduct of the City.

B. Contractor's defense obligation for any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against the City, its directors, officials, officers, employees, agents or volunteers shall be at Contractor's own cost, expense and risk. Contractor shall pay and satisfy any judgment, award or decree that may be rendered against City or its elected officials, officers, employees, agents or volunteers, in any such suit, action or other legal proceeding. Contractor shall reimburse City and its elected officials, officers, employees, agents and/or volunteers, for any and all

legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided.

C. Contractor's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the City, its elected officials, officers, employees, agents or volunteers.

Section 14. INSURANCE.

A. General. Contractor shall take out and maintain:

1. Commercial General Liability Insurance, of at least \$1,000,000 per occurrence. The policy shall include coverage for bodily injury liability, broad form property damage liability, blanket contractual, contractor's protective, products liability and completed operations. Where applicable, the policy shall include coverage for the hazards commonly referred to as "XCU." The policy shall be endorsed to include City as an additional insured only to the extent City is vicariously liable for the negligence, acts or omissions of Contractor;

2. Automobile Liability Insurance or the equivalent, with limit of not less than One Million Dollars (\$1,000,000) per accident with respect to Contractor's vehicles whether owned, hired, or non-owned, assigned to or used in the performance of any Services required to be performed by Contractor pursuant to the Agreement.;

3. Workers' Compensation in compliance with applicable statutory requirements and Employer's Liability Coverage of at least \$1,000,000 per occurrence; and

4. Pollution Liability Insurance of at least \$1,000,000 per occurrence and \$2,000,000 aggregate shall be provided by the Contractor if transporting hazardous materials.

5. If Contractor is also the manufacturer of any equipment included in the Equipment, Contractor shall carry Product Liability and/or Errors and Omissions Insurance which covers said equipment with limits of not less than \$1,000,000.

B. Additional Insured; Primary; Waiver of Subrogation; No Limitation on Coverage. The policies required under this Section shall give City, its elected officials, officers, employees, agents or volunteers additional insured status. Such policies shall contain a provision stating that Contractor's policy is primary insurance and that any insurance, self-insurance or other coverage maintained by the City or any additional insureds shall not be called upon to contribute to any loss, and shall contain or be endorsed with a waiver of subrogation in favor of the City, its officials, officers, employees, agents, and volunteers. The limits set forth herein shall apply separately to each insured against whom claims are made or suits are brought, except with respect to the limits of liability. Requirements of specific coverage or limits contained in this section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. Any available coverage shall be provided to the parties required to be named as additional insured pursuant to this Agreement.

C. Evidence of Insurance. Contractor shall furnish City with original certificates of insurance and endorsements effecting coverage required by the Agreement. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms supplied or approved by the City. All certificates and endorsements must be received and approved by the City before delivery commences. The City reserves the right to require complete, certified copies of all required insurance policies, at any time.

D. Subcontractors. All subcontractors shall meet the requirements of this Section before commencing work. In addition, Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

E. Freight. Contractor shall ensure that third party shippers contracted by Contractor have adequate insurance coverage for the shipped Equipment.

Section 15. LIENS.

A. Contractor, subcontractors and suppliers will not make, file or maintain a mechanic's or other lien or claim of any kind or character against the Equipment, for or on account of any labor, materials, fixtures, tools, machinery, equipment, or any other things furnished, or any other work done or performance given under, arising out of, or in any manner connected with the Agreement (such liens or claims referred to as "Claims"); and Contractor, subcontractor and suppliers expressly waive and relinquish any and all rights which they now have, or may subsequently acquire, to file or maintain any Claim and Contractor, subcontractor and suppliers agree that this provision waiving the right of Claims will be an independent covenant.

B. Contractor will save and hold City harmless from and against any and all Claims that may be filed by a subcontractor, supplier or any other person or entity and Contractor will, at its own expense, defend any and all actions based upon such Claims and will pay all charges of attorneys and all costs and other expenses arising from such Claims.

Section 16. TERMINATION OF AGREEMENT BY CITY.

A. Should Contractor at any time refuse or fail to deliver the Equipment with promptness and diligence, or to perform any of its other obligations under the Agreement, City may terminate Contractor's right to proceed with the delivery of the Equipment by written notice to Contractor. In such event City may obtain the Equipment by whatever method it may deem expedient, including the hiring of another contractor or other contractors and, for that purpose, may take possession of all materials, machinery, equipment, tools and appliances and exercise all rights, options and privileges of Contractor. In such case Contractor will not be entitled to receive any further payments until the Equipment is delivered. If City's cost of obtaining the Equipment, including compensation for additional managerial and administrative services, will exceed the unpaid balance of the Agreement, Contractor will be liable for and will pay the difference to City.

B. City may, for its own convenience, terminate Contractor's right to proceed with the delivery of any portion or all of the Equipment by written notice to Contractor. Such termination will be effective in the manner specified in such notice, will be without prejudice to any claims which City may have against Contractor, and will not affect the obligations and duties of Contractor under the Agreement with respect to portions of the Equipment not terminated.

C. On receipt of notice under Section 16.B, Contractor will, with respect to the portion of the Equipment terminated, unless the notice states otherwise,

1. Immediately discontinue such portion of the Equipment and the placing of orders for materials, facilities, and supplies in connection with the Equipment,
2. Unless otherwise directed by City, make every reasonable effort to procure cancellation of all existing orders or contracts upon terms satisfactory to City; and
3. Deliver only such portions of the Equipment which City deems necessary to preserve and protect those portions of the Equipment already in progress and to protect material, plant and equipment at the Equipment site or in transit to the Equipment site.

D. Upon termination pursuant to Section 16.B, Contractor will be paid a pro rata portion of the compensation in the Agreement for any portion of the terminated Equipment already delivered, including material and services for which it has made firm contracts which are not canceled, it being understood that City will be entitled to such material and services. Upon determination of the amount of said pro rata compensation, City will promptly pay such amount to Contractor upon delivery by Contractor of the releases of liens and affidavit, pursuant to Section 7.C.

Section 17. MISCELLANEOUS PROVISIONS.

A. Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address or at such other address as the respective parties may provide in writing for this purpose:

CITY: City of Aztec
201 W Chaco
Aztec NM 87410
Attn: Director of Public Works

CONTRACTOR: _____

Such notice shall be deemed made when personally delivered or when mailed, forty-eight hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

B. Assignment or Transfer. Contractor shall not assign or transfer any interest in this Agreement whether by assignment or novation, without the prior written consent of the City, which will not be unreasonably withheld. Provided, however, that claims for money due or to become due Contractor from the City under this Agreement may be assigned to a financial institution or to a trustee in bankruptcy, without such approval. Notice of any assignment or transfer, whether voluntary or involuntary, shall be furnished promptly to the City.

C. Successors and Assigns. This Agreement shall be binding on the successors and assigns of the Parties.

D. Amendment; Modification. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

E. Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel or otherwise.

F. Governing Law. This Agreement shall be governed by the laws of the State of New Mexico. Venue shall be in San Juan County.

G. Interpretation. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party.

H. No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

I. Authority to Enter Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right and authority to make this Agreement and bind each respective Party.

J. Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

K. Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

L. City's Right to Employ Other Contractors. City reserves its right to employ other contractors in connection with the Equipment.

M. Compliance with Law. Contractor shall comply with all applicable laws and regulations of the federal, state and local government and shall be responsible for obtaining any required licenses, permits or certifications necessary to perform this Agreement. Contractor is responsible for all costs of clean up and/or removal of hazardous and toxic substances spilled as a result of its performance of this Agreement. Contractor is aware of the requirements of New Mexico Public Works Minimum Wage Act Sec 13-4-11 to 13-4-17 NMSA 1978, which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. If the work being performed under this Agreement is being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$20,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. Contractor shall defend, indemnify and hold City, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. Any stop orders issued by the Department of Workforce Solutions against Contractor or any subcontractor that affect Contractor's performance of work under this Agreement, including any delay, shall be Contractor's sole responsibility and Contractor shall indemnify City from liability arising out of the same. It shall be mandatory upon the Contractor and all subcontractors to comply with all New Mexico labor law provisions

N. Wage Theft Prevention.

1. Contractor, and any subcontractor it employs to complete work under this Agreement, shall comply with all applicable federal, state and local wage and hour laws. Applicable laws may include, but are not limited to, the Federal Fair Labor Standards Act and New Mexico Employment Law.

2. BY SIGNING THIS AGREEMENT, CONTRACTOR AFFIRMS THAT IT HAS DISCLOSED ANY FINAL JUDGMENTS, DECISIONS OR ORDERS FROM A COURT OR INVESTIGATORY GOVERNMENT AGENCY, FINDING IN THE FIVE (5) YEARS PRIOR TO EXECUTING THIS AGREEMENT THAT CONTRACTOR OR ITS SUBCONTRACTORS HAS VIOLATED ANY APPLICABLE WAGE AND HOUR LAWS. CONTRACTOR FURTHER AFFIRMS THAT IT OR ITS SUBCONTRACTOR(S) HAS EITHER FULLY SATISFIED EACH JUDGMENT, DECISION OR ORDER, OR, IF ANY JUDGMENT, DECISION OR ORDER HAS NOT BEEN FULLY SATISFIED, CONTRACTOR AFFIRMS THAT IT OR ITS SUBCONTRACTOR(S) IS CURRENTLY SATISFYING SAID JUDGMENT, DECISION OR ORDER THROUGH A PAYMENT OR ALTERNATIVE PLAN APPROVED BY THE APPLICABLE COURT/GOVERNMENT AGENCY AND THAT CONTRACTOR OR ITS SUBCONTRACTOR(S) ARE IN COMPLIANCE WITH SAID PLAN AS OF THE DATE OF EXECUTING THIS AGREEMENT.

3. If at any time during the term of this Agreement, a court or investigatory government agency issues a final judgment, decision or order finding that Contractor or a subcontractor it employs to perform work under this Agreement has violated any applicable wage and hour law, or Contractor learns of such a judgment, decision, or order that was not previously disclosed in its bid/proposal, Contractor shall inform the City no more than fifteen calendar days after the judgment, decision or order becomes final or from the date of learning of the final judgment, decision or order. Contractor or its subcontractor(s) shall, within thirty (30) calendar days after notifying the City, either (i)

fully satisfy any such judgment, decision, or order and provide the City with documentary evidence of satisfying said judgment, decision or order; or (ii) provide the City documentary evidence of a payment or other alternative plan approved by the court/government agency to satisfy the judgment, decision or order. If the Contractor or its subcontractor is subject to a payment or other alternative plan, the Contractor or its subcontractor shall continue to submit documentary evidence every thirty (30) calendar days during the term of the Agreement demonstrating continued compliance with the plan until the judgment, decision or order has been fully satisfied.

4. For purposes of this Section, a "final judgment, decision, or order" refers to one for which all appeals have been exhausted or the time period to appeal has expired. Relevant investigatory government agencies include: the United States Department of Labor, the New Mexico Department of Workforce Solutions, the City, or any other governmental entity or division tasked with the investigation and enforcement of wage and hour laws.

5. Failure to comply with any part of this Section constitutes a material breach of this Agreement. Such breach may serve as a basis for immediate termination of this Agreement and/or any other remedies available under this Agreement and/or law.

6. Notice provided to the City shall be addressed to: Attention: Finance Director, 201 W Chaco, Aztec, New Mexico 87410. The Notice provisions of this Section are separate from any other notice provisions in this Agreement and, accordingly, only notice provided to the above address satisfies the notice requirements in this Section.

O. Entire Agreement. This Agreement constitutes the entire agreement between the Parties relative to the Equipment specified herein. There are no understandings, agreements, conditions, representations, warranties or promises with respect to this Agreement, except those contained in or referred to in the writing.

[SIGNATURES ON FOLLOWING PAGE]

**SIGNATURE PAGE FOR EQUIPMENT PURCHASE AGREEMENT
BETWEEN THE CITY OF AZTEC AND _____**

In witness hereof, the parties hereto have executed this Agreement as of the day and year first above written.

CONTRACTOR:

Company Name: _____
Signed By: _____ Date: _____
Printed Name: _____ Title: _____

Federal Taxpayer Identification or Social Security Number NM Taxpayer Identification Number City Business License Number

CITY OF AZTEC, NEW MEXICO

By: _____ Date: _____
Mayor Victor C. Snover

Attest: _____ Date: _____
Karla Sayler, City Clerk

Approved as To Form: _____ Date: _____
J. Nicci Unsicker, City Attorney

Approved as To Scope: _____ Date: _____
Stephen Morse
Public Works Director