



Request for Proposals RFP 2022-785

Veterinary Services NIGP Code 961

PROPOSALS DUE:

Thursday, August 26, 2021, 3:00 P.M.
City of Aztec
201 W Chaco
Aztec, NM 87410

SITE VISIT (NOT MANDATORY)

Thursday, August 19, 2021 10:00AM

FINAL DATE FOR QUESTIONS

Thursday, August 19, 2021 10:00 AM

Tentative Commission Approval Date

September 1, 2021

For further information contact:

Eduard Vodovoz
Purchasing Manager
City of Aztec

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email: evodovoz@aztecnm.gov

- I. INTRODUCTION4**
 - A. PURPOSE OF THIS REQUEST FOR PROPOSALS 4
 - B. BACKGROUND INFORMATION 4
 - C. TERM OF AGREEMENT 5
 - D. PROCUREMENT MANAGER 5
 - E. INFORMATION PROVIDED BY THE CITY 5
 - F. DEFINITION OF TERMINOLOGY 6
- II. CONDITIONS GOVERNING THE PROCUREMENT9**
 - A. SEQUENCE OF EVENTS 9
 - B. EXPLANATION OF EVENTS..... 9
 - C. GENERAL REQUIREMENTS 12
- III. RESPONSE FORMAT AND ORGANIZATION19**
 - A. NUMBER OF RESPONSES..... 19
 - B. NUMBER OF COPIES..... 19
 - C. PROPOSAL FORMAT..... 19
- IV. SPECIFICATIONS21**
 - A. SCOPE OF WORK..... 21
 - C. COST PROPOSALS..... 22
 - D. BUSINESS SPECIFICATIONS 22
- V. EVALUATION24**
 - A. EVALUATION POINT SUMMARY..... 24
 - B. EVALUATION FACTORS 24
 - C. EVALUATION PROCESS..... 26
- APPENDIX A: ACKNOWLEDGEMENT OF RECEIPT FORM27**
- APPENDIX B: REQUEST FOR PROPOSALS SUBMITTAL FORM.....28**
- APPENDIX C: CAMPAIGN CONTRIBUTION DISCLOSURE FORM.....30**
- APPENDIX D: RESIDENT VETERANS CERTIFICATION32**
- APPENDIX E: DEBARMENT/SUSPENSION CERTIFICATION FORM.....33**
- APPENDIX F: COST PROPOSAL34**
- APPENDIX G: DRAFT AGREEMENT35**

NOTICE TO OFFERORS
City of Aztec, NM
RFP 2022-785 Veterinary Services
Proposal Due Date: Thursday, August 26, 2021 3:00 P.M.

The City of Aztec, NM is requesting proposals to provide Veterinary Services in support of the City of Aztec Animal Care and Control Department. The term of the resulting award contract will be one year from date of award, with the city's option to renew the contracts for three (3) additional one year periods.

Acceptable Candidates are Veterinarian(s), licensed by, and in good standing with, the New Mexico Board of Veterinary Medicine.

Proposal documents, including instructions to Bidders and Bid Forms are available online by accessing the City's purchasing webpage through <http://www.aztecnm.gov/purchasing.html> or by contacting Eduard Vodovoz at (505) 334-7656 or evodovoz@aztecnm.gov

Proposals, marked as RFP 2022-785 including the proposal documents, will be received by the Purchasing Office at evodovoz@aztecnm.gov, until the hour of 3:00 p.m. on August 26, 2021.

Offerors are responsible for monitoring the website referenced above for notifications of changes and addenda related to this solicitation.

CITY OF AZTEC
Aztec, New Mexico 87410
Eduard vodovoz

I. INTRODUCTION

A. PURPOSE OF THIS REQUEST FOR PROPOSALS

The City of Aztec (hereinafter “City”) is requesting proposals to establish a contract through competitive negotiations for the procurement to offer veterinary services in support of the City of Aztec Animal Care and Control Department.

The Base period of the contract will be one year from date of award. A Total of three(3) additional single option years are available and will be approved annually unless the City of Aztec chooses not to renew the agreement. Option year periods shall run from the effective date of the agreement, unless terminated in writing by either party by delivering a minimum thirty (30) day notice of contract cancellation.

B. BACKGROUND INFORMATION

The City of Aztec Animal Shelter is located at 825 Sabena St, Aztec, NM. The Animal Shelter provides shelter for animals which largely consists of animals coming in as strays and roaming animals. The Shelter has a fully equipped surgical suite and staff available to assist with surgeries.

The City of Aztec Animal Care and Control Department’s mission is to protect, promote and enhance the health, safety, and quality of life for companion animals and people within San Juan County.

The Shelter accepts animals from the City of Aztec, City of Bloomfield and San Juan County. Animals are also accepted from owners who can no longer keep their pets. The Shelter may also accept animals from other jurisdictions outside of San Juan County if sufficient resources are available for additional animals and written agreement has been approved between entities.

Our goals are to:

- Increase Animal and Public Safety
- Improve Animal Welfare
- Eliminate Euthanasia of Adoptable Domestic Animals
- Increase the Number of Animals Returned to Owners
- Increase Responsible Pet Ownership

ANNUAL VOLUME						
	July 2018 – June 2019		July 2019 – June 2020		July 2020 – June 2021	
	Adopted/Rescued	Surgeries	Adopted/Recued	Surgeries	Adopted/Recued	Surgeries
Dogs	958	622	1091	452	1831	443
Cats	179	499	694	305	710	337

C. TERM OF AGREEMENT

1. It is the City’s intent to enter into an agreement with a selected Contractor(s) to provide Veterinary Services, as is determined to be in the best interests of the City.
2. The fee proposal, as negotiated prior to contract execution (if required), shall be come the final unit price under the terms of this contract, for the initial term of the contract.
3. The maximum proposed term of the Contract for Veterinary Services, including contract renewals, is for a total of four (4) years. The initial term of the contract will be one (1) year, from date of award, with an option of three (3) automatic one year renewals.
4. In the event the City does not opt to renew the contract as stated under Sec C (3) above; or the City and Contractor are unable to reconfirm or renegotiate unit rate for another term, the City shall have the option of extending this contract at the current rates for a period of three months total for the purpose of completion of services started prior to current contract expiration or until a new contact can be established.

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: Eduard Vodovoz, Procurement Manager
Address: 201 W Chaco, Aztec NM 87410
Telephone: (505) 334-7656
Fax: (505) 334-7649
Email: evodovoz@aztecnm.gov

2. **Any inquiries or requests** regarding this procurement should be submitted, via email, to the Procurement Manager. Respondents 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. INFORMATION PROVIDED BY THE CITY

1. Respondents 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 Respondent rely on any oral statement.
2. Should a Respondent find discrepancies in, or omissions from, this RFP and related documents, or should Respondent be in doubt as to meaning. Respondent shall immediately notify the City’s designated representative and, if necessary, written addenda will be emailed to each Respondent who has returned the “Acknowledgement of Receipt” form, Appendix A. Each Respondent requesting an interpretation will be responsible of such requests

to the City's designated representative in writing as outlined in this RFP. The City will not be bound by, nor responsible for, any explanation or interpretation of the proposed documents other than those given in writing.

F. DEFINITION OF TERMINOLOGY

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

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

"Agency" means the City of Aztec.

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

"Award" means the final execution of the contract document.

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

"City" means the City of Aztec.

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

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

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

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

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

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

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

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

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

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

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

“IT” means Information Technology.

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

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

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

“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 the City of Aztec to enter into or administer contracts and make written determinations with respect thereto.

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

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

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

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

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

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

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

“Sealed” means, in terms of a non-electronic submission, that the proposal is enclosed in a package which is completely fastened in such a way that nothing can be added or removed. Open packages submitted will not be accepted except for packages that may have been damaged by the delivery service itself. The 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 Respondent agrees to and concurs with this process and accepts the determination of the Procurement Manager in such cases.

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

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

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

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

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

II. CONDITIONS GOVERNING THE PROCUREMENT

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

A. SEQUENCE OF EVENTS

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

Action	Responsible Party	Due Dates
1. Issue RFP	City	July 19, 2021
2. Pre-Proposal Conference (not mandatory)	City	August 19, 2021
3. Acknowledgement of Receipt Form	Potential Respondents	August 9, 2021
4. Deadline to submit Questions	Potential Respondents	August 19, 2021
5. Response to Written Questions	Procurement Manager	August 23, 2021
6. Submission of Proposal	Potential Respondents	August 26, 2021
7. Proposal Evaluation	Evaluation Committee	August 2021
8. Selection of Finalists	Evaluation Committee	August 2021
9. Best and Final Offers	Finalist Respondents	August 2021
10. Oral Presentation(s)	Finalist Respondents	August 2021
11. Finalize Contractual Agreements	City/Finalist Respondents	September 2021
12. Contract Awards	City/ Finalist Respondents	September 2021
13. Protest Deadline	Protest Manager	+15 days

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 on July 19, 2021.

2. Pre-Proposal Conference

A pre-proposal conference is available at the Animal shelter, but not mandatory.

3. Acknowledgement of Receipt

Potential Respondents should email the "Acknowledgement of Receipt of Request for Proposals Form" that accompanies this document, APPENDIX A, to have their organization placed on the procurement distribution list. The form should be signed by an authorized representative of the organization, dated and returned to the Procurement Manager by 5:00 pm, local time, on August 9, 2021.

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

4. Deadline to Submit Written Questions

Potential Respondents may email questions to the Procurement Manager as to the intent or clarity of this RFP until August 19, as indicated in the sequence of events. All written questions must be addressed to the Procurement Manager as declared in Section I, Paragraph D. Questions shall be clearly labeled and shall cite the Section(s) in the RFP or other document which form the basis of the question.

5. Response to Written Questions

Written responses to written questions will be distributed as indicated in the sequence of events to all potential Respondents whose organization name appears on the procurement distribution list. An e-mail copy will be sent to all Respondent's that provide Acknowledgement of Receipt Forms described in Sec II.B.3 before the deadline. Additional copies will be posted to: <http://www.aztecnm.gov/purchasing.html>.

6. Submission of Proposal

ALL RESPONDENT 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 **August 26, 2021**. Proposals received after this deadline will not be accepted. The date and time of receipt will be recorded on each proposal.

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

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

7. Proposal Evaluation

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

8. Selection of Finalists

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

9. Best and Final Offers

Finalist Respondents 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 Respondent's oral presentation and demonstration.

10. Oral Presentations

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

11. Finalize Contractual Agreements

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

12. Contract Awards

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

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

13. Protest Deadline

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

Anthony Bolling
Protest Manager
201 W Chaco
Aztec NM 87410

Protests received after the deadline will not be accepted.

C. GENERAL REQUIREMENTS

1. Acceptance of Conditions Governing the Procurement

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

2. Incurring Cost

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

3. Prime Contractor Responsibility

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

4. Subcontractors/Consent

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

5. Amended Proposals

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

6. Respondent's Rights to Withdraw Proposal

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

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

7. Proposal Offer Firm

Responses to this RFP, including proposal prices for services, will be considered firm for ninety (90) days after the due date for receipt of proposals or sixty (60) days after the due date for the receipt of a best and final offer, if the Respondent is invited or required to submit one.

8. Disclosure of Proposal Contents

Proposals will be kept confidential until negotiations and the award are completed by the City. At that time, all proposals and documents pertaining to the proposals will be open to the public, except for material that is clearly marked proprietary or confidential. The Procurement Manager will not disclose or make public any pages of a proposal on which the potential Respondent has stamped or imprinted "proprietary" or "confidential" subject to the following requirements:

- A. Proprietary or confidential data shall be readily separable from the proposal in order to facilitate eventual public inspection of the non-confidential portion of the proposal.
- B. Confidential data is restricted to:
 - 1) confidential financial information concerning the Respondent's organization;
 - 2) and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, NMSA 1978 § 57-3A-1 to 57-3A-7.
 - 3) PLEASE NOTE: The price of products offered or the cost of services proposed **shall not be designated** as proprietary or confidential information.

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

9. No Obligation

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

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

12. Legal Review

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

13. Governing Law

This RFP and any agreement with a Respondent 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 through the Procurement Manager or in this RFP should be used as the basis for the preparation of Respondent proposals.

15. Contract Terms and Conditions

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

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

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

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

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

16. Respondent's Terms and Conditions

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

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

18. Respondent Qualifications

The Evaluation Committee may make such investigations as necessary to determine the ability of the potential Respondent to adhere to the requirements specified within this RFP. The Evaluation Committee will reject the

proposal of any potential Respondent who is not a Responsible Respondent or fails to submit a responsive offer as defined in NMSA 1978, § 13-1-83 and 13-1-85.

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 Respondent Representatives

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

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.

By law (Section 13-1-191, NMSA, 1978) the City is required to inform Respondents 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).

22. City Rights

The City in agreement with the Evaluation Committee reserves the right to accept all or a portion of a potential Respondent's proposal. The City reserves the right to award proposal to multiple vendor as may be determined to be in the City's best interest.

23. Right to Publish

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

24. Ownership of Proposals

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

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.

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

26. Electronic mail address required

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

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 Respondent's possession and the version maintained by the City, the Respondent acknowledges that the version maintained by the City shall govern. Please refer to: <http://www.aztecnm.gov/purchasing.html>

28. Campaign Contribution Disclosure Form

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

29. Submittal Form

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

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

31. New Mexico Preferences

To ensure adequate consideration and application of NMSA 1978, § 13-1-21 (as amended), Respondents must include a copy of their preference certificate with their proposal. Certificates for preferences must be obtained

through the New Mexico Department of Taxation & Revenue <http://www.tax.newmexico.gov/Businesses/in-state-veteran-preference-certification.aspx>.

A. New Mexico Business Preference

B. New Mexico Resident Veterans Business Preference

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

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

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

32. Conflict of Interest

- A. Respondent 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. Respondent 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 Respondent. If yes, the Respondent must specify the employee(s) name in their proposal.

III. RESPONSE FORMAT AND ORGANIZATION

A. NUMBER OF RESPONSES

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

B. NUMBER OF COPIES

1. Hard Copy Responses

Respondent's proposal must be clearly labeled and numbered and indexed as outlined in **Section III.C. Proposal Format**. Proposals must be submitted as outlined below. The original copy shall be clearly marked as such on the front of the binder. Envelopes, packages or boxes containing the original and the copies must be clearly labeled and submitted in a sealed envelope, package, or box bearing the following information:

RFP 2022-785 veterinary Services

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

Respondents should deliver:

Proposals – ONE (1) ORIGINAL, THREE (3) HARD COPIES, and ONE (1) ELECTRONIC COPY of the proposal; ORIGINAL and COPY shall be in separate labeled binders. **The electronic version/copy can NOT be emailed.**

- Proposals containing confidential information **must** be submitted as two separate binders:
 - **Unredacted** version for evaluation purposes
 - **Redacted** version (information blacked out and not omitted or removed) for the public file

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. Proposal Format**, may be deemed non-responsive and rejected on that basis.

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 Proposal: 30 – limited to the proposal summary and technical specifications response. All other items required in the 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.

- A. Signed Submittal Form
- B. Table of Contents
- C. Proposal Summary (Optional)
- D. Technical Specifications Response
- E. Cost Proposals
- F. Business Specifications
 - 1) Signed Campaign Contribution Form
 - 2) Debarment/Suspension Form
 - 3) Current Insurance Certificate
 - 4) New Mexico Preferences (If applicable)
 - 5) Response to Contract Terms and Conditions
 - 6) Respondent's Additional Terms and Conditions
- G. Other Supporting Material (If applicable)

Within each section of the proposal, Respondents should address the items in the order indicated above. All forms provided in this RFP must be thoroughly completed and included in the appropriate section of the proposal. All discussion of proposed costs, rates or expenses must occur only on the cost response form.

The proposal summary may be included by potential Respondents 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 Respondent's proposal.

IV. SPECIFICATIONS

Respondents should respond in the form of a thorough narrative to each specification, unless otherwise instructed. The narratives, including required supporting materials will be evaluated and awarded points accordingly.

A. SCOPE OF SERVICE

The City of Aztec is soliciting proposals to contract with a veterinary service provider for services to the City of Aztec Animal Shelter. The selected veterinarian(s) is expected to provide all labor necessary to provide veterinary care for animals at the Aztec Animal Shelter. The Aztec Animal Shelter will provide medications, equipment, materials and supplies.

It is expected that the Veterinarian(s) will provide the requested services to include, but not limited to the following:

1. Spay and Neuter shelter animals and animals from the public for our low cost spay/neuter program. Including older animals, over weight animals, feral animals, animals in heat, pregnant animals, cryptorchid animals and animals with a pyometra. Surgeries may be as many as 14 animals a day or as few as 6, all spays or all neuters or a combination of both. All animals will be spayed or neutered as early as 3 months or 2 ½ pounds.
2. Will be expected to pull retained teeth, do dentals, fix hernias, and remove lumps on some surgery patients on a case by case basis.
3. Must be able to handle feral animals.
4. Emergency surgery on stray animals brought in by Animal control will be required on a case by case basis, these surgeries may include, for example, amputation or eye enucleations.
5. Licensed Euthanasia Technicians are employed at the Animal Shelter, however there may be situations where you would be required to assist staff with euthanasia of the sick or injured.
6. Maintain the health and wellbeing of the shelter population, including sick or injured animals which may include vaccinating, de-worming, treating mange, and fecal tests.
7. May be required to clean kennels in pre-op and recovery.
8. Will be required to clean and maintain anesthesia machines.
9. Will need to examine animals for health certificates that will be leaving to various rescue groups.
10. Must be willing to work with local animal aide organizations for their low cost spay neuter program which can be run through our facility.
11. May be required to write reports for animal control for court and may be required to testify in court.
12. Make recommendations based on professional knowledge for improvements in sanitation, nutrition and disease control at the Shelter.
13. Must be willing to work in conjunction with shelter staff to meet the needs and requirements of their schedule and current workflow processes.
14. Be available to assist in any public relation matter that the Animal Shelter Director may need assistance.
15. Veterinary service invoices to be submitted in a timely manner, bi-weekly or monthly. Payment terms are Net 10 days after receipt and acceptance of invoice.
16. No sub-contract of service will be permitted.
17. Provide schedule, days of the week including time, for veterinary services.
18. Provide availability for emergency on call.
19. Compensation for questions from staff regarding shelter animals that occur after hours.

B. REQUIRED QUALIFICATIONS

1. Must maintain a current license to practice Veterinary medicine in the State of New Mexico
2. Must maintain a current DEA license for the State of New Mexico. Must agree to be the sponsoring Veterinarian for the Aztec Animal Shelter DEA License.
3. Be able to provide proof of insurance.
4. Must have the ability to prescribe and dispense prescription and non-prescription medications for the treatment of animals.
5. Be available to handle any public relation matters that the shelter Director may require assistance.

C. COST PROPOSALS

- a. Appendix F Cost Proposal to be completed and submitted with proposal.

D. BUSINESS SPECIFICATIONS

1. Submittal Form

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

2. Campaign Contribution Disclosure Form

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

3. Debarment/Suspension Form

- a. The Respondent must complete the Debarment/Suspension Form and submit a signed copy with the Respondent's proposal. (see APPENDIX E)

4. Certificate(s) of Insurance

- a. The Respondent must include current Certificate(s) of insurance

5. W-9 Form

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

6. Resident Business or Resident Veterans Preference

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

7. Response to Contract Terms and Conditions

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

V. EVALUATION

A. EVALUATION POINT SUMMARY

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 Respondent proposals by sub-category.

Factors – correspond to section IV.A, IV B and IV C	Points Available
Technical Specifications	
Tech1. Approach to Scope of Work	15
Tech2. Experience, Performance, and Years of Service	20
Tech3. Qualifications	20
Tech4. Timeliness of Service	10
Tech5. Proposal Responsiveness, Completeness, and Clarity	5
Cost Proposal	30
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. 7 <i>Certification must be included to be considered</i>	
Bus6.B New Mexico Preference - Resident Veterans Points per Section IV C.7 <i>Certification must be included to be considered</i>	
Bus7. Contract Terms & Conditions	Yes/No
TOTAL	100 points

Table 1: Evaluation Point Summary

B. EVALUATION FACTORS

Tech.1 Approach to Scope of Work (See Table 1)

Maximum of 15 points will be awarded based on the Respondent’s approach to successfully implement and maintain services for the City and citizens of Aztec. Thoroughness and clarity of the response of and the perceived validity of the response, as well as the knowledge of the proposed staff will be considered.

Tech.2 Experience, Performance and Years of Service (See Table 1)

Maximum of 20 points will be awarded based on the Respondent’s experience with similar types of services to government agencies or private industry, including scheduling, cost of service, years of service and problem resolution.

Tech.3 Qualifications (See Table 1)

Maximum of 20 Points will be awarded based on the qualifications of the firm and key team members, including required licensing.

Tech.4 Timeliness of Service (See Table 1)

Maximum of 10 Points may be awarded for proposed scheduling for surgeries and emergency on call, to include the days of the week and times for surgeries and availability for on call emergencies.

Tech.5 Proposal Responsiveness (See Table 1)

Maximum of 5 Points may be awarded based on the proposal responsiveness including organization, thoroughness, perceived validity of the response and clarity.

Cost1. Cost (See Table 1)

The evaluation of each Respondent's cost proposal will be based on hourly rate.

Bus.1 Submittal Form (See Table 1)

Pass/Fail only. No points assigned.

Bus.2 Campaign Contribution Disclosure Form (See Table 1)

Pass/Fail only. No points assigned.

Bus.3 Disbarment/Suspension Form (See Table 1)

Pass/Fail only. No points assigned

Bus.4 Certificate of Insurance (See Table 1)

Pass/Fail only. No points assigned

Bus.5 W9 Complete (See Table 1)

Pass/Fail only. No points assigned

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

B. **New Mexico Resident Veterans Business Preference**

If the Respondent 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)

Bus.7. Contract Terms & Conditions

Yes/No only. No points assigned.

C. EVALUATION PROCESS

1. All Respondent proposals will be reviewed for compliance with the requirements and specifications stated within the RFP. Proposals deemed non-responsive will be eliminated from further consideration.
2. The Procurement Manager may contact the Respondent 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 IV, which have been assigned a point value. The responsible Respondents with the highest scores will be selected as finalist Respondents, based upon the proposals submitted. The responsible Respondents whose proposals are most advantageous to the City 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: ACKNOWLEDGEMENT OF RECEIPT FORM

RFP 2022-785 Veterinary Services
ACKNOWLEDGEMENT OF RECEIPT FORM

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

The acknowledgement of receipt should be signed and returned to the Procurement Manager no later than May 10, 2021 5:00 PM. Only potential Respondents who elect to return this form completed with the indicated intention of submitting a proposal will receive copies of all Respondent written questions and the written responses to those questions as well as RFP amendments, if any are issued.

FIRM: _____

REPRESENTED BY: _____

TITLE: _____ PHONE NO.: _____

E-MAIL: _____ FAX NO.: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

SIGNATURE: _____ DATE: _____

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

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

Eduard Vodovoz
RFP 2022-785 Veterinary Services
City of Aztec
Purchasing Office
201 W Chaco, Aztec NM 87410
Phone: 505-334-7656
Fax: 505-334-7649
E-mail: evodovoz@aztecnm.gov

APPENDIX B: REQUEST FOR PROPOSALS SUBMITTAL FORM

REQUEST FOR PROPOSALS SUBMITTAL FORM

RFP 2022-785 Veterinary Services

1. RESPONDENT 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

5. Use of Sub-Contractors (Select one)

____ No sub-contractors will be used in the performance of any resultant contract OR

____ The following sub-contractors will be used in the performance of any resultant contract:

(Attach extra sheets, as needed)

6. Please describe any relationship with any entity (other than Subcontractors listed in (5) above) which will be used in the performance of any resultant contract.

(Attach extra sheets, as needed)

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.

As required by 13-1-111 NMSA 1978 the City of Aztec (City) is requesting competitive proposals for Veterinary Services.

Proposals will be received until **August 26, 2021, 3:00 P.M. MDT** and then viewed at the **City of Aztec Finance Conference Room**. The opening of proposals shall be conducted in private in order to maintain the confidentiality of the contents of all proposals during the negotiation process.

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

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

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

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

The Respondent further warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement. The Respondent certifies that the requirements of the Governmental Conduct Act, Sections 10-16-1 through 10-16-18, NMSA 1978, regarding Contracting with a public officer or City employee or former City employee have been followed.

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

To be a valid proposal, Respondent must sign here (individual authorized to contractually commit Respondent)

Signature

Printed Name

Title

RETURN THIS FORM (2 pages) WITH YOUR PROPOSAL

APPENDIX C: CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Campaign Contribution Disclosure Form

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

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

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

The following definitions apply:

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

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

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

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

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

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

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

DISCLOSURE OF CONTRIBUTIONS MADE TO: Mayor Victor C. Snover, Mayor-ProTem Rosalyn A. Fry, Commissioner Mark E. Lewis, Commissioner Austin R. Randall, and/or Commissioner Michael A. Padilla Sr.

Contribution Made By: _____

Relation to Prospective Contractor: _____

Name of Applicable Public Official: _____

Date Contribution(s) Made: _____

Amount(s) of Contribution(s) _____

Nature of Contribution(s) _____

Purpose of Contribution(s) _____

(Attach extra pages if necessary)

Signature Date

Title (position)
—OR—

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

Signature Date

Title (Position)

APPENDIX D: RESIDENT VETERANS CERTIFICATION

New Mexico Preference Resident Veterans Certification

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

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

Please check one box only

- I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is less than \$1M allowing me the 10% preference on this solicitation. I understand that knowingly giving false or misleading information about this fact constitutes a crime.
- I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is more than \$1M but less than \$5M allowing me the 8% preference on this solicitation. I understand that knowingly giving false or misleading information about this fact constitutes a crime.
- I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is more than \$5M allowing me the 7% preference on this solicitation. I understand that knowingly giving false or misleading information about this fact constitutes a crime.

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

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

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

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

(Signature of Business Representative)* _____
(Date)

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

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

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

APPENDIX E: DEBARMENT/SUSPENSION CERTIFICATION FORM
CITY OF AZTEC

DEBARMENT/SUSPENSION CERTIFICATION FORM

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

CONFLICT OF INTEREST

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

DEBARMENT/SUSPENSION STATUS

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

CERTIFICATION

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

Signature: _____ Title: _____ Date: _____

Names Typed: _____ Company Name: _____

Address: _____ City/State/Zip: _____

APPENDIX F: COST PROPOSAL
COST PROPOSAL

Please fill in cost and return with proposal.

Veterinary Services \$ _____ Cost per hour

APPENDIX G: DRAFT AGREEMENT

CITY OF AZTEC

**Services Agreement
Veterinary Services
Agreement # 2022-785**

This agreement is made and entered into on this _____ day of _____ 20____ (“Effective Date”) by and between **(CONTRACTOR)**, hereinafter referred to as the “Contractor”, and the City of Aztec, New Mexico, hereinafter referred to as the “City”.

WHEREAS, the City has deemed it necessary to retain the services of the Contractor to perform services on behalf of the City; and

WHEREAS, the City desires to engage the Contractor to provide said services; and conditions of this agreement.

THEREFORE, it is mutually agreed by and between the parties that:

1. **Scope of Services:**

The Contractor shall perform veterinary services to the City, as per contractor’s response to RFP 2022-785, as hereafter stated: **Section IV.A Scope of Services.**

2. **Compensation:**

In consideration for the services provided pursuant to Paragraph 1, the Contractor shall charge the City on a **net 10 Days** basis and City shall pay only the following charges for services performed as stated: **Exhibit A Cost.**

3. **Changes to Services:**

City may, at any time, revise the Services by providing written notice to Contractor of the required changes. Contractor may propose changes to the Services to City, but such proposed changes will only become effective upon obtaining the written approval of a City contracting agent or City officer/official. The rate of compensation set forth in **Section 2 “Compensation”** may only be changed by a written agreement of the Parties signed and dated by a City contracting agent or City officer/official and Contractor.

4. **Term:**

This agreement shall be effective from the Effective Date until (completion of services or End Date) unless terminated earlier as provided herein. This agreement shall be renewed automatically, subject to the appropriation of funds by the City Commission, from year to year for three (3) additional consecutive one (1) year periods.

5. **Termination:**

5.1 Termination for Cause: If, through any cause, the CONTRACTOR fails to fulfill in a timely and proper manner the Contractor’s obligations under this Agreement, or if the CONTRACTOR violates any of the covenants, agreements, or stipulations of this Agreement, the CITY may order CONTRACTOR by written notice to stop the services or any portion of them until the cause for such order has been eliminated. If the CONTRACTOR fails to correct the cause within five (5) working days of date of written notice, CITY shall have the right to immediately terminate this

Agreement. The CONTRACTOR shall be entitled to receive just and equitable compensation for any work satisfactorily completed.

5.2 Termination for Convenience: The City Manager may, upon advance written notice to Contractor, suspend, abandon or terminate the Services, or any portion of the Services thereof, and terminate this Agreement, for any reason whatsoever including for the convenience of City without regard to whether or not Contractor has defaulted or failed to comply with the provisions of this Agreement. If the City Manager terminates the Services, or any portion of the Services thereof for convenience, City shall pay Contractor for all parts of the Services performed prior to the effective date of termination, including materials provided, in conformity with this Agreement, plus an amount for the Contractor's substantiated, reasonable direct costs necessarily incurred in preparation for the parts of the Services not yet performed and in shutting down its operations; plus an amount for a reasonable part of the profit Contractor would otherwise have earned for the percentage of Services performed prior to such termination, provided that the total sum payable to Contractor upon termination shall not exceed the unpaid balance of Contractor's compensation under **Section 2 "Compensation"**. Contractor shall not be entitled to any other costs or damages whatsoever arising out of Contractor's performance of the Services and the termination by City for convenience.

5.3 Stopping Services. When City terminates the Services in accordance with **"Termination by City for Cause"** or **"Termination by City for Convenience,"** Contractor shall take the actions set forth herein. Unless City directs otherwise, after receipt of a written notice of termination for either cause or convenience, Contractor shall promptly (a) stop performing Services on the date and as specified in the notice of termination; (b) place no further orders or subcontracts for materials, equipment, services or facilities, except as may be necessary for completion of such portion of the Services that is not terminated; (c) cancel orders and subcontracts, upon terms acceptable to City, to the extent that they relate to the performance of Services terminated; (d) assign to City all of the right, title, and interest of Contractor in all orders and subcontracts related to Services which shall continue; (e) deliver completed work to City and take such action as may be necessary or as directed by City to preserve and protect the work, work site, and any other property related to the Services in the possession of Contractor in which City has an interest; and (f) continue performance only to the extent not terminated.

5.4 Suspension of the Services. City may, for any reason, at any time and from time-to-time, by written notice to Contractor, suspend the carrying out of the Services or any part thereof, whereupon Contractor shall suspend the carrying out of the Services or any part thereof for such time or times and in such manner as City may require. During any such suspension, Contractor shall properly protect and secure the results of the Services in such manner as City may reasonably require. Unless otherwise instructed by City, Contractor shall, during any such suspension, maintain its staff and labor on or near the work site and otherwise be ready to proceed with the Services upon receipt of City's further instructions. City and Contractor shall negotiate a change order to address the impact of such suspension on Contractor's compensation and the term of this Agreement in accordance with **Section 3 "Changes to Services"** of this Agreement.

5.5 Termination by Contractor for City Default. Subject to City's right of set-off, if City fails to pay Contractor any undisputed amount due hereunder, and such failure continues for thirty (30) days following receipt of written notice thereof from Contractor, then Contractor shall be entitled to suspend further performance of the Services and be paid its costs during the period of suspension in the same manner as provided in **Section 5.4** until the undisputed amount due, plus applicable interest, has been paid. If (a) such failure continues for an additional period of thirty (30) days or (b) Contractor's Services under this Agreement are delayed by an event of Uncontrollable Forces (as defined in **Section 18** herein), and/or suspended by City, for one hundred eighty (180) days or more, then Contractor shall be entitled to terminate this Agreement by written notice to City and be paid its costs in the same manner as provided in **Section 5.4**.

Delivery of Documents. Upon the suspension, abandonment, or termination of this Agreement, in whole or in part, Contractor shall execute and deliver all such instruments and take all such steps, including assignment of its contractual rights with third parties, as may be required to fully vest in City all right, title, and interest in all Services, including but not limited to all plans, specifications, materials, and equipment procured and all contractual rights, and/or cancel or

terminate, at City's option, such of those contractual rights including, but not limited to, subcontracts and purchase orders as may be requested in writing by City.

6. Contractor Representations and Corrective Action.

6.1 In addition to other representations and warranties contained in this Agreement, Contractor represents and warrants to City that:

- (a) Contractor has performed similar Services and possesses the specific training, skills, knowledge, necessary personnel, and legal right to perform the Services. Contractor shall provide in connection with the Services the standard of care, skill, and diligence normally provided by a Contractor in the performance of similar services and warrants that all such Services shall be performed in accordance with sound and accepted industry standards and practices, and in accordance with all applicable federal, state and local laws, statutes, regulations, rules and ordinances, as amended from time to time (including but not limited to all applicable environmental, health and safety, cultural preservation and natural resources management laws, statutes, regulations, rules, and ordinances, as amended from time to time).
- (b) The compensation described in **Section 2 "Compensation"** is reasonable compensation for the performance of the Services, as represented by this Agreement, including all exhibits, and Contractor's independent evaluation of the Services to be performed and investigation of site conditions.
- (c) Contractor is financially solvent, able to pay its debts as they mature, and possesses sufficient working capital to complete the Services and perform Contractor's obligations required by this Agreement.
- (d) Contractor is able to furnish the plant, tools, materials, supplies, equipment and labor required to complete the Services and perform the obligations required by this Agreement and has sufficient experience and competence to do so and is properly insured and licensed to perform the Services.
- (e) Contractor is the holder of or will take the necessary action to obtain all consents, licenses, permits, or other authorizations required to allow it to operate or conduct its business now and as contemplated by this Agreement and to perform the Services under this Agreement.
- (f) No services performed or goods provided by Contractor shall cause any process, procedure, hardware, software, firmware, micro-code, equipment, component or device or any part thereof that is used in City's operations and is currently Date Data Compliant, to thereafter cease to be Date Data Compliant. Contractor represents and warrants that all services rendered by Contractor to City pursuant to this Agreement shall be Date Data Compliant and that all processes, procedures, hardware, software, firmware, micro-code, equipment, components, devices or any part thereof provided by Contractor to City in rendering such services are designed to be Date Data Compliant. For purposes of this Agreement, "Date Data Compliant" means that all date-data is electronically recognized, handled and manipulated without interruptions or inaccuracies.

6.2 Contractor shall remedy, at its own expense, any problems or damages arising out of Contractor's failure to perform the Services in accordance with this Agreement. If Contractor does not take the necessary corrective action within a reasonable time after receipt of City's written notice of the problem, City may take such corrective action through itself or through contract with others, and shall charge Contractor for all such costs incurred by

City. The rights and remedies of City provided for in this **Section 6** are in addition to and do not limit any other rights and remedies available to City at law or in equity.

7. **Regulatory Proceedings:**

Contractor shall testify, when required by City, on City's behalf in any court or governmental or regulatory agency hearings or proceedings relative to the Services performed under this Agreement. Contractor's testimony shall be limited to the scope of services performed by Contractor per the Services, subject to compensation at negotiated rates.

8. **Status of Contractor:**

The Contractor and his agents and employees are independent contractors performing professional services for the City and are not employees of the City of Aztec. The Contractor, and his agent and employees shall not accrue leave, retirement, insurance, bonding, use of City vehicles, or any other benefits afforded to employees of the City of Aztec as a result of this Agreement. Neither shall the City be liable to the Contractor nor its Agents, nor their estates for any injury to person or property incurred in the course of the performance of this Agreement unless such injury shall have directly and proximately resulted from grossly negligent or reckless conduct on the part of the City or its Agents acting within the scope of their employment and official duties.

9. **Liability:**

9.1 Contractor General Indemnity. To the fullest extent permitted by law, the Contractor agrees to indemnify and hold harmless the City, including its affiliates, directors, officers, officials, employees, and agents, from and against liability, claims, damages, losses or expenses, including attorney fees, arising out of, or resulting from performance of the Services or this Agreement, but only to the extent that the liability, damages, losses, or costs are caused by, or arise out of, the acts or omissions of Contractor, any subcontractor of Contractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable. This indemnification provision shall apply equally to injuries to Contractor's employees.

9.2 Compliance with Laws. Contractor shall indemnify, defend, and hold harmless City from and against any claims, damage and expense (including reasonable attorney fees) arising out of the violation by Contractor of any applicable law, rule regulation, or ordinance relating to Contractor's operations and performance of the Services.

9.3 Intellectual Property Rights Infringement Indemnity. Contractor warrants that none of the Services, or the results thereof, performed by Contractor, or the documents, goods or equipment produced, designed, fabricated, or assembled by Contractor pursuant to this Agreement infringe upon or violate any patent, copyright, trade secret, or any other intellectual or property rights of any third party. If any third party makes a claim or commences a proceeding against City alleging such an infringement or violation, Contractor shall indemnify, defend and save harmless City, its directors, officers, officials, employees, agents and affiliates from and against all damages and costs incurred by or awarded against City (including court costs and reasonable attorney fees). City will notify Contractor if any such claim is made or proceeding is commenced. City may, at its option, be represented by separate legal counsel in any such claim or proceeding. Contractor shall reimburse City the costs and expenses incurred by City in being so represented, including reasonable attorney fees. If the use of any of the Services, or the results of such Services, or documents, goods, or equipment, or any part thereof, furnished under this Agreement is held in any such claim or proceeding to constitute an infringement and/or is enjoined, whether temporarily or permanently, Contractor shall, at its sole cost and expense, either:

- (a) procure for City the right to use the results of such Services or such documents, goods and equipment; or

- (b) replace the results of such Services or such documents, goods, or equipment with non-infringing results, documents, goods or equipment having the equivalent functionality as the infringing or allegedly infringing results, documents, goods or equipment; or
- (c) modify the results of such Services or such documents, goods, or equipment so as to make them non-infringing, but equivalent in functionality.

9.3.1 Best Efforts. Contractor shall use its best efforts to obtain for the benefit of City identical intellectual property rights indemnification protection in all subcontracts, purchase orders, and other agreements entered into under this Agreement.

9.4 Limitation. NOTWITHSTANDING ANY OTHER PROVISION IN THIS AGREEMENT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR SPECIAL, INDIRECT, NOR CONSEQUENTIAL DAMAGES RESULTING FROM OR ARISING OUT OF THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS OR BUSINESS INTERRUPTION, HOWEVER SAME MAY BE CAUSED. THIS LIMITATION ON CONSEQUENTIAL DAMAGES DOES NOT APPLY TO CLAIMS FOR PERSONAL INJURY, WRONGFUL DEATH OR DIRECT DAMAGES TO PROPERTY. NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR PUNITIVE DAMAGES.

9.5 Bribes and Gratuities. By law (Section 13-1-191, NMSA, 1978) the City is required to inform Offerors/Bidders/Contractors/Consultants/Sellers/Suppliers of the following:

- (a) 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);
- (b) it is a third-degree felony to commit the offense of demanding or receiving a bribe buy a public officer or public employee (Section 30-24-2, NMSA, 1978);
- (c) it is a fourth-degree felony to commit the offense of soliciting or receiving illegal kickbacks (Section 30-41-1, NMSA, 1978); and
- (d) it is a fourth-degree felony to commit the offense of offering or paying illegal kickbacks (Section 30-41-2, NMSA, 1978).

10. Assignment:

Contractor shall not assign or transfer any interest in this agreement or assign any claims for money due under this agreement without the prior approval of the City.

11. Subcontracting:

It is understood and agreed that City has chosen Contractor based on Contractor’s qualifications to perform services of the nature contemplated by this Agreement. Accordingly, Contractor shall not assign, transfer, subcontract or otherwise dispose of any of its obligations pursuant to this Agreement without first obtaining the written consent of City, which consent may be withheld if City, in its sole opinion, considers that it is not in its best interests, economic or otherwise, to do so. City may, at its option and at any time, assign this Agreement, in whole or in part. City shall promptly notify Contractor in writing of any such assignment, unless such assignment is to an affiliate of City. In the event City assigns this Agreement, it shall be relieved of all financial responsibility related to the portion of this Agreement so assigned.

12. Invoicing and Payment:

Contractor shall submit invoices to City, referencing this Agreement number and Purchase Order number, together with such documentation as City may require, at the following address:

Address: City of Aztec
201 W Chaco
Aztec NM 87410

Attention: Accounts Payable
Email: evodovoz@aztecnm.gov

If City has no objections to an invoice, it shall pay the invoice in full within ten (10) days after receipt of such invoice. If City objects to an invoice or any portion thereof, it shall notify the Contractor of its objections within ten (10) days after receipt and may withhold payment of the disputed amount. Any objections or disputes concerning invoices shall be resolved in accordance with **Section 29 "Dispute Resolution."**

13. Records and Audit:

The Contractor shall maintain detailed time records which indicate the date, time, and nature of services rendered for a minimum of three (3) years from the date of final payment. These records shall be subject to inspection by the City of Aztec Finance Department, Personnel Department and the New Mexico Auditor. The City shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the City to recover excessive or illegal payments.

14. Taxes:

Contractor shall pay all taxes and contributions for unemployment insurance, retirement benefits, pensions, annuities, and similar benefits, which may now or hereafter be imposed on Contractor by law or collective bargaining agreements with respect to persons employed by Contractor for performance of the Services. Contractor shall be liable for and shall pay and shall indemnify, defend, and hold City harmless from, all such taxes and contributions or any interest accrued and penalties imposed, and reasonable attorney fees and all taxes (including but not limited to, income, withholding, gross receipts, compensating, use and all other taxes of whatsoever kind and whatsoever nature), excises, assessments, and other charges levied by any governmental agency or authority on or because of the Services, or on any materials, equipment, services, or supplies furnished in the performance of the Services. On all invoices, Contractor shall separately show all New Mexico gross receipts, compensating, sales, and other similar taxes which are reimbursable by City to Contractor, provided that in no event will interest or penalties on such taxes be reimbursable by City. Contractor shall utilize appropriate New Mexico Nontaxable Transaction Certificates, or similar certificates from other states, where applicable, to minimize such gross receipts, compensating, sales, and other similar taxes.

15. Appropriation:

The terms of this Agreement are contingent upon sufficient monies being made available by the City of Aztec for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the City of Aztec, this Agreement shall terminate upon written notice being given by the City to the Contractor. The City's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final.

16. Release:

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

17. Confidentiality:

Any information learned, given to, or developed by the contractor in the performance of this agreement shall be kept confidential and shall not be made available or otherwise released to any individual or organization without the prior written approval of the City. This Agreement is subject to the provisions of the Public Records Act (Chapter 14 Article 3 NMSA 1978).

18. Uncontrollable Forces:

Neither Party shall be considered to be in default in respect to any obligation hereunder, if delays in or failure of performance shall be due to Uncontrollable Forces. The term "Uncontrollable Forces" shall mean any cause beyond the control of the Party affected and not due to its fault or negligence, including, but not limited to, acts of God, flood, earthquake, storm, fire, lightning, epidemic, war, terrorist activity, riot, civil disturbance, sabotage, inability to obtain permits, licenses, and authorizations from any local, state, tribal, or federal agency or person for any of the materials, supplies, equipment, or services required to be provided hereunder, fuel shortages, breakdown or damage to generation and transmission facilities belonging to City, failure of facilities, strikes or other labor disputes, or restraint by court or public authority, any of which by exercise of due foresight such Party could not reasonably have been expected to avoid, and which by the exercise of due diligence it is unable to overcome. Neither Party shall, however, be relieved of liability for failure of performance if such failure is due to removable or remediable causes which it fails to remove or remedy with reasonable dispatch. Nothing contained herein, however, shall be construed to require either Party to prevent or settle a strike or other labor disputes against its will. The Party whose performance hereunder is so affected shall immediately notify the other Party of all pertinent facts and take all reasonable steps to promptly and diligently prevent such causes if feasible to do so, or to minimize or eliminate the effect thereof without delay. Contractor shall make no claim for additional compensation or damages by reason of any delay due to an Uncontrollable Force; however, Contractor shall be entitled to a reasonable extension to the time schedule for delays resulting from an Uncontrollable Force.

19. Conflict of Interest:

The Contractor warrants that it currently 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 this Agreement. The Contractor further covenants that, in the performance of this Agreement, no person having any such interest shall be employed by the Contractor. The Contractor warrants that it does not employ, has not employed, and will not employ during the term of this Agreement any City employee while such employee was or is employed by the City and participating directly or indirectly in the City's contracting process.

Contractor shall notify the City's Chief Procurement Officer if any employee(s) of the requesting department or the Purchasing Division have a financial interest in the Contractor's business operations.

20. Intellectual Property:

20.1 Intellectual Property Rights. Contractor agrees that all inventions made, works created and trade secrets learned by Contractor in connection with providing products or services to City pursuant to this Agreement and which relate to the business of City, including all patent, trademark, copyright, and trade secret rights thereto, belong to City. Contractor hereby assigns all such rights to City and agrees to execute all documents necessary to effect such assignment. Contractor further agrees to cooperate with City, at City's expense, in all steps necessary to protect such rights, including assisting in preparing applications, signing all necessary documents, testifying in court proceedings, and retaining secret information concerning an invention that is not public knowledge.

20.2 License. Contractor hereby grants to City a fully paid, royalty fee, non-exclusive, non-terminable, perpetual license to use, copy, and create derivative works of any pre-existing copyrighted, patented and/or proprietary work that is incorporated into the Services or the results of the Services, or into the documents, goods and equipment produced, designed, fabricated and assembled by Contractor pursuant to this Agreement, including the right to create sub-licenses without any duty to account to Contractor. If so requested by City, Contractor shall cooperate with City in executing all such assignments, oaths, declarations and other documents as may be prepared by City to effect and evidence the foregoing.

20.3 Best Efforts. Contractor shall use its best efforts to obtain for the benefit of City identical intellectual property indemnification protection in all subcontracts, purchase orders, and other agreements entered into under this Agreement.

21. Amendment:

This agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto.

22. Scope of Agreement:

This agreement incorporates all the agreements, covenants and the understanding between the parties hereto concerning the subject matter hereof and all such covenants, agreements and understanding have been merged into this written agreement. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this agreement. And no subsequent agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless incorporated by way of amendment as described in *AMENDMENT* paragraph above.

23. Equal Opportunity Clause:

The Contractor agrees to abide by all Federal and State laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, the Contractor agrees to assure that no person in the United States shall, on the grounds of race, color, national origin, sex, sexual preference, age or handicap, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under, any program or activity performed under this Agreement. If the Contractor is found to be not in compliance with these requirements during the life of this Agreement, the Contractor agrees to take appropriate steps to correct these deficiencies.

24. **Fair Labor Standards**

Contractor shall comply with the Fair Labor Standards Act of 1938, as amended, and any regulations issued pursuant thereto by the Department of Labor. It is agreed that all applicable laws, rules and regulations are incorporated herein by referenced in this Agreement and bind Contractor as a contractor of City.

25. **Executive Orders**

City is an equal opportunity employer. Pursuant to Executive Orders 11246, 11625, 11701, 11758 and 13201, as amended or superseded, in whole or in part from time-to-time, and all regulations issued thereunder, it is agreed that all applicable laws, rules, and regulations are incorporated by reference in this Agreement and bind Contractor as a contractor of City.

26. **Drug and Alcohol Policy**

26.1 Contractor, in the performance of any Services requiring the physical presence of its employees on City's property or on the property of others for which City has acquired access rights, shall maintain a drug and alcohol policy, as respects its employees and subcontractors involved in the performance of such Services, which policy at a minimum includes reasonable testing procedures and which advances the policy of providing a work environment that is free from the use, consumption, possession, sale, or distribution of illegal drugs or alcohol, and from the misuse of legal drugs on City's premises and work sites, including vehicles used on company business.

26.2 Contractor shall also comply with all applicable laws concerning drug and alcohol use, including, if applicable, requirements of the United States Department of Transportation. Contractor shall require that each subcontractor complies with the drug and alcohol policy requirements and applicable laws as set forth herein and, upon request by City, will provide to City verification of Contractor's and subcontractor's compliance with such policy requirements and applicable laws.

26.3 Contractor shall provide City and any public authority having jurisdiction with access to Contractor's facilities and records to audit Contractor's drug and alcohol policy, records and testing program including, if applicable, United States Department of Transportation requirements, as provided in Section 8 "Audit."

26.4 City may remove a Contractor's employee from any work or work site if City reasonably suspects the employee is under the influence of controlled substances or alcohol until such time as Contractor confirms by testing that the employee is fit for duty.

26.5 Contractor shall notify City in writing within ten (10) days any time there is a change in the person or personnel administering Contractor's drug and alcohol program.

27. **Unlawful Discriminatory Practice**

In responding to this solicitation, the Contractor represents that it will not practice unlawful discrimination per Section 28-1-7 NMSA 1978 and Title VI of the Civil Rights Act of 1964 - 49 CFR part 21, with regard to, but not limited to, the following: race, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, spousal affiliation, physical or mental handicap, age or serious medical condition.

28. Insurance:

28.1 Prior to commencement of the Services, Contractor shall obtain the insurance required by this Agreement and all insurance that may be required under Applicable Laws. Unless otherwise indicated below, each insurance policy of Contractor shall provide, either in its printed text or by endorsement, that it shall be primary with respect to the interest of the City, and any insurance maintained by the City is in excess and not contributory to Contractor's insurance policies regardless of any like insurance coverage that the City may have. Contractor will provide the City with certificate(s) of insurance (COI) evidencing that all coverages, limits, and endorsements required herein are in full force and effect. Such COI(s) shall also reference this Agreement/Contract number. With respect to any insurance policy referenced on a COI, Contractor will (or he will cause the respective insurance carrier to) provide the City with a minimum thirty (30) days written notice in the event of cancellation, termination, non-renewal, or any other material change. Any such written notice shall also include copies of the non-renewal or cancellation notice originated by the insurance carrier. Written notice may be submitted via fax, courier, or postal service in accordance with the notice provision herein.

If Contractor fails to obtain and keep in force the insurance required hereunder, the City may obtain and maintain the required insurance in the name of Contractor and the cost thereof shall be payable by Contractor to the City on demand. Review of Contractor's insurance by the City shall not relieve or increase the liability of Contractor. Nothing in this Agreement/Contract shall be deemed to limit Contractor's liability under this Agreement/Contract to the limits of the insurance coverages required hereunder. Contractor shall be solely responsible for payment of all deductible or retention amounts pertaining to any insurance required hereby.

Where applicable, all insurance policies shall provide for waiver of subrogation in favor of the City, include cross liability provisions, and all policies, except Workers' Compensation, shall name the City and its directors, officers, officials, managers, representatives, agents and employees as additional insured, to the extent allowable under such policies.

28.2 Minimum Coverage. Without limiting any of the liabilities or other obligations of Contractor under this Agreement, including but not limited to **Section 9 "Liability,"** Contractor shall obtain and maintain in effect, at its sole cost and expense, with forms and insurers acceptable to City, until all the obligations under this Agreement are satisfied, insurance policies providing coverage protecting against claims for personal and bodily injury or death, as well as claims for property damage which may arise from operations in connection with the Services whether such operations are by Contractor or any subcontractor for at least the following minimum coverage:

Commercial General Liability Insurance, or the equivalent, with a minimum limit of One Million Dollars (\$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.

Business 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.

Errors and Omissions. Contractor shall provide Errors and Omissions insurance with a minimum limit of One Million Dollars (\$1,000,000).

28.3 Subcontractors. Contractor shall require that each subcontractor comply with the insurance requirements set forth in **Section 28.2 “Minimum Coverage.”**

29. Dispute Resolution

If the Parties are unable to resolve any dispute within 30 days of the occurrence of the event or circumstances giving rise to the dispute, the dispute may be submitted to mediation upon the mutual agreement of the Parties. In the event the Parties do not agree to mediate the dispute or are unable to resolve the dispute through mediation and the aggregate amount of the claim (including counterclaims) is less than Two Hundred Fifty Thousand Dollars (\$250,000), then the dispute shall be resolved by binding arbitration. Such arbitration shall be governed by the New Mexico Uniform Arbitration Act, § 44-7A- 8, *et seq.* (2001), as amended from time to time. A Party demanding arbitration shall give the other Party timely notice of such election pursuant to **Section 33 “Notice”** and such notice shall describe the nature of the dispute and the amount in controversy. The Parties shall then jointly select an arbitrator and failing such mutual agreement, the arbitrator shall be appointed by a District Court Judge from San Juan County, New Mexico. The arbitration shall be held in Farmington, New Mexico. Discovery shall be by agreement of the Parties or as ordered by the arbitrator, provided that the Parties shall comply with the following minimum discovery requirements: at least ten (10) calendar days prior to the arbitration, the Parties shall exchange copies of all exhibits to be used at the arbitration and a list of witnesses and a summary of the matters as to which each witness is expected to testify.

In the event the Parties do not agree to mediate the dispute or are unable to resolve the dispute through mediation, and the aggregate amount of the claim in dispute equals or exceeds Two Hundred Fifty Thousand Dollars (\$250,000), then the Parties may agree to submit the matter to binding arbitration under the New Mexico Uniform Arbitration Act, § 44-7A-8, *et seq.* (2001), as amended from time to time, and failing such agreement, either Party may bring an action in the federal or state courts of New Mexico.

All costs of mediation or arbitration, including the fees of the mediator or arbitrator, shall be split equally by the Parties, except that the Parties shall be responsible for payment of their own attorney fees, expert fees, preparation fees, travel, and similar costs. This agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law of the State of New Mexico. Indemnity claims are not subject to mandatory arbitration. Nothing in this **Section 29** shall affect restrict, condition, or otherwise limit a Party’s right to terminate this Agreement pursuant to **Section 5 “Termination.”**

In the event of a conflict between the terms and provisions of any Purchase Order (that is incorporated herein by reference) and the terms and provisions contained in the main body or any other part of this Agreement, the terms and provisions of the Agreement shall govern and control. In the event of a conflict between or among the terms and provisions of any of the other documents forming a part of the Agreement (incorporated by reference), the following order of priority shall apply (with higher-listed documents governing and controlling over lower-listed documents):

- First: Changes to Services
- Second: Exhibits and Attachments
- Third: Scope and Drawings
- Fourth: City’s RFB/RFP
- Fifth: Specifications
- Sixth: Contractor’s proposal

30. Non-Exclusive Relationship:

Contractor expressly acknowledges and agrees that City may enter into similar contractual arrangements with other parties and that City may assign similar services to such other parties. Further, City acknowledges and agrees that Contractor may enter into contractual arrangements with other parties during the term of this Agreement provided that the obligations of Contractor pursuant to such contractual arrangements do not in any manner interfere with Contractor’s performance of its obligations to City pursuant to this Agreement.

31. Waiver of Contractual Right:

The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver of that party's right to subsequently enforce and compel strict compliance with every provision of the Agreement.

32. Severability:

If any provision of this agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this agreement is invalid or unenforceable, but that by limiting such provision it would become valid or enforceable, then such provision shall be deemed to be written, construed and enforced as so limited.

33. Notice:

All notices, requests, demands or other communications required or desired to be made or given hereunder or in connection herewith shall be in writing and shall be deemed to be duly given if delivered in person or mailed by certified or registered mail, postage prepaid, to the parties at the following addresses, or to such other addresses as may from time to time be designated by the parties by written notice in the manner herein provided:

City of Aztec:	Paul Eckert City Manager City of Aztec 201 W Chaco Aztec, New Mexico 87410
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Contractor:

34. Designated Representative:

City Designated Representative:	Tina Roper 201 W Chaco Aztec, New Mexico 87410
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The Designated Representative’s authority shall encompass but not be limited to (1) issuance of instructions, (2) interpretation of plans, (3) review and inspection of Contractor’s Services, (4) rejection of nonconforming Work, (5) determination of when Services is complete, (6) approval of progress payments and final payment, and (7) first point of contact for certain Change Orders as set forth in Article 3 “Changes to Services”. All field communications from Contractor

to City shall be directed to the Designated Representative. City may appoint another Contract Administrator at any time by written notice to Contractor.

Contractor Project Manager:

All instructions, requests for Change to Services and other communications from the City to the Contractor shall be directed to the Project Manager. Contractor may appoint another Project Manager upon ten (10) calendar days' prior written notice to City. If City objects to the new appointee, Contractor shall appoint a Project Manager acceptable to City.

35. **Binding Effect:**

This Agreement and all provisions hereof shall inure to the benefit of and be binding upon the Parties, their successors, and permitted assigns.

36. **Governing Law and Venue:**

This Agreement shall be governed and interpreted in accordance with the laws of the State of New Mexico, without regard to the conflicts of law rules of that State. Any action at law or in equity or judicial proceedings instituted by a Party for the enforcement of this Agreement shall be instituted only in state or federal courts of the State of New Mexico.

37. **Counterparts:**

This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument. City and Contractor may retain a duplicate copy (e.g. electronic image, photocopy, facsimile) of this Agreement, which shall be considered an equivalent to this original.

38. **Survival of Obligations:**

In addition to the continuation of confidentiality obligations as specified in **Section 17 "Confidentiality,"** Contractor's representations and warranties under **Section 6 "Contractor Representations and Corrective Action,"** indemnity obligations, including those under **Section 9 "Liability,"** and **Section 26 "Drug and Alcohol"** of this Agreement, shall survive the expiration or any termination of the Agreement, it being agreed that said obligations are and shall be of a continuing nature.

39. **Agreement Authors:**

The Parties have agreed to this Agreement and no ambiguity shall be construed against any Party based on the identity of the author or authors of this Agreement.

40. Entire Agreement:

This Agreement represents the entire agreement and understanding between City and Contractor with respect to the subject matter hereof and performance of the Services, and supersede any prior understandings, representations or agreements, whether verbal or written, prior to execution of this Agreement. If any Services were performed by Contractor under verbal agreement or under a limited notice to proceed prior to the execution of this Agreement, then this Agreement shall apply thereto in the same manner as if made before such Services were performed.

This agreement shall be governed by the laws of the State of New Mexico and the Ordinances of the City of Aztec.

In witness hereof, the parties have executed this agreement as of the _____ day of _____ 2021.

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: _____
City Manager Paul Eckert

Attest: _____ Date: _____
Karla Sayler, City Clerk

Approved as To Form: _____ Date: _____
Tyson K .Gobble, City Attorney