

# City of Lovington



## REQUEST FOR PROPOSALS

**PUBLIC SAFETY  
BUILDING REMODEL  
PROPOSAL #2025-08**

**April 30th 2025  
3:00 p.m. (MST)**

## SUBMIT PROPOSAL PROPOSALS TO:

**Leslie Boldt  
Procurement Manager  
For RFP 2025-008  
City of Lovington  
214 S. Love St.  
Lovington, NM 88260**

**LEGAL NOTICE OF REQUEST FOR PROPOSALS  
LOVINGTON, NEW MEXICO**

**PUBLIC SAFETY BUILDING REMODEL  
213 S. LOVE STREET, LOVINGTON, NM  
DUE DATE: April 30th, 2025**

The City of Lovington, New Mexico, will receive sealed proposals with additional conditions that must be met, all of which are listed within the Request for Proposal (RFP) at City Hall, 214 S. Love St., Lovington, New Mexico, on April 30th, 2025, at 3:00 p.m. (MST) for remodel of the Public Safety Building at 213 S. Love Street, Lovington, New Mexico.

The Request for Proposal, any future addenda, and all related information may be obtained from the City of Lovington's website at [www.lovington.org](http://www.lovington.org) under "Procurement" or by contacting the Grants Department, 214 S. Love St., Lovington, New Mexico 88260, Leslie Boldt at (575) 396-9302, [lboldt@lovington.org](mailto:lboldt@lovington.org)

David Miranda, City Manager

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**FACSIMILE AND ELECTRONIC PROPOSALS ARE NOT ACCEPTABLE**

Pursuant to the provisions of the New Mexico State Purchasing Act, sealed Proposals, subject to the conditions herein, will be received at the Lovington City Hall, New Mexico until the date and time shown above, and thereafter immediately opened and read in public for furnishing the commodities and/or services listed in the attached specification.

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## **INTRODUCTION**

### **A. PURPOSE OF THIS REQUEST FOR PROPOSALS**

The Request for Proposal (RFP) aims to solicit sealed proposals to establish a contract through competitive negotiations to procure remodeling services to the police and fire department premises (public safety building).

### **B. BACKGROUND INFORMATION**

The public safety building must be remodeled and renovated to enhance its functionality and aesthetics. Currently, the layout and facilities do not adequately support the needs of our dedicated public safety personnel. Upgrading this essential facility will allow us to better support our police, fire, and emergency services personnel as they work tirelessly to keep our community safe.

Currently, the building's features do not fully meet the needs of those who serve the public. By renovating the space, we can create more efficient work areas, improve storage, and ensure our personnel have an updated, refreshed space.

Additionally, an update can make the building more welcoming for community members who visit for various reasons, fostering a positive relationship between the public and our safety professionals. Enhancing the building's aesthetics can also boost community pride and reflect the commitment we all share to safety and service.

### **C. COMMODITY CODES**

**Effective July 1<sup>st</sup>, 2016, each state agency and local public body shall use the standardized classification codes developed by the state purchasing agent. (NMSA 1978 13-1-30.1)**

**Applicable classification codes for this proposal are:**

<b>5-DIGIT CODE</b>	<b>ITEM DESCRIPTION</b>
90963	Maintenance and Repair, Commercial and Institutional Building
91006	Carpentry Maintenance and Repair Services
91065	Remodeling and Alterations

## **D. SCOPE OF PROCUREMENT**

### **POLICE DEPARTMENT-SIDE REMODELS**

#### **Chief's Office**

- Remove existing flooring, prepare the surface, and install new carpet and cove base as per customer-approved selection.
- Remove outdated lighting and install new LED 277-volt compatible lighting.
- Apply necessary sheetrock texture and paint.
- Install a 50" television & mount.  
Dimensions: 15'2" x 19'10"

#### **Room 102**

- Remove and replace flooring with customer-approved selection, including cove base.
- Upgrade lighting to new LED 277-volt compatible fixtures.
- Remove existing cabinets and countertop and install new upper cabinets.
- Apply sheetrock texture and paint.
- Install a 42" television & mount.  
Dimensions: 15'3" x 9'11"

#### **Room 104**

- Remove and replace flooring with customer-approved selection, including cove base.
- Upgrade lighting to new LED 277-volt compatible fixtures.
- Remove the wall-mounted message board and install new upper cabinets.
- Apply sheetrock texture and paint.  
Dimensions: 10'4" x 10'

#### **Room 107 & Room 108 (Interview Rooms)**

- Remove and replace flooring with customer-approved selection, including cove base.
- Upgrade lighting to new LED 277-volt compatible fixtures.  
Dimensions: 6'8" x 7'5" each

#### **Room 109**

- Remove and replace flooring with customer-approved selection, including cove base.
- Upgrade lighting to new LED 277-volt compatible fixtures.  
Dimensions: 2'11" x 11'9"

**Room 114 (The new room number will be #111, not 114)**

- Remove and replace flooring with customer-approved selection, including cove base.
- Upgrade lighting to new LED 277-volt compatible fixtures.
- Remove wall-mounted message board, apply sheetrock texture, and paint.

Dimensions: 11'8" x 11'5"

**Room 110 & Room 113**

- Remove and replace flooring with customer-approved selection, including cove base.
- Apply sheetrock texture and paint.

Dimensions: Room 110: 10'5" x 11'8" Room 113: 10'10" x 11'9"

**Room 112 (Server Room)**

- Remove and replace flooring with customer-approved selection, including cove base.
- Apply sheetrock texture and paint.
- Remove the floor mop basin, repair the floor and wall, and replace the cap plumbing as necessary.

Dimensions: 8'7" x 8'5"

**Room 113 (Breakroom)**

- Upgrade lighting to new LED 277-volt compatible fixtures.

Dimensions: 10'10" x 11'10"

**Restrooms**

- Upgrade lighting to new LED 277-volt compatible fixtures.
- Replace all countertops with solid surface materials, including sinks, faucets, and hoses.
- Replace front restroom urinal and update west hallway plumbing as needed.

**Shredder Room**

- Upgrade lighting to new LED 277-volt compatible fixtures.
- Remove cabinets, apply sheetrock texture, and paint.
- Remove UPS and dead-end power supply.

Dimensions: 9' x 8'5"

**Room 115 (Training Room - New Room #114)**

- Remove and replace flooring with customer-approved carpet and cove base.

- Remove and replace cabinets; add additional cabinets.
- Install sheetrock on walls, apply texture and paint.  
Dimensions: 3'3" x 11'5" (Hall), 14'6" x 9' (Main Office)

### **Room 115 (Lieutenant's Office)**

- Remove and replace flooring with customer-approved carpet and cove base.
- Upgrade lighting to new LED 277-volt compatible fixtures.
- Remove and replace lower cabinets, install solid surface countertop.  
Dimensions: 14'2" x 17'

### **Hallways**

- Remove and replace high-traffic flooring with customer-approved selection, including cove base.
- Upgrade lighting to new LED 277-volt compatible fixtures.
- Patch and paint walls.
- Replace west door frame.  
Dimensions: Various (West door, back door, evidence to west hall, armory to north door, hallways)

### **Records Rooms**

- Upgrade lighting to new LED 277-volt compatible fixtures.
- Remove and replace flooring with customer-approved selection, including cove base.  
Dimensions: Various (Front office, sink area, back office, back records room)

### **Booking Room**

- Upgrade lighting to new LED 277-volt compatible fixtures.
- Modify cabinetry: remove a portion, install a solid countertop, and resurface the remaining cabinets.
- Construct new walls for two holding cells, including sheetrock, insulation, texture, and paint.
- Install two metal doors with large windows and frames.
- Remove and reinstall metal seats and control bar, adding a second control bar in each room.
- Relocate cables for two workstations as directed by the Chief.
- Repair holes in block walls.  
Dimensions: 16'1" x 14'

### **New Interview Room (West Hall)**

- Upgrade lighting to new LED 277-volt compatible fixtures.

- Remove and replace flooring with customer-approved selection, including cove base.
  - Repair any wall damage and apply paint.
- Dimensions: 12' x 9'1"

#### **Janitorial Closet**

- Remove and replace flooring with water-resistant wallboard, including cove base.
  - Repair floor and wall around mop basin.
  - Apply sheetrock texture and paint.
- Dimensions: 3' x 9'5"

#### **Evidence Room**

- Install a new solid surface countertop with three under-cabinet filing cabinets.

#### **Lobby**

- Replace damaged skylight lens.
- Install a 42" television mount.

#### **Police-side**

- Paint all door jambs with customer-approved paint.
- Replace up to 10 cases of damaged ceiling tiles throughout the building.

This proposal covers the renovation and modernization of the Lovington Police Department-side office complex, ensuring improved functionality, efficiency, and updated infrastructure throughout the facility.

### **FIRE DEPARTMENT-SIDE REMODELS**

#### **Truck Hall**

- Prep and paint walls with customer-approved paint.
- Repair and patch concrete.
- Prep and paint the floor with customer-approved, highly durable paint (epoxy) and add safety lane striping to the truck hall.
- Repair or replace (2) drainage grating.
- Provide and install 24 red-colored 20-24 " wide bunker gear lockers.

#### **Fire Department-side Remodels**



- Prep and paint walls with customer-approved paint. Rooms to be included would be Day Room/Kitchen, Battalion Chief's Office, Conference Room, Hallways, Dorm, and Janitor Closet.

***The resulting contract may be a multiple award.***

This procurement will result in a contractual agreement between two parties; the procurement may ONLY be used by those two parties exclusively.

**E. SPECIAL NOTES**

This project has an NM Department of Workforce Solutions Wage Rate decision. The wage Decision number is LE-25-0742-B. Please refer to the attached wage rate decision for the prevailing rates assigned to this project. All permits required are the sole responsibility of the awarded contractor.

**F. PROCUREMENT MANAGER**

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

Name: Leslie Boldt, Procurement Manager  
Phone: (575) 396-9302  
Email: lboldt@lovington.org

1. **Any inquiries or requests** regarding this procurement should be submitted, in writing, to the Procurement Manager. Offerors may contact **ONLY** the Procurement Manager regarding this procurement. Other city employees or Evaluation Committee members do not have the authority to respond on behalf of the city regarding this procurement.
2. **Protests of solicitation or award must be submitted in writing to the Protest Manager identified as Melissa Boydston.** As a Protest Manager has been named in this Request for Proposals, **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. Protests submitted or delivered to the Procurement Manager will **NOT** be considered properly submitted.

## G. CONDITIONS GOVERNING THE PROCUREMENT

This section of the RFP contains the schedule of events, the descriptions of each event, and the conditions governing this procurement.

### 1. 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 of Lovington	April 1
2. Pre-Proposal Conference	City of Lovington	April 14
3. Deadline to submit Written Questions	Potential Offerors	April 16
4. Response to Written Questions	Procurement Manager	April 18
<b>5. Submission of Proposal</b>	<b>Potential Offerors</b>	<b>April 30</b>
6.* Proposal Evaluation	Evaluation Committee	May 14
8.* Selection of Finalists	Evaluation Committee	May 16
9.* Commission Agreements	Agency/Finalist Offerors	May 19
10.* Contract Awards	Agency/ Finalist Offerors	June 5
11.* Protest Deadline	SPD	June 3

\*Dates indicated in Events 7 through 13 are estimates only and may be subject to change without requiring an RFP amendment.

### 2. EXPLANATION OF EVENTS

The following paragraphs describe the activities listed in the Sequence of Events shown above.

#### 1. Issue RFP

This RFP is being issued on behalf of the City of Lovington.

#### 2. Pre-Proposal Conference

A pre-proposal conference will be held in person on April 14<sup>th</sup> at 10:00 am at Lovington City Hall, 214 South Love Street, Lovington, NM 88260. For any inspection of the proposed areas, please contact that department in advance.

**Potential Offeror(s) are encouraged to submit written questions to the Procurement Manager**

**before the conference.** The identity of the organization submitting the question(s) will not be revealed. Additional written questions may be submitted at the conference. All questions answered during the Pre-Proposal Conference will be considered **unofficial** until they are posted in writing. All questions will be addressed in writing on the date listed in the Sequence of Events. A public log will be kept with the names of potential Offeror(s) who attended the pre-proposal conference.

*Attendance at the pre-proposal conference is highly recommended but not a prerequisite for proposal submission.*

### **3. Deadline to Submit Written Questions**

Potential Offerors may submit written questions to the Procurement Manager as to the intent or clarity of this RFP until 10:00 am MST/MDT as indicated in the Sequence of Events. All written questions must be addressed to the Procurement Manager. Questions shall be clearly labeled, and the Section(s) in the RFP or other document that forms the question's basis shall be cited.

### **4. Response to Written Questions**

Written responses to the questions will be provided via e-mail on or before the date indicated in the Sequence of Events.

An electronic version of the Questions and Answers will be posted to <https://www.lovington.org>

### **5. Submission of Proposal**

At this time, only **hard copies** of the proposal submission are allowed. **Do not** submit electronic versions. **You may submit one combined proposal or two proposals: one for the fire department and one for the police department.**

ALL PROPOSALS MUST BE RECEIVED BY THE PROCUREMENT MANAGER OR DESIGNEE NO LATER THAN 3:00 PM MST/MDT **NO LATE PROPOSAL CAN BE ACCEPTED.** The date and time of receipt will be recorded on each proposal.

*It is the Offeror's responsibility to ensure all documents are complete.*

***NO LATE PROPOSAL CAN BE ACCEPTED.***

### **6. Proposal Evaluation**

An Evaluation Committee will evaluate proposals. This process will occur as a Sequence of Events, depending on the number of proposals received. During this time, the Procurement Manager may initiate discussions with Offerors who submit responsive or potentially responsive proposals to clarify aspects of the proposals. However, proposals may be accepted and evaluated

without such debate. The Offerors SHALL NOT initiate discussions.

## **7. Selection of Finalists**

The Evaluation Committee will select finalists, and the Procurement Manager will notify the final Offerors according to the Sequence of Events or as soon as possible thereafter. Finalists are chosen based on the completeness of all requested documentation, the cost proposals, the proposed timelines and outlines, project knowledge, on-site inspections or communication with department heads, business history and references, and evaluations of past completed projects.

## **8. Finalize Contractual Agreements**

After approval of the Evaluation Committee Report, any contractual agreement(s) resulting from this RFP will be finalized with the most advantageous Offeror(s), considering the evaluation factors outlined in this RFP, as per Sequence of Events, or as soon as possible thereafter. The most advantageous proposal may or may not have received the most points. If mutually agreeable terms cannot be reached by the apparent most advantageous Offeror in the specified timeframe, in that case, the City reserves the right to finalize a contractual agreement with the next most advantageous Offeror(s) without undertaking a new procurement process.

## **9. Protest Deadline**

Any protest by an Offeror must be submitted in a timely manner and in accordance with §13-1-172, NMSA 1978, as well as applicable procurement regulations. Since a Protest Manager has been appointed in this Request for Proposals, pursuant to §13-1-172, NMSA 1978 and 1.4.1.82 NMAC, ONLY protests delivered directly to the Protest Manager in writing and on time will be deemed correctly submitted under the statute, rules, and this Request for Proposals. The 15-calendar day protest period shall commence on the day following the notice of award of contract(s) and will conclude at 5:00 pm MST/MDT on the 15th day. Protests must be in writing and include the protestor's name and address, as well as the request for proposal number. Additionally, it must contain a statement of the grounds for protest, including appropriate supporting exhibits, and specify the ruling requested from the party listed below. The protest must be delivered to:

Protest Manager: Melissa Boydston

Protest Manager's e-mail address: [MBoydston@lovington.org](mailto:MBoydston@lovington.org)

## H. PROPOSAL SUBMISSION

*Submissions of all proposals must be accomplished by mail or hand-delivered Proposals.*

### INSTRUCTIONS TO RESPONDENTS

1. **Ensure that the envelopes are mailed or delivered before opening.**
2. **Proposals must be submitted in sealed envelopes. On the upper left-hand corner of each envelope, please include the following information: the name and address of the Respondent, the date and time of the opening, and the title of the proposal.**
3. When required, samples of items must be furnished free of expense prior to the opening of Proposals. If not destroyed, they will be returned to the Respondent at its expense upon request. A copy of the warranty must be included with the proposal and for the maximum amount the manufacturer provides if the goods are warrantable.
4. Proposals mailed or delivered before opening must include the information specified in Item 1 above. They must be sent to the Procurement Manager for 2025-08 at 214 South Love, Lovington, New Mexico, 88260. This information must be clearly marked on all exterior packaging.
5. All prices must be stated in the specified units or quantities, including packing and delivery charges
6. The time of proposed delivery must be stated in definite terms. If time varies for different items, the Respondent should state so.
7. Proposals must be made out and signed in the corporate or other name of Respondent and fully and properly executed by an authorized person.
8. Proposals must be submitted using the attached proposal price submission form.
9. Any prices related to exceptions must also be included with the proposal and secured (stapled, bound, or otherwise). Additionally, any alternatives offered by the Respondent other than those requested will not be accepted.
10. Proposals received later than the time and date specified will not be considered.
11. Amendments to or withdrawals of Proposals received later than the time and date set for proposal opening will not be considered.

12. Respondents or their representatives may be present at the proposal opening.
13. The Chief Procurement Officer reserves the right to amend and/or cancel the proposal invitation before the opening date.
14. The Chief Procurement Officer reserves the right to correct any proposal awarded erroneously due to a clerical error on the part of the City of Lovington.
15. Respondents and/or vendors doing business with the City of Lovington must comply with the Federal Civil Rights Act of 1964 and Title VII. Rev., 1979.

16. Respondents seeking Resident Preference at proposal openings **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>.

They must also obtain approval and a certification form before the proposal opens. Requests for consideration of Resident Business or Contractor Preference submitted after the proposal opening will not be accepted.

To ensure adequate consideration and application of §13-1-21, NMSA 1978 (as amended), Offerors

**A. New Mexico Business Preference**

A copy of the certification must accompany Offeror's proposal.

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

A copy of the certification must accompany Offeror's proposal.

**A business cannot be both a resident business preference and a resident veteran business preference.**

17. All contracts solicited through competitive sealed proposals for the City of Lovington must have proposal amounts that exclude the applicable state gross receipts tax. Since the City of Lovington is responsible for paying this tax, all payment requests must include a separate line item on each invoice that indicates the amount of the applicable tax (13-1-108).
18. **All applicable gross receipts tax rates charged to the City of Lovington will be determined by the current City of Lovington rate at the time the project takes place. Respondents and/or vendors must report the gross receipts tax charged to the City of Lovington to the New Mexico Taxation and Revenue Department and adhere to New Mexico Tax and Revenue destination-based reporting requirements.**
19. Any equipment supplied to the City of Lovington must adhere to all requirements and standards set forth by the federal government's Occupational Safety and Health Act of 1971. All guards,

protectors, and appropriate markings must be in place prior to delivery. Items that do not meet OSHA specifications will be rejected. The supplier may be required to provide training to municipal employees on the operation and maintenance of this equipment, at their own expense and at a time that is convenient for the City of Lovington.

20. **All respondents and/or vendors doing business with the City of Lovington must also provide IRS FORM W-9 (REV. MARCH 2024). Failure to do so may cause the proposal to be rejected by the City of Lovington.**

## **I. PROPOSAL OPENING PROCEDURES**

1. The City of Lovington maintains the right to reject any and all Proposals, waive any informalities in the Proposals, and, unless otherwise specified by the Respondent, accept any item included in the proposal.
2. In case of an error in the proposal's price extension, the unit price will govern.
3. Any discount offered will be calculated from the delivery date or from the date a correct bill is rendered on an appropriate voucher form and certified by the contractor, whichever date is later.
4. The Procurement Code, Sections 13-1-28 through 13-1-199 NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.
5. These specifications describe the minimum requirements. All portions not specifically mentioned that are required for the project's completion shall conform in design, strength, quality of material, and workmanship to the highest standards of engineering practice.
6. Proposals will be opened and read aloud at precisely the time, date, and place stipulated in the Request for Proposals and in the legal notice published in the newspaper.
7. Proposals will be opened and read aloud to whoever is present at the scheduled time and place.
8. The City Manager and/or his designated representative and the appropriate department or committee will evaluate each proposal. The Respondent is to provide complete specifications. The Project Manager will determine acceptable exceptions to specifications with the aid of the appropriate department head.
9. The Project Manager and the department or committee will make a decision on any point needing clarification.
10. The Project Manager and the department or committee will determine the apparent low Respondent, meeting specifications.
11. Respondents should keep in mind that the initial low response received during the proposal opening may not necessarily indicate which proposal will be ultimately selected for the award.



The successful respondent will be determined by evaluating which product best meets the City's interests, taking into account factors such as price, product quality, safety, and delivery.

12. Do not submit alternate Proposals unless instructed to do so, as they will not be considered.
13. Notice is hereby given that the City Commission reserves the right to reject any and all Proposals received. In cases of ambiguity or lack of clarity, the Commission retains the authority to determine the best proposal, reject any proposal, or waive irregularities and technicalities.
14. Any requested literature and one complete copy of the proposal must be submitted with the proposal, unless stated otherwise in the Request for Proposal.
15. All Proposals must be valid for a minimum of 90 days after proposal opening unless otherwise stated in the proposal sheet by the individual respondent.
16. All businesses operating within the municipal limits of Lovington must be licensed by the city.
17. This procurement is conducted at the discretion of the contracted vendor on behalf of the City of Lovington, its departments, and other entities as permitted by law.
18. Pursuant to 13-4-11 (A) NMSA Annotated, state wage rates shall apply to any proposal or proposal on construction or public works projects in excess of \$60,000.00. In addition, all proposers shall comply with Federal wage rates on applicable projects.
19. **In accordance with 13-1-146 NMSA Annotated, proposers or offerors for construction contracts exceeding \$25,000 are required to provide proposal security or a bond. This proposal security or bond must be equal to at least 5% of the total proposal. Acceptable forms of proposal security include a bond issued by a surety company authorized to operate in the state of New Mexico or an equivalent amount in cash.**
20. According to 13-4-13.1 NMSA Annotated, to submit a proposal valued at over sixty thousand dollars (\$60,000) in response to a request for proposals, or to be eligible for the award of any part of a public works project exceeding sixty thousand dollars (\$60,000) that is subject to the Public Works Minimum Wage Act [13-4-10 NMSA 1978], the contractor—whether acting as a prime contractor or otherwise—must be registered with the Labor and Industrial Division of the Labor Department.

21. Pursuant to 13-4-34 NMSA Annotated, (A) Any person submitting a proposal shall in his proposal set forth (1) the name and the city or county of the place of business of each subcontractor under subcontract to the contractor who will perform work or labor or render service to the contractor in or about the construction of the public works construction project in an amount in excess of the listing threshold; and (2) the category of the work that each subcontractor will do. The contractor shall list only one subcontractor for each category as defined by the contractor in his proposal. (B) A proposal submitted by a contractor who fails to comply with the provisions of Subsection A of this section is a non-responsive proposal that a using agency shall not accept.
22. Pursuant to 13-4-38 NMSA Annotated, Failure to specify subcontractor: If a contractor fails to list a subcontractor in excess of the listing threshold and he does not state that no proposal was received or that only one proposal was received, he represents that he is fully qualified to perform that portion of the work himself and that he shall perform that portion of the work himself. If, after the award of the contract, the contractor subcontracts any portion of the work, except as provided in the Subcontractors Fair Practices Act [13-4- 31NMSA 1978], the contractor shall be guilty of a violation of the Subcontractors Fair Practices Act and subject to the penalties provided in Section 13-4-41 NMSA 1978.

## **J. CONTRACT PROCEDURES**

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

Should an Offeror object to any of the terms and conditions outlined in the RFP Draft Contract strongly enough to propose alternate terms and conditions despite the above, the Offeror must propose **specific** alternative language. The City may or may not accept the alternative language. General references to the Offeror's terms and conditions or attempts at complete substitutions of the Draft Contract are unacceptable to the City and will disqualify the Offeror's proposal.

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

If an Offeror does not propose any alternate terms and conditions during the procurement process (the RFP process before selection as the successful Offeror), no proposed alternate terms and conditions will be considered later during the negotiation phase. Failing to propose alternate terms and conditions during the procurement process (the RFP process before selection as the successful Offeror) signifies the Offeror's explicit acceptance of the contractual terms and conditions contained herein.

### **1. Offeror's Terms and Conditions**

Offerors must submit with the proposal a complete set of any additional terms and conditions they expect to have included in a contract negotiated with the Agency.

### **2. Contract Deviations**

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

## **K. EVALUATION PROCESS**

1. All Offeror proposals will be reviewed for compliance with the requirements and specifications stated within the RFP. Proposals deemed non-responsive will be eliminated from further consideration.
2. The Procurement Manager may contact the Offeror to clarify the response.
3. Responsive proposals will be evaluated based on the completeness of all requested documentation; cost proposals (20), proposed timelines and outlines (20), project knowledge (20), on-site inspections or communication with department heads (20), business history and references (20), and evaluations of past completed projects (20). Each of these factors has been assigned a combined point value of 100, with equal weight given to the five categories. The responsible Offerors with the highest scores will be selected as finalist Offerors based on the proposals submitted. In accordance with 13-1-117 NMSA 1978, the responsible Offerors whose proposals are most advantageous, taking into consideration the Evaluation Factors, will be recommended for award. Please note, however, that a serious deficiency in the response to any one factor may be grounds for rejection, regardless of the overall score.

## CHECKLIST

### PLEASE INCLUDE THE FOLLOWING IN THIS ORDER

**Proposal Cost Form**

The person authorized to obligate the company must complete and sign the form.

**Proposal Narrative**

The proposal narrative should include the evaluation criteria as listed above.

**Campaign Contribution Disclosure Form**

The Respondent (Bidder) must submit a signed, unaltered Campaign Contribution Disclosure Form with their proposal, regardless of whether an application contribution has been made.

**Debarment/Suspension Form**

The Respondent must complete the Debarment/Suspension Form and submit a signed copy with the Respondent's proposal.

**Certificate of Insurance**

The Respondent must include the current certificate(s) of insurance.

**Verification of Contractor License in the State of New Mexico** <https://www.rld.nm.gov/>

**W-9 Form:** The Respondent must include a completed W-9 form. For the IRS link to the current form and instructions, visit: <http://www.irs.gov/forms-pubs/about-form-w-9>

**Resident Business or Resident Veterans Preference:** Respondents must include a copy of their preference certification in this section to ensure adequate consideration and application of NMSA 1978 13-1-21 (as Amended).

**Hold Harmless/Indemnity Agreement**

**Company References (3)** Respondents must include three references.

**Response to Contract Terms and Conditions:** All commercial, technical, legal, or other conditions or exceptions related to the proposal must be clearly stated. Respondents should understand that any conditions or exceptions are made at their own risk, and the City reserves the right to reject proposals that include unacceptable conditions or exceptions. Respondents should use this section to discuss the guarantees and warranties they will offer to the city and the levels of risk they are willing to assume.

**HOLD HARMLESS/INDEMNITY AGREEMENT**

To the full extent permitted by law, Contractor shall defend, indemnify and hold harmless City, its employees, agents and officials, from any liability, claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses expenses or costs of any kind, whether actual, alleged or threatened, actual attorney fees incurred by City, court costs, interest, defense costs including expert witness fees and any other costs or expenses of any kind whatsoever incurred in relation to, as a consequence of or arising out of or in any way attributable in whole or in part to the performance of this agreement. All obligations under this provision are to be paid by Contractor as the City incurs them.

Without affecting the rights of City under any provision of this agreement or this section, Contractor shall not be required to indemnify and hold harmless City as set forth above for liability attributable to the sole fault of City, provided such sole fault is determined by agreement between the parties or the findings of a court of competent jurisdiction. This exception will apply only in instances where the City is shown to have been solely at fault and not in instances where Contractor is solely or partially at fault or in instances where City’s fault accounts for only a percentage of the liability involved. In those instances, the obligation of Contractor will be all-inclusive and the City will be indemnified for all liability incurred, even though a percentage of the liability is attributable to the conduct of the City.

Contractor acknowledges that its obligation pursuant to this section extends to liability attributable to City, if that liability is less than the Sole fault of City. Contractor agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this section from each and every subcontractor, sub-tier contractor or any other person or entity involved by, for, with or on behalf of contractor in the performance of this agreement. In the event Contractor fails to obtain such indemnity obligations from others as required here, Contractor agrees to be fully responsible according to the terms of this section. Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend City as set forth herein is binding on the successors, assigns, or heirs of Contractor and shall survive the termination of this agreement or this section.

Any dispute leading to litigation must be settled in the jurisdiction of the Lea County, New Mexico Court system.

Signature: \_\_\_\_\_ Title: \_\_\_\_\_

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

Name Printed: \_\_\_\_\_ Company Name: \_\_\_\_\_

## CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Pursuant to the Procurement Code, Sections 13-1-28, et seq., NMSA 1978 and NMSA 1978, § 13-1-191.1 (2006), as amended by Laws of 2007, Chapter 234, a prospective contractor subject to this section shall disclose all campaign contributions given by the prospective contractor or a family member or representative of the prospective contractor to an applicable public official of the state or a local public body during the two years prior to the date on which a proposal is submitted or, in the case of a sole source or small purchase contract, the two years prior to the date on which the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor or a family member or representative of the prospective contractor to the public official exceeds two hundred fifty dollars (\$250) over the two-year period. A prospective contractor submitting a disclosure statement pursuant to this section who has not contributed to an applicable public official, whose family members have not contributed to an applicable public official or whose representatives have not contributed to an applicable public official shall make a statement that no contribution was made.

A prospective contractor or a family member or representative of the prospective contractor shall not give 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 during the pendency of negotiations for a sole source or small purchase contract.

Furthermore, a solicitation or proposed award for a proposed contract may be canceled pursuant to Section [13-1-181](#) NMSA 1978 or a contract that is executed may be ratified or terminated pursuant to Section [13-1-182](#) NMSA 1978 if a prospective contractor fails to submit a fully completed disclosure statement pursuant to this section; or a prospective contractor or family member or 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.

The state agency or local public body that procures the services or items of tangible personal property shall indicate on the form the name or names of every applicable public official, if any, for which disclosure is required by a prospective contractor.

THIS FORM MUST BE INCLUDED IN THE REQUEST FOR PROPOSALS AND 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 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 a spouse, father, mother, child, father-in-law, mother-in-law, daughter-in-law or son-in-law of (a) a prospective contractor, if the prospective contractor is a natural person; or (b) an owner of a prospective contractor;

**"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.

**"Prospective contractor"** means a person or business that is subject to the competitive sealed proposal process set forth in the Procurement Code [Sections [13-1-28](#) through [13-1-199](#) NMSA 1978] or is not required to submit a competitive sealed proposal because that person or business qualifies for a sole source or 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.

**Name(s) of Applicable Public Official(s) if any:** \_\_\_\_\_

**DISCLOSURE OF CONTRIBUTIONS BY PROSPECTIVE CONTRACTOR:**

Contribution Made By: \_\_\_\_\_

Relation to Prospective Contractor: \_\_\_\_\_

Date Contribution(s) Made: \_\_\_\_\_  
\_\_\_\_\_

Amount(s) of Contribution(s) \_\_\_\_\_  
\_\_\_\_\_

Nature of Contribution(s) \_\_\_\_\_  
\_\_\_\_\_

Purpose of Contribution(s) \_\_\_\_\_



---

(Attach extra pages if necessary)

Signature: \_\_\_\_\_ Title: \_\_\_\_\_

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

Name Printed: \_\_\_\_\_ Company \_\_\_\_\_ Name: \_\_\_\_\_

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

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

Name Printed: \_\_\_\_\_ Company \_\_\_\_\_ Name: \_\_\_\_\_

Title \_\_\_\_\_ (position) \_\_\_\_\_



**City of Lovington**

**Cost Proposal  
Form  
Public Safety Building  
Remodel**

**DUE DATE April 30<sup>th</sup>, 2025**

**NAME OF OFFEROR:** \_\_\_\_\_

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

\_\_\_\_\_

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

**EMAIL:** \_\_\_\_\_

**NM CONTRACTORS LICENSE #:** \_\_\_\_\_

**TOTAL PROPOSAL:** \_\_\_\_\_

The City of Lovington reserves the right to waive any irregularities in the awarding process or decide not to award an award to protect the city's best interests. The City is not liable for the loss or misplacement of proposal submissions. Offerors are required to use this form. A signature is mandatory and signifies the offeror's agreement to the terms outlined in this document.

**SIGNATURE OF OFFEROR:** \_\_\_\_\_

Mail or deliver to City Hall at 214 S. Love St., Lovington, NM 88260.

Deadline April 30th, by 3:00 p.m. (MST)

Please attach additional sheets and information as necessary.

**\*\*OPTIONS, EXCEPTIONS, OR VARIATIONS\*\***

**\*\*CITY OF LOVINGTON, NEW MEXICO\*\***

**\*\*FOR PUBLIC SAFETY BUILDING REMODEL\*\***

**\*\*DUE DATE: April 30th, at 3:00 p.m. (MST)**

Please list each option, exception, or variation to the specifications (if any) for the service(s) or item(s) offered. Please sign the form below and return it with your offer.

1. **\*\*THERE ARE OPTIONS, EXCEPTIONS, OR VARIATIONS:\*\***

---

Signature

2. **\*\*THERE ARE NO OPTIONS, EXCEPTIONS, OR VARIATIONS LISTED:\*\***

The services offered in response to the Request for Sealed Proposals meet or exceed all specifications, terms, and conditions described in the Request for Sealed Proposals without exceptions. I understand that services not meeting all specifications, terms, and conditions will be rejected, and the seller will bear all costs.

---

Signature

**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 City of Lovington has a direct or indirect financial interest in the Vendor or in the proposed transaction. Vendor neither employs, nor is negotiating to employ, any City of Lovington 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 City of Lovington Procurement Officer 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 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: \_\_\_\_\_

Name Printed: \_\_\_\_\_ Company Name: \_\_\_\_\_

### **COMPANY REFERENCES (3)**

The City of Lovington, as a part of the RFP process, requires Offerors to list a minimum of three (3) references in their proposals. The purpose of these references is to document the Offeror's experience. Detailed Scope of Work to evaluate Offeror's ability to provide goods and/or services, performance under similar contracts, and ability to provide knowledgeable and experienced staffing.

<b><u>Contact name and title/position</u></b>	
<b><u>Contact telephone number(s)</u></b>	
<b><u>Contact e-mail address</u></b>	
<b><u>Project description</u></b>	
<b><u>Project dates (start and end dates)</u></b>	

**Scope of Work for the project that  
you provided:**

<b><u>Contact name and title/position</u></b>	
<b><u>Contact telephone number(s)</u></b>	
<b><u>Contact e-mail address</u></b>	
<b><u>Project description</u></b>	
<b><u>Project dates (start and end dates)</u></b>	



**Scope of Work for the project  
that you provided:**

<b><u>Contact name and title/position</u></b>	
<b><u>Contact telephone number(s)</u></b>	
<b><u>Contact e-mail address</u></b>	
<b><u>Project description</u></b>	
<b><u>Project dates (start and end dates)</u></b>	

**Scope of Work for the project  
that you provided:**

# PUBLIC WORKS PROJECT REQUIREMENTS

As a participant in a Public Works project valued at more than \$60,000 in the state of New Mexico, the following list addresses many of the responsibilities that are defined by statute or regulation to each project stakeholder.

## Contracting Agency

- Ensure that all contractors wishing to bid on a Public Works project when the project is \$60,000 or more are actively registered with the Public Works and Apprenticeship Application (PWAA) website: <http://www.dws.state.nm.us/pwaa> (Contractor Registration) prior to bidding.
- Please submit Notice of Award (NOA) and Subcontractor List(s) to the PWAA website promptly after the project is awarded.
- Please update the Subcontractor List(s) on the PWAA website whenever changes occur.
- All sub-contractors and tiers (excluding professional services) regardless of contract amount must be listed on the Subcontractor List and must adhere to the Public Works Minimum Wage Act.
- Ninety days after project completion please go into the PWAA system and close the project. Only contracting agencies are allowed to close the project. Agents or contractors are not allowed to close projects.

## General Contractor

- Provide a complete Subcontractor List and Statements of Intent (SOI) to Pay Prevailing Wages for all contractors, regardless of amount of work, to the contracting agency within 3 (three) days of award.
- Ensure that all subcontractors wishing to bid on a Public Works project have an active Contractor Registration with the Public Works and Apprenticeship Application (PWAA) website: <http://www.dws.state.nm.us/pwaa> prior to bidding when their bid will exceed \$60,000.
- Make certain the Public Works Apprentice and Training Act contributions are paid either to an approved Apprenticeship Program or to the Public Works Apprentice and Training Fund.
- Confirm the Wage Rate poster, provided in PWAA, is displayed at the job site in an easily accessible place.
- When the project has been completed, make sure the Affidavits of Wages Paid (AWP) are sent to the contracting agency.
- All subcontractors and tiers (excluding professional services) regardless of contract amount must pay prevailing wages, be listed on the Subcontractor List, and adhere to the Public Works Minimum Wage Act.

Phone: 505-841-4400  
Fax: 505-841-4424



## **Subcontractor**

- Ensure that all subcontractors wishing to bid on a Public Works project have an active Contractor Registration with the Public Works and Apprenticeship Application (PWAA) website: <http://www.dws.state.nm.us/pwaa> prior to bidding when their bid will exceed \$60,000.
- Make certain the Public Works Apprentice and Training Act contributions are paid either to an approved Apprenticeship Program or to the Public Works Apprentice and Training Fund.
- All subcontractors and tiers (excluding professional services) regardless of contract amount must pay prevailing wages, be listed on the Subcontractor List, and adhere to the Public Works Minimum Wage Act.

## **Additional Information**

Reference material and forms may be found in the New Mexico Department of Workforce Solutions Public Works web pages at: <https://www.dws.state.nm.us/Labor-Relations/Labor-Information/Public-Works>.

## **CONTACT INFORMATION**

Contact the Labor Relations Division for any questions relating to Public Works projects by email at [public.works@state.nm.us](mailto:public.works@state.nm.us) or call (505) 841-4400.



**11.1.2.20 PREVAILING WAGE AND FRINGE BENEFIT AND APPRENTICESHIP CONTRIBUTION RATES:** Pursuant to 11.1.2.13 NMAC, the director of the labor relations division of the department of workforce solutions hereby publishes the 2025 prevailing wage and fringe benefit rates and apprenticeship contributions that will apply to all wage rate decisions issued from January 1, 2025 through December 31, 2025.

**TYPE “B” -: GENERAL BUILDING  
Effective January 1, 2025**

<b>B. TYPE B: GENERAL BUILDING</b>			
<b>Trade Classification</b>	<b>Base Rate</b>	<b>Fringe Rate</b>	<b>Apprenticeship</b>
Asbestos workers/heat & frost insulators	36.36	12.46	.60
Asbestos workers/heat & frost insulators: Los Alamos county	38.79	12.46	.60
Boilermaker/blacksmith	35.88	32.28	.60
Boilermaker/blacksmith: San Juan county	36.83	31.88	.60
Bricklayer/block layer/stonemason	27.03	10.99	.60
Bricklayer/block layer/stonemason: Curry, DeBaca, Quay, and Roosevelt counties	23.10	8.98	.60
Bricklayer/block layer/stonemason: Dona Ana, Otero, Eddy, and Lea	26.42	8.98	.60
Carpenter/lather	30.89	13.26	.60
Carpenter: Los Alamos county	37.39	14.18	.60
Millwright/pile driver	50.00	21.15	.60
Cement mason	25.26	11.48	.60
<b>Electricians – outside classifications: Zone 1</b>			
Ground man	27.18	13.32	.60
Equipment operator	38.99	17.67	.60
Lineman/technician	49.25	20.82	.60
Cable splicer	50.46	21.11	.60
<b>Electricians – outside classifications: Zone 2</b>			
Ground man	27.18	13.32	.60
Equipment operator	38.99	17.67	.60
Lineman/technician	49.25	20.82	.60
Cable splicer	50.46	21.11	.60
<b>Electricians – outside classifications: Los Alamos county</b>			
Ground man	27.95	13.34	.60
Equipment operator	40.11	17.70	.60
Lineman/technician	50.54	21.14	.60
Cable splicer	55.50	22.38	.60
<b>Electricians – inside classifications: Zone 1</b>			
Wireman/low voltage technician	40.30	13.01	.60
Cable splicer	44.33	13.13	.60
<b>Electricians – inside classifications: Zone 2</b>			
Wireman/low voltage technician	43.93	13.11	.60
Cable splicer	47.96	13.25	.60

<b>Electricians – inside classifications: Zone 3</b>			
Wireman/low voltage technician	46.35	13.19	.60
Cable splicer	50.38	13.32	.60
<b>Electricians – inside classifications: Zone 4</b>			
Wireman/low voltage technician	50.78	13.32	.60
Cable splicer	54.81	13.44	.60
<b>Electricians – inside classifications: Dona Ana, Hidalgo, Luna and Otero counties</b>			
Wireman/low voltage technician	32.82	9.85	.60
Cable splicer	32.82	9.85	.60
<b>Electricians – inside classifications: Los Alamos county</b>			
Wireman/low voltage technician	46.35	15.50	.60
Cable splicer	50.38	15.83	.60
<b>Elevator constructor</b>	51.49	40.04	.60
<b>Elevator constructor helper</b>	36.04	40.04	.60
<b>Glazier/Fabricator</b>	22.25	7.40	
<b>Glazier: Los Alamos county</b>	22.25	7.40	.60
<b>Ironworker</b>			
Ironworker journeyman	28.96	19.11	.60
Probationary ironworker	23.17	19.11	.60
<b>Painter</b>	21.00	5.75	.60
<b>Painter: Los Alamos county</b>	33.70	12.00	.60
<b>Paper Hanger</b>	21.00	5.75	.60
<b>Paper Hanger: Los Alamos county</b>	34.64	12.00	.60
<b>Drywall Finisher/Taper</b>	29.60	9.63	.60
<b>Drywall Finisher/Taper: Los Alamos county</b>	33.72	12.00	.60
<b>Plasterer</b>	24.76	9.99	.60
<b>Plumber/pipefitter</b>	38.92	16.10	.60
<b>Roofer</b>			
Roofer journeyman	29.71	9.36	.60
Roofer helper	17.83	9.36	.60
<b>Sheet metal worker</b>			
Zone 1	39.13	19.33	.60
Zone 2 – Industrial	40.13	19.33	.60
Zone 3 – Los Alamos county	41.13	19.33	.60
<b>Soft floor layer</b>	21.00	9.20	.60
<b>Soft floor layer: Los Alamos county</b>	31.20	11.62	.60
<b>Sprinkler fitter</b>	37.39	25.14	.60
<b>Tile setter</b>	24.46	8.81	.60
<b>Tile setter helper/finisher</b>	16.53	8.81	.60
<b>Laborers</b>			
Group I – Unskilled	20.44	7.96	.60
Group II – Semi-Skilled	20.44	7.96	.60
Group III – Skilled	21.44	7.96	.60
Group IV – Specialty	23.69	7.96	.60
<b>Operators</b>			
Group I	24.49	8.22	.60
Group II	26.75	8.22	.60
Group III	27.24	8.22	.60

Group IV	27.70	8.22	.60
Group V	27.96	8.22	.60
Group VI	28.12	8.22	.60
Group VII	28.23	8.22	.60
Group VIII	31.43	8.22	.60
Group IX	33.94	8.22	.60
Group X	37.51	8.22	.60
<b>Truck drivers</b>			
Group I – VII	16.65	8.27	.60
Group VIII	16.71	8.27	.60
Group IX	18.65	8.27	.60





**City of Lovington**  
**214 S. Love Street Lovington NM 88260**  
**Agreement Cover Page**

**Awarded Vendor:**

**Email:** \_\_\_\_\_

**Telephone No.:** \_\_\_\_\_

Agreement Number: \_\_\_\_\_

Payment Terms: **Net 30** F.O.B.:

**Ship To:**

**Invoice:**

**For questions regarding this agreement please contact:**

**Title: City Manager**

**The attached Agreement is made subject to the “terms and conditions” as indicated.**

**City of Lovington** 214 South Love Street, Lovington, NM 88260 (575) 396-2884 <https://www.lovington.org/>

Agreement No.

THIS Agreement (“Agreement”) is made by and between the City of Lovington, hereinafter referred to as the “City,” and \_\_\_\_\_ hereinafter referred to as the “Contractor,” collectively referred to as the “Parties.”

WHEREAS, pursuant to the Procurement Code, NMSA 1978 13-1-28 *et. seq.* and Procurement Code Regulations, NMAC 1.4.1 *et. seq.* the Contractor has held itself out as an entity with the ability to provide the required services to implement the Scope of Work as contained herein and the City has selected the Contractor as the offeror most advantageous to the City of Lovington; and

WHEREAS, all terms and conditions of the RFP# \_\_\_\_\_ and the Contractor’s response to such document(s) are incorporated herein by reference; and  
NOW, THEREFORE, THE FOLLOWING TERMS AND CONDITIONS ARE MUTUALLY AGREED BETWEEN THE PARTIES:

**Scope of Work.**

The Contractor shall perform the work as described:

**Compensation.**

Compensation Schedule. The City shall pay to the Contractor based upon fixed prices for each Deliverable, per the schedule outlined, less retainage, if any.

**The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed (AMOUNT).**

**Payment.**

The total compensation under this Agreement shall not exceed the amount specified, \_\_\_\_\_, which includes New Mexico gross receipts tax. This figure represents a maximum limit and does not guarantee the work assigned. Payment shall be made upon acceptance of each Deliverable and the receipt and acceptance of a detailed, certified Payment Invoice. The City shall tender payment to the Contractor within thirty (30) days of the date of written certification of acceptance. All Payment Invoices must be received by the City no later than fifteen (15) days after the termination of this Agreement. Payment Invoices submitted after this deadline will not be paid.

### **Taxes.**

The Contractor will be reimbursed by the City for applicable New Mexico gross receipts taxes, excluding any interest or penalties imposed on the Contractor by any authority. PLEASE NOTE THAT NO PROPERTY TAX WILL BE PAID TO THE CONTRACTOR BY THE STATE. The responsibility for paying taxes on any money received under this Agreement rests solely with the Contractor, who should report it under their Federal and City tax identification number(s). The Contractor and all subcontractors must pay all Federal, City, and local taxes applicable to their operations and to any individuals employed by the Contractor. The Contractor shall ensure that all subcontractors hold the City harmless from any responsibility for taxes, damages, interest, if applicable, and contributions required under Federal and/or City and local laws and regulations, as well as any other costs, including transaction privilege taxes, unemployment compensation insurance, Social Security, and Worker's Compensation.

### **Retainage.**

**The City shall retain 20% of the fixed-price Deliverable cost as security for full performance of this Agreement. All amounts retained shall be released to the Contractor upon Acceptance of the final Deliverable.**

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE FINAL REQUIRED SIGNATORY. This Agreement shall begin on the date approved by the Final Required Signatory and shall end on **(DATE)** unless terminated pursuant to this Agreement's Termination Clause or Appropriations Clause. The City reserves the right to renew the Agreement through a written amendment signed by all required signatories and in accordance with the terms of the request for proposals if this contract was based on a request for proposals.

### **Termination**

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

B. Notice: City Opportunity to Cure.

1. Except as otherwise provided in subparagraph A of this Clause and the Appropriations Clause of this Agreement, the City shall give the Contractor written notice of termination at least thirty (30) days before the intended termination date.

2. Contractor shall give City written notice of termination at least thirty (30) days prior to the intended date of termination, which notice shall (i) identify

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

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

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

### **Status of Contractor.**

The Contractor and its agents and employees are independent contractors providing professional or general services for the City and are not employees of the City of Lovington. The Contractor and its agents and employees shall not accrue leave, retirement benefits, insurance, bonding privileges, use of City vehicles, or any other benefits granted to employees of the City of Lovington as a result of this Agreement. The Contractor acknowledges that the Contractor must report all sums received hereunder for tax purposes, including but not limited to self-employment and business income tax. The Contractor agrees not to claim authority to bind the City of Lovington unless the Contractor has express written permission to do so, and then only within the strict limits of that permission.

**Invalid Term or Condition.**

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

**Enforcement of Agreement**

A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

**Non-Collusion**

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

**Succession**

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

**Default/Breach.**

In case of Default and/or Breach by the Contractor, for any reason whatsoever, the Dept. and the City of Lovington may procure the goods or Services from another source and hold \_\_\_\_\_ the Contractor responsible for any resulting excess costs and/or damages, including but not limited to, direct damages, indirect damages, consequential damages, special damages and the City and the City of Lovington may also seek all other remedies under the terms of this Agreement and under law or equity.

**Equitable Remedies.**

Contractor acknowledges that its failure to comply with any provision of this Agreement will cause the City irrevocable harm and that a remedy at law for such a failure would be an inadequate remedy for the City, and the Contractor consents to the City's obtaining from a court of competent jurisdiction, specific performance, or injunction, or any other equitable relief in order to enforce such

compliance. City's rights to obtain equitable relief pursuant to this Agreement shall be in addition to, and not in lieu of, any other remedy that City may have under applicable law, including, but not limited to, monetary damages.

### **Indemnification.**

The Contractor shall defend, indemnify and hold harmless the Dept. and the City of New Mexico from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of the City and the Risk Management Division of the New Mexico General Services Department by certified mail.

### **Default and Force Majeure.**

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

### **Assignment.**

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

### **Commercial Warranty.**

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

Agreement or order. Contractor agrees not to disclaim warranties of fitness for a particular purpose or merchantability.

**Condition of Proposed Items.**

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

**Release.**

Final payment of the amounts due under this Agreement shall operate as a release of the City, its officers and employees, and the City of Lovington from all liabilities, claims and obligations arising from or under this Agreement.

**Confidentiality.**

Any Confidential Information provided to the Contractor by the City or, developed by the Contractor based on information provided by the City in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the City. Upon termination of this Agreement, Contractor shall deliver all Confidential Information to the City within thirty (30) Business Days of such termination. Contractor acknowledges that failure to deliver such Confidential Information to the City will result in direct, special and incidental damages.

**Incorporation by Reference and Precedence.**

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

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

**Inspection of Services.**

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

- A. Services, as used in this Clause, include services performed, workmanship, and material furnished or utilized in the performance of services.
- B. The Contractor shall provide and maintain an inspection system acceptable to the

City Purchasing Agent or other party to this Agreement covering the services under this Agreement. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the City Purchasing Agent or other party to this Agreement during the term of performance of this Agreement and for as long thereafter as the Agreement requires.

- C. The City Purchasing Agent or other party to this Agreement has the right to inspect and test all services contemplated under this Agreement to the extent practicable at all times and places during the term of the Agreement. The City Purchasing Agent or other party to this Agreement shall perform inspections and tests in a manner that will not unduly delay or interfere with Contractor's performance.
- D. If the City Purchasing Agent or other party to this Agreement performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in Agreement price, all reasonable facilities and assistance for the safe and convenient performance of such inspections or tests.
- E. If any part of the services do not conform with the requirements of this Agreement, the City Purchasing Agent or other party to this Agreement may require the Contractor to re-perform the services in conformity with the requirements of this Agreement at no increase in Agreement amount. When the defects in services cannot be corrected by re-performance, the City Purchasing Agent or other party to this Agreement may:
  - (1) require the Contractor to take necessary action(s) to ensure that future performance conforms to the requirements of this Agreement; and
  - (2) reduce the Agreement price to reflect the reduced value of the services performed.
- F. If the Contractor fails to promptly re-perform the services or to take the necessary action(s) to ensure future performance in conformity with the requirements of this Agreement, the City Purchasing Agent or other party to this Agreement may:
  - (1) by Agreement or otherwise, perform the services and charge to the Contractor any cost incurred by the City Purchasing Agent or other party to this Agreement that is directly related to the performance of such service; or
  - (2) terminate the Agreement for default.

THE PROVISIONS OF THIS CLAUSE ARE NOT EXCLUSIVE AND DO NOT WAIVE THE CITYPARTIES' TO THIS AGREEMENT OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.



IN WITNESS WHEREOF, the Parties hereby execute this Agreement, which will take effect on the last signature date of the required approval authorities below. Each of the signatories, below, may execute this Agreement by hard copy original, facsimile, digital or electronic signature, any of which shall be deemed to be a true and original signature hereunder.

By:  
David Miranda, City Manager  
City of Lovington

Date:

By:  
[Insert Contractor Name, Title]  
[Company Name]

Date:

Approved for legal sufficiency:

By:  
[Insert City General Counsel Name], General Counsel  
[Insert City Name]

Date:

The records of the Taxation and Revenue Department reflect that the Contractor is registered with the Taxation and Revenue Department to pay gross receipts and compensating taxes:

BTIN: \_\_\_\_\_

This Agreement has been approved by the Project Manager:

By:  
Project Manager  
City of Lovington

Date: