

City of Lovington



REQUEST FOR SEALED PROPOSALS

Animal Services Modular Shelter Installation Project

RFP #2026-01

**Due February 9th, 2026,
10:00 a.m. (MST)**

SUBMIT PROPOSALS TO:

**Leslie Boldt, Chief Procurement Officer, City of Lovington,
214 S. Love St., Lovington, NM 88260**

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

FOR ANIMAL SERVICES MODULAR SHELTER INSTALLATION PROJECT

**Lovington, New Mexico
Animal Services Modular Shelter Installation
(RFP #2026-01)
Issue Date: January 5th, 2026**

Proposal Due Date: February 9th, 2026 – 10:00 a.m. MST

The City of Lovington, New Mexico, is inviting sealed proposals from qualified and licensed contractors for the **Animal Services Modular Shelter Installation Project**, located at **3633 S. Main Street, Lovington, New Mexico**. The project includes site preparation, foundation and anchoring systems, coordination with the modular building manufacturer, and all required utility connections in accordance with the project manual and technical specifications.

Proposal packages may be obtained from the City of Lovington website at www.lovington.org (Procurement section).

Proposals must be received by February 9th, 2026, at 10:00 a.m. MST at:

**Attn: Leslie Boldt, Chief Procurement Officer City of Lovington
214 S. Love Street
Lovington, NM 88260**

**Electronic or faxed submissions will not be accepted.
The City reserves the right to reject any or all proposals, waive minor irregularities, and/or
cancel this RFP in its entirety. City of Lovington, New Mexico**

Publish in: Lovington Leader

Publish in: Hobbs News-Sun

Publish in: Albuquerque Journal

Publish on: City of Lovington website from January 5th through February 9th, 2026

FACSIMILE AND ELECTRONIC PROPOSALS ARE NOT ACCEPTABLE

Pursuant to the provisions of the New Mexico State Purchasing Act, sealed bids, 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 specifications.

1.0 PURPOSE

The City of Lovington, New Mexico, is soliciting sealed proposals from qualified and licensed contractors to provide all labor, materials, equipment, and services necessary for the **site preparation, delivery coordination, placement, anchoring, and utility connections** for two pre-manufactured modular kennel buildings at the City of Lovington Animal Services facility located at **3633 S. Main Street, Lovington, New Mexico**. This procurement will result in a single contract award.

2.0 PROJECT DESCRIPTION/BACKGROUND

The Animal Services Modular Shelter Installation Project is part of the City's phased expansion of its Animal Protection Services facility. The project includes the installation of two (2) 20' x 60' pre-manufactured modular kennel buildings, each designed to house twelve dog runs and twelve dog boxes, increasing the shelter's intake capacity and improving animal welfare conditions.

The modular kennel buildings will be manufactured and delivered by a third-party vendor. The selected contractor under this RFP will be responsible for all associated construction activities, including selective site demolition, site preparation, foundation and pier installation, placement coordination, anchoring, and all required mechanical, electrical, plumbing, and utility connections in accordance with the project manual and approved construction documents.

All work must comply with the International Building Code (IBC 2021), ANSI A117.1-2021 accessibility standards, and all applicable City of Lovington, State of New Mexico, and Construction Industries Division (CID) requirements.

3.0 SCOPE OF WORK

- The scope of work includes, but is not limited to, the following:
- Selective site demolition and grading
- Site preparation and construction of building pads
- Installation of concrete piers and anchoring systems as designed
- Coordination with the modular building manufacturer for delivery and placement
- Utility connections, including electrical, mechanical, water supply, and floor drains
- Compliance with all approved structural calculations and technical specifications
- Coordination of inspections, permits, and approvals
- Final site restoration and cleanup

All work shall be performed in accordance with the Animal Services Modular Kennels & Site Preparation Project Manual and Technical Specifications prepared by RMKM Architecture PC.

4.0 **SPECIAL NOTES**

This project is subject to the **New Mexico Public Works Minimum Wage Act**. Contractors must comply with the approved wage rate decision issued by the New Mexico Department of Workforce Solutions for this project. Proof of compliance is required. Insurance must meet City of Lovington construction contract standards. Contractor must maintain site safety and cleanliness.

A. BASE BID – REQUIRED

Modular Shelter Site Preparation and Installation

Provide all labor, materials, equipment, and services necessary to complete the **full installation of two (2) pre-manufactured modular kennel buildings**, in accordance with the **Animal Services Modular Kennels & Site Preparation Project Manual and Technical Specifications**, including but not limited to:

- Selective site demolition and grading
- Site preparation and construction of building pads
- Installation of concrete piers and anchoring systems per approved structural calculations
- Coordination with the modular building manufacturer for delivery and placement
- Mechanical, electrical, plumbing, and utility connections to existing site utilities
- Compliance with all applicable permits, inspections, codes, and prevailing wage requirements
- Final site cleanup and restoration

The Base Bid shall represent a **complete, fully functional installation** of both modular kennel buildings.

B. ALTERNATE BID - REQUIRED

Utility Connection Cost Identification

Provide a **separate cost breakout** identifying the portion of the Base Bid attributable to the following utility connections:

- Electrical service connections
- Mechanical unit hookups
- Plumbing and floor drain connections

This Alternate Bid is requested **for cost transparency only**.

The Base Bid shall **include all utility connections regardless of whether this alternate is accepted**.

5.0 EVALUATION CRITERIA

Evaluation will be performed using a point-based method adapted from RFP #2025-011:

Factor	Points
Cost Proposal	40
Relevant Construction Experience	25
Qualifications & Licensing	20
Schedule & Capacity	10
Completeness & Quality of Proposal	5
Total	100

Resident Preference will be applied in accordance with statute.

6.0 SEQUENCE OF EVENTS

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

ACTION	RESPONSIBLE PARTY	DUE DATES
Issue RFP / Begin Advertising	City of Lovington	January 8th, 2026
Pre-Proposal Conference	City of Lovington	None
Deadline to submit Questions	Potential Respondents	January 20, 2026 – 5:00 p.m. (MST)
Response to Written Questions	Chief Procurement Officer	January 22, 2026
Submission of Proposal	Potential Respondents	February 9, 2026 – 10:00 a.m. (MST)
Proposal Evaluation	Evaluation Committee	February 2026
Selection of Finalists	Evaluation Committee	February 2026
Best and Final Offers (if applicable)	Finalist Respondents	February 2026
Commission Award	City/Selected Offeror	February 2026
Contract Awards	City/Finalist Respondents	TBD 2026
Protest deadline	Protest Manager	+15 days as allowed by statute

COMMODITY CODES:

Effective July 1st, 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:

[illegible]

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.

CITY OF LOVINGTON STANDARD INSTRUCTIONS TO BIDDERS

1. **Bids 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 bid proposal. Ensure that the envelopes are mailed or delivered before the opening time.**
2. **When required**, samples of items must be furnished free of expense before the opening of bids. 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 must be for the maximum amount the manufacturer provides if the goods are warrantable.
3. Bids that are mailed or delivered before the opening time must include the information specified in Item 1 above. They must be sent to the **Chief Procurement Officer, Leslie Boldt, at 214 S. Love St., Lovington, New Mexico, 88260**. This information must be clearly marked on all exterior packaging.
4. All prices must be stated in the specified units or quantities, including packing and delivery charges.
5. The time of proposed delivery must be stated in definite terms. If the time varies across items, the Respondent should state so.
6. Bids must be made out and signed in the corporate or other name of Respondent and must be fully and properly executed by an authorized person.
7. Bids must be submitted using the attached bid price submission form.
8. Any prices related to exceptions must also be included with the bid and secured (either stapled, bound, or otherwise). Additionally, any alternatives offered by the Respondent other than those requested will not be accepted.
9. Bids received later than the time and date specified will not be considered.
10. Amendments to or withdrawals of bids received later than the time and date set for proposal opening will not be considered.
11. Respondents or their representatives *may* be present at the bid opening.

12. The Chief Procurement Officer reserves the right to amend and/or cancel the bid invitation before the bid opening time and date.
13. The Chief Procurement Officer reserves the right to correct any bid awarded erroneously due to a clerical error on the part of the City of Lovington.
14. Respondents and/or vendors doing business with the City of Lovington must comply with the Federal Civil Rights Act of 1964 and Title VII of the Act. Rev., 1979.
15. Respondents seeking Resident Preference at bid openings must submit the questionnaire for Resident Business or Contractor Certification to the State Purchasing Agent. They must also obtain approval and a certification form before the proposal opening. Requests for consideration of Resident Business or Contractor Preference submitted after the bid opening will not be accepted.
16. All contracts solicited through competitive sealed proposals for the City of Lovington must have bid 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).
17. **The current City of Lovington rate will determine all applicable gross receipts tax rates charged to the City of Lovington 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.**
18. Any equipment supplied 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. 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.
19. **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.**
20. The City reserves the right to pay any invoices using its Procurement Card without incurring a penalty.

CITY OF LOVINGTON STANDARD CONDITIONS

BID OPENING PROCEDURES

1. The City of Lovington maintains the right to reject any and all bids, waive any informalities in the bids, and, unless otherwise specified by the Respondent, accept any item included in the bid.
2. In case of an error in the extension of prices in the bid, 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. Bids will be opened and read aloud at precisely the time, date, and place stipulated in the Request for Bids and in the legal notice published in the newspaper.
7. Bids 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 bid. 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 rule 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 remember that the low response received at the proposal opening does not necessarily determine which proposal will be chosen for the award. The winning respondent will be selected based on which product best aligns with the City's interests, considering factors like price, product quality, safety, and delivery.

12. A Respondent's request for Resident Preference will be honored only when the provisions of Sections 13-1-21 and 13-1-22 of the State Purchasing Act have been met.
<https://www.tax.newmexico.gov/businesses/business-preference-certification>
13. Do not submit alternate bids unless instructed to do so, as they will not be considered.
14. Notice is hereby given that the City Commission reserves the right to reject any and all bids received. In cases of ambiguity or lack of clarity, the Commission retains the authority to determine the best bid, reject any bid, or waive irregularities and technicalities.
15. Any requested literature and one complete copy of the bid must be submitted with the bid, unless stated otherwise in the Request for Proposal.
16. All bids must be valid for a minimum of 90 days after bid opening unless otherwise stated in the bid sheet by the individual respondent.
17. All businesses operating within the municipal limits of Lovington must be licensed by the city.
18. 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.
19. Pursuant to 13-4-11 (A) NMSA Annotated, state wage rates shall apply to any bid or proposal on construction or public works projects in excess of \$60,000.00. In addition, all bidders and proposers shall comply with Federal wage rates on applicable projects.
20. In accordance with 13-1-146 NMSA Annotated, bidders or offerors for construction contracts exceeding \$25,000 are required to provide bid security or a bond. This bid security or bond must be equal to at least 5% of the total bid. Acceptable forms of bid security include a bond issued by a surety company authorized to operate in the state of New Mexico or an equivalent amount in cash.
21. 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.

22. Pursuant to 13-4-34 NMSA Annotated, (A) Any person submitting a bid shall in his bid 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 bid. (B) A bid submitted by a contractor who fails to comply with the provisions of Subsection A of this section is a non-responsive bid that a using agency shall not accept.
23. 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 bid was received or that only one bid 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.



PROPOSAL COST FORM

Lovington Animal Services Modular Shelter Installation Project
City of Lovington – 3633 S. Main Street, Lovington, NM 88260

Bidder Information

Company Name: _____
Contractor License No.: _____
Contact Person: _____
Phone / Email: _____

Bid A – Base Bid

Bid A Amount (Lump Sum):

\$ _____

Bid B – Alternate Bid- Utility Connection Cost Transparency

Bid B Amount (Lump Sum):

\$ _____

Schedule

Anticipated Start Date: _____

Anticipated Completion Date: _____

Acknowledgements

Bidder confirms the following (initial each):

_____ Addenda received: # _____

_____ Site visit completed

_____ All measurements verified

_____ Wage decision included and acknowledged

_____ Completion date required

Bidder Certification

I certify that I am authorized to submit this proposal, and that the pricing provided herein is accurate and binding for the period specified in the procurement documents.

Signature: _____

Date: _____

Printed Name & Title: _____



PROPOSAL NARRATIVE FORM

Lovington Animal Services Modular Shelter Installation Project

City of Lovington – 3633 S. Main Street, Lovington, NM 88260

Bidder Information

Company Name: _____

Contact Person & Title: _____

Contractor License No.: _____

Phone / Email: _____

Narrative Response

Please provide a written narrative describing your company's overall approach to completing this project. The narrative may include, but is not limited to, the following areas:

- Understanding of project requirements
- Proposed methods and materials
- Coordination with City staff and HVAC trades
- Quality assurance and warranty provisions
- Schedule and key milestones
- Staffing, subcontractors, qualifications, and relevant experience
- Site safety and protection of public operations

(Attach additional sheets as necessary.)

Certification

The undersigned acknowledges review of the project documents and certifies that the information provided in this narrative is accurate and submitted in good faith on behalf of the proposing entity.

Signature: _____ Date: _____

Printed 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: _____

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) _____

Certification

The undersigned acknowledges that the information provided is accurate and submitted in good faith on behalf of the proposing entity.

Signature: _____ Date: _____

Printed Name: _____

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 Typed: _____ Company Name: _____

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 City will be indemnified for all liability incurred, even though a percentage of the liability is attributable to 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: _____

Date: _____

Printed Name & Title: _____

CONTRACT PROCEDURES

The contract between the city and a contractor will follow the format specified by the City and include the terms and conditions outlined in the Draft Contract. However, the City reserves the right to negotiate provisions beyond those in this RFP with any Offeror. The contents of this RFP, as revised and/or supplemented, together with the successful Offeror's proposal, will be incorporated into and become part of the final contract. If an Offeror strongly objects to any terms and conditions in the RFP and wishes to propose alternative language, they must specify the suggested changes. The City may accept these alternatives or not. General references to the Offeror's terms or attempts to fully replace the Draft Contract are not acceptable and will disqualify the proposal. Offerors should briefly explain the purpose and impact of each proposed change, along with the specific suggested language. If an Offeror does not propose any alternative terms during the procurement process (the RFP phase before being selected), such proposals will not be considered later in negotiations. Not proposing alternatives indicates the Offeror's clear acceptance of the contractual terms and conditions.

1. Offeror's Terms and Conditions: Offerors must include all additional terms and conditions they want to be included in the negotiated contract with the Agency. 2. Contract Deviations: Any proposed changes or additional terms identified during the procurement process will be discussed only between the Agency and the selected Offeror and are not an opportunity to amend the original proposal.