



**Request for Proposals
RFP # 2019-686**

**DISTRIBUTION AND TRANSMISSION POLE TESTING
SERVICES**

PROPOSAL DUE DATE/TIME/PLACE:

Thursday, April 25, 2019, 3:00 PM
City of Aztec Finance Conference Room
201 W Chaco
Aztec NM 87410

FINAL DATE FOR QUESTIONS

April 16, 2019 10:00 AM

Tentative Commission Contract Approval Date

May 2019

For further information contact:

Kathy Lamb

Finance Director

City of Aztec

Phone: 505-334-7653

Fax: 505-334-7649

Email: klamb@aztecnm.gov

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I. INTRODUCTION

A. PURPOSE OF THIS REQUEST FOR PROPOSALS

The City of Aztec Electric Department (City) is requesting proposals (RFP) for in-place wood pole inspection and testing services (Offeror) and development of a wood pole maintenance and management program utilizing Ultrasonic Tomography or Resistograph Boring equipment.

The City will review proposals for proposed pole inspections and testing programs of all potential tools and processes to determine the best program meeting City's needs. Offerors, in their response to this RFP, are expected to provide information supporting the various aspects of Offeror's proposed program.

The wood pole maintenance and management program shall include, at a minimum, a process for the least destructive method for above and below ground level testing of poles; pole evaluation, identify and reveal poles posing a safety hazard, poles whose service life would be extended with corrective action, maintenance observations, data collection and provide field findings of each pole inspected and tested.

All City powerlines shall remain in service and energized during the pole inspection and testing project.

In conjunction with pole inspections the offeror will use the "MapSight" system to measure and digitally record each pole gathering height information for each pole and its attachments. The gathered information will need to be installed on the City GIS system in coordination with City GIS personnel.

B. BACKGROUND INFORMATION

The City of Aztec is located in the northwest corner of New Mexico, 15 miles northeast of Farmington, New Mexico and 36 miles south of Durango, Colorado. Aztec is the county seat for San Juan County and has a population of approximately 6,328.

The City of Aztec has approximately 2000 distribution / street light poles and 19 transmission poles located in a service territory of 10 square miles which includes all of the City of Aztec and a small portion within San Juan County.

C. SCOPE OF PROCUREMENT

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

TERM: An agreement will be executed specific to the services requested, starting with the effective date of the Agreement. No renewals of the agreement will be considered.

D. PROCUREMENT MANAGER

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

Name: Kathy Lamb, Procurement Manager
Address: 201 W Chaco, Aztec NM 87410
Telephone: (505) 334-7653
Fax: (505) 334-7649
Email: klamb@aztecnm.gov

2. All deliveries of responses via express carrier must be addressed as follows:

Name: Kathy Lamb
Reference RFP Name:
**RFP 2019-686 ELECTRIC UTILITY WOOD POWER POLE
INSPECTION SERVICES**

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

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

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

E. DEFINITION OF TERMINOLOGY

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

“**Agency**” means the City of Aztec

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

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

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

“**City**” means the City of Aztec

“**Close of Business**” means 5:00 PM Mountain Standard or Mountain Daylight Time, whichever is in effect on the date given.

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

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

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

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

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

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

“Evaluation Committee” means a body appointed to perform the evaluation of Offerors’ proposals.

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

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

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

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

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

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

“Owner” is the City of Aztec (City).

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

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

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

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

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

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

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

“Responsive Offer” or **“Responsive Proposal”** means an offer or proposal, which conforms in all material aspects to the requirements set forth in the Request for Proposals (RFP). Material aspects of responses to the Request for Proposals(RFP) include, but are not limited to price, quality, quantity or delivery requirements.

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

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

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

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

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

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

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

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

II. CONDITIONS GOVERNING THE PROCUREMENT

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

A. SEQUENCE OF EVENTS

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

Action	Responsible Party	Due Dates
1. Issue RFP	City	April 7, 2019
2. Acknowledgement of Receipt Form	Potential Offerors	April 16, 2019 by 10:00 AM MST/MDT
3. Pre-Proposal Conference	City	None
4. Deadline to submit Questions	Potential Offerors	April 16, 2019 by 10:00 AM MST/MDT
5. Response to Written Questions	Procurement Manager	April 18, 2019 By 10:00 AM MST/MDT
6. Submission of Proposal	Potential Offerors	April 25, 2019, 3:00 PM
7. Proposal Evaluation	Evaluation Committee	April 29 – May 9, 2019
8. Selection of Finalists	Evaluation Committee	May 2019
9. Best and Final Offers	Finalist Offerors	May 2019
10. Oral Presentation(s)	Finalist Offerors	May 2019
11. Finalize Contractual Agreements	City/Finalist Offerors	May 2019
12. Contract Awards	City/ Finalist Offerors	May 2019
13. Protest Deadline	City	May 2019

B. EXPLANATION OF EVENTS

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

1. Issuance of RFP

This RFP is being issued on behalf of the City of Aztec for Distribution and Transmission Pole Inspection Services on April 7, 2019.

2. Acknowledgement of Receipt

Potential Offerors should email, hand deliver, return by facsimile, or by certified mail the "Acknowledgement of Receipt of Request for Proposals Form" that accompanies this document, APPENDIX A, to have their organization placed on the procurement distribution list. The form should be signed by an authorized representative of the organization, dated and returned to the Procurement Manager by 10:00 am MST or MDT on April 16, 2019.

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

3. Pre-Proposal Conference

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

4. Deadline to Submit Written Questions

Questions and/or clarifications concerning this RFP will be accepted in writing through April 16, 2019, 10:00 am. Requests may be transmitted via facsimile (505-334-7649) or email (klamb@aztecnm.gov). Written responses to all written inquiries will be provided and distributed to all recipients of this RFP. Responses and addenda to this RFP, if necessary, are scheduled to be issued by April 16, 2019, 10:00 AM. No Offeror may rely upon oral responses made by any City employee or any representative of the City.

5. Response to Written Questions

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

6. Submission of Proposal

ALL OFFEROR PROPOSALS MUST BE RECEIVED FOR REVIEW AND EVALUATION BY THE PROCUREMENT MANAGER OR DESIGNEE NO LATER THAN 3:00 PM MOUNTAIN STANDARD TIME/DAYLIGHT TIME ON April 25, 2019. Proposals received after this deadline will not be accepted. The date and time of receipt will be recorded on each proposal.

Proposals must be addressed and delivered to the Procurement Manager at the address listed in Section I, Paragraph D2. Proposals must be sealed and labeled on the outside of the package to clearly indicate that they are in response to the RFP 2019-686 DISTRIBUTION AND TRANSMISSION POLE INSPECTION SERVICES. Proposals submitted by facsimile, or other electronic means will not be accepted.

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

Proposals will be reviewed for completeness and compliance with requirements by the Procurement Manager. If any proposal submitted is deemed non-responsive by the Procurement Manager, the Offeror will be notified in writing of such determination and the method of protesting that determination (see Section II.C.1.).

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

7. Proposal Evaluation

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

8. Selection of Finalists

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

9. Best and Final Offers

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

10. Oral Presentations

Finalist Offerors may be required to conduct an oral presentation at a location to be determined as per schedule Section II. A., Sequence of Events or as soon as possible. Whether or not oral presentations will be held is at the discretion of the Evaluation Committee. Oral presentations, if required, will be evaluated on the basis of 100 total points.

11. Finalize Contractual Agreements

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

12. Contract Awards

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

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

13. Protest Deadline

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

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

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

C. GENERAL REQUIREMENTS

1. Acceptance of Conditions Governing the Procurement

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

2. Information Provided by the City of Aztec

Offerors are solely responsible for conducting their own independent research, due diligence or other work necessary for the preparation of proposals, negotiation of agreements, and the subsequent delivery of services pursuant to any agreement. In no event may Offerors rely on any oral statement.

Should an Offeror find discrepancies in, or omissions from, this RFP and related documents, or should Offeror be in doubt as to meaning, Offeror shall immediately notify the City's designated representative and, if necessary, a written addenda will be emailed to

each Offeror who has returned the “Acknowledgement of Receipt” form, included in this document. Each Offeror requesting an interpretation will be responsible for the delivery of such requests to the City’s designated representative in writing as outlined in this RFP. The City will not be bound by, nor responsible for, any explanation or interpretation of the proposed documents other than those given in writing.

3. Incurring Cost

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

4. Prime Contractor Responsibility

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

5. Amended Proposals

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

6. Offeror’s Rights to Withdraw Proposal

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

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

7. Proposal Offer Firm

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

8. Disclosure of Proposal Contents

A. Proposals will be kept confidential until negotiations and the award are completed by the City of Aztec. At that time, all proposals and documents pertaining to the proposals will be open to the public, except for material that is clearly marked proprietary or confidential. The Procurement Manager will not disclose or make public any pages of a

proposal on which the potential Offeror has stamped or imprinted "proprietary" or "confidential" subject to the following requirements:

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

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

9. No Obligation

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

10. Termination

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

11. Sufficient Appropriation

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

12. Legal Review

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

13. Governing Law

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

14. Basis for Proposal

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

15. Contract Terms and Conditions

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

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

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

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

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

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

16. Offeror's Terms and Conditions

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

17. Contract Deviations

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

18. Offeror Qualifications

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

19. Right to Waive Minor Irregularities

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

20. Change in Contractor Representatives

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

21. Notice of Penalties

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

22. City Rights

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

23. Right to Publish

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

24. Ownership of Proposals

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

25. Confidentiality

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

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

26. Electronic mail address required

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

27. Use of Electronic Versions of this RFP

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

28. Campaign Contribution Disclosure Form

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

29. Submittal Form

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

1. Identify the submitting business entity.
2. Identify the name, title, telephone, and e-mail address of the person authorized by the Offeror organization to contractually obligate the business entity providing the Offer.
3. Identify the name, title, telephone, and e-mail address of the person authorized to negotiate the contract on behalf of the organization (if different than (2) above).
4. Identify the names, titles, telephone, and e-mail addresses of persons to be contacted for clarification/questions regarding proposal content.

5. Identify sub-contractors (if any) anticipated to be utilized in the performance of any resultant contract award.
6. Describe the relationship with any other entity which will be used in the performance of this awarded contract.
7. Identify the following with a check mark and signature where required:
 - a. **Explicitly** indicate acceptance of the Conditions Governing the Procurement stated in Section II. C.1;
 - b. **Explicitly** indicate acceptance of Section V of this RFP; and
 - c. Acknowledge receipt of any and all amendments to this RFP.
8. Be signed by the person identified in paragraph 2 above.

30. Disclosure Regarding Responsibility

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

required. A taxpayer is not delinquent in cases where enforced collection action is precluded.

- c. Have within a three year period preceding this offer, had one or more contracts terminated for default by any federal or state agency or local public body.)
- B. Principal, for the purpose of this disclosure, means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity or related entities.
- C. The Contractor shall provide immediate written notice to the City of Aztec Procurement Manager or other party to this Agreement if, at any time during the term of this Agreement, the Contractor learns that the Contractor's disclosure was at any time erroneous or became erroneous by reason of changed circumstances.
- D. A disclosure that any of the items in this requirement exist will not necessarily result in termination of this Agreement. However, the disclosure will be considered in the determination of the Contractor's responsibility and ability to perform under this Agreement. Failure of the Contractor to furnish a disclosure or provide additional information as requested will render the Offeror nonresponsive.
- E. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the disclosure required by this document. The knowledge and information of a Contractor is not required to exceed that which is the normally possessed by a prudent person in the ordinary course of business dealings.
- F. The disclosure requirement provided is a material representation of fact upon which reliance was placed when making an award and is a continuing material representation of the facts during the term of this Agreement. If during the performance of the contract, the Contractor is indicted for or otherwise criminally or civilly charged by any government entity (federal, state or local) with commission of any offenses named in this document the Contractor must provide immediate written notice to the City of Aztec Procurement Manager. If it is later determined that the Contractor knowingly rendered an erroneous disclosure, in addition to other remedies available to the City of Aztec may terminate the involved contract for cause. Still further the City of Aztec may suspend or debar the Contractor from eligibility for future solicitations until such time as the matter is resolved to the satisfaction of the City of Aztec.

31. New Mexico Preferences

To ensure adequate consideration and application of NMSA 1978, § 13-1-21 (as amended), Offerors **must** include a copy of their preference certificate with their proposal.

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

A. New Mexico Business Preference

B. New Mexico Resident Veterans Business Preference

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

The City of Aztec shall not award a business both a resident business preference and a resident veteran business preference.

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

32. Bribery and Kickbacks

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

33. Conflict of Interest

- a. Offeror warrants that it presently has no interest and will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of service under this contract.
- b. Offeror must notify the City's Chief Procurement Officer if any employee(s) of the requesting department or the Finance Department have a financial interest in the Offeror. If yes, the Offeror must specify the employee(s) name in their proposal.

III. RESPONSE FORMAT AND ORGANIZATION

A. NUMBER OF RESPONSES

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

B. NUMBER OF COPIES

Hard Copy Responses

Offeror's proposal must be clearly labeled and numbered and indexed as outlined in **Section III.C. Proposal Format**. Proposals must be submitted as outlined below. The original copy shall be clearly marked as such on the front of the binder. Each portion of the proposal (technical/cost) must be submitted in separate binders and must be prominently displayed on the front cover. Envelopes, packages or boxes containing the original and the copies must be clearly labeled and submitted in a sealed envelope, package, or box bearing the following information:

Offerors should deliver:

ONE (1) ORIGINAL and ONE (1) ELECTRONIC COPY of the proposal

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

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

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

OR IN THE ALTERNATIVE TO THE SUBMISSION FORMAT AND REQUIREMENTS OF SECTION III.B.1:

Electronic Responses (City's E-procurement System through Vendor Registry)

If the proposal is submitted through City's electronic procurement system, the Offeror need only submit a single electronic copy of the proposal.

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

For technical support issues contact (505) 334-7653 or (505) 334-7651
procurement@aztecnm.gov

C. PROPOSAL FORMAT

All proposals must be submitted as follows:

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

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

Organization for hard copy proposals and electronic copy proposals and proposals submitted via Vendor Registry:
Proposal Content and Organization

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

Technical Section:

- A. Signed Submittal Form
- B. Table of Contents
- C. Proposal Summary (Optional)
- D. Qualifications and Experience with Governmental Entities
 - 1) Professional Resumes
 - 2) Experience and Background
- E. Minimum requirements listed in the Scope of Work
- F. References
- G. Business Specifications
 - 1) Signed Campaign Contribution Form
 - 2) Debarment/Suspension Form
 - 3) Current Insurance Certificate
 - 4) Completed W-9
 - 5) New Mexico Preferences (If applicable)
 - 6) Response to Contract Terms and Conditions
 - 7) Offeror's Additional Terms and Conditions
- H. Other Supporting Material (If applicable)

Cost Section:

- A. Completed Cost Response Form

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

The proposal summary may be included by potential Offerors to provide the Evaluation Committee with an overview of the proposal; however, this material will not be used in the evaluation process unless specifically referenced from other portions of the Offeror's proposal.

IV. SPECIFICATIONS

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

A. DETAILED SCOPE OF WORK

Offeror Development - Testing and Serviceability Assessment Methods

Offeror shall provide a recommended approach for the following pole inspection and testing aspects of the wood pole maintenance and management program. Further, Offeror shall identify the data collected and provide an explanation as to how the collected data is used and analyzed to determine whether a pole is serviceable and how each pole condition of serviceability is determined.

- 1) Ultrasonic Tomography / Resistograph Boring Techniques. Every pole on the inspection and testing schedule and not visually rejected shall be tested utilizing Ultrasonic Tomography or Resistograph equipment. Offeror shall describe in detail the process how measurements of pole strength and expected life of each pole are taken and the criteria used to ensure accurate readings in assessing remaining pole strength and serviceability.
- 2) Pole Assessment Categories. Offeror, as part of their response shall include a description of their recommended approach to determine the categorical status of a pole after the pole has been tested and inspected. Categories may include; estimated remaining years of life of a pole, a serviceable pole, a reject pole, a reject treatable pole, or a priority reject pole. If Offeror uses an assessment based on percentage of pole strength or by some other valuation method, Offeror shall describe in detail the methodology or industry standard used to identify the serviceability status of a pole.
- 3) Pole Loading Calculations. Offeror's response shall describe the process when a determination is made to conduct pole loading calculations. Further, the response shall include the type of software used, what information is available from the pole loading calculations such as estimated load on the pole on date of inspection, and what electronic formats are available for providing those results to the City. The Offeror shall clarify the methodology and data used in determining the pole loading calculations including assumptions and safety factors.
- 4) Pole Treatments. Offeror in their response shall state whether they apply pesticides/preservatives, if so what pesticides/preservatives they recommend and why, at what point is pesticide/preservative treatment recommended and per their recommendation, describe what the ultimate long term benefit to City is and what hazards are associated with the treatment option. If, as a result of this Request for Proposals (RFP), a pesticide treatment option is agreed upon between the Offeror and City, the Offeror agrees to comply

with restrictions and recommendations as made by applicable environmental rules and regulations.

Visual Inspection and Sounding

The requirements for the Visual Inspection and Sounding portion of the in-place wood pole inspection and testing services have been pre-determined by the City as follows:

- 1) Visual Inspection. Before any other inspection, a visual inspection shall be conducted on a distribution/transmission pole from top of the pole to ground level. Visual inspections shall include, but not be limited to: owner pole number identification, pole size, class, installation date, wood species, original treatment, stub pole pending telecommunication transfer and removal, woodpecker damage, evidence of ants, termites and / or any wood eating bugs or insects, split pole tops, decayed tops, physical damage, broken insulators, broken ground wire, broken or split cross arms, broken/slack guy wires, broken/missing insulator, tree limbs, leaking distribution transformers, blown lightning arrestors, other attached hardware, loose or faulty equipment, excessive leaning, conductor sag, vandalism, abandoned poles and lightning damage visible from the ground.
- 2) Nests. If nests are sighted on City equipment or dead or injured birds or animals are found near the pole, Offeror shall contact the City of Aztec Line Superintendent as soon as possible but no later than forty-eight (48) hours of discovery.
- 3) Sounding. Poles shall be sounded on all four sides with a hammer from ground level to at least six (6) feet above ground line to locate or identify interior decay as part of testing method.
- 4) Visually Rejected Poles. Defined as any pole which has been burned, split, broken, damaged, or decayed above ground line to such extent that warrants a rejection. This includes poles whose life would not be extended even after reasonable maintenance, remedial action or repair. If pole is burned, the extent of the burn shall be noted. The remaining effective circumference shall be reported on all burned or decayed poles. Visually rejected poles shall not be sounded and shall not require further inspection or testing.
- 5) 35' or less Distribution Poles. A distribution pole less than 40' in length is to be tested as normally prescribed. If the pole passes the test, and is determined to be a main-line distribution pole (having high voltage primary conductors), not a meter pole, lift pole or streetlight pole, then it is to be flagged for replacement due to height.
- 6) Observations from the Visual and Sounding inspections shall be noted and provided by Offeror to the City as described in Pole Inspection Reports.

Testing Methods

Offeror shall provide a recommended approach for the following pole inspection and testing aspects of the wood pole maintenance and management program. Further, Offeror shall identify the data collected and provide an explanation as to how the collected data is used to determine whether a pole is serviceable and how each pole condition of serviceability is determined.

- 1) Ultrasonic Tomography / Resistograph Boring Techniques. Every pole which has on the inspection and testing schedule and not visually rejected shall be tested utilizing Ultrasonic Tomography or Resistograph equipment. Offeror shall describe in detail the process how Ultrasonic Tomography or Resistograph bore measurements calculate loss of pole strength percentage and the criteria used to ensure accurate readings in assessing remaining pole strength and serviceability.
- 2) Pole Assessment Categories. Offeror, as part of their response shall include a description of their recommended approach to determine the categorical status of a pole after the pole has been tested and inspected. Categories may include a serviceable pole, a reject pole, a reject treatable pole, or a priority reject pole or other category recommended by Offeror and accepted by the City. If Offeror uses an assessment based on percentage of pole strength or by some other valuation method, Offeror shall describe in detail the methodology or industry standard used to identify the serviceability status of a pole.
- 3) Pole Loading Calculations. Offeror's response shall describe the process when a determination is made to conduct pole loading calculations. Further, the response shall include the type of software used, what information is available from the pole loading calculations such as estimated load on the pole on date of inspection, and what electronic formats are available for providing those results to the City. The Offeror shall clarify the methodology and data used in determining the pole loading calculations.
- 4) Pole Treatments. Offeror in their response shall state whether they apply pesticides/preservatives, if so what pesticides/preservatives they recommend and why, at what point is pesticide/preservative treatment recommended and per their recommendation, describe what the ultimate long term benefit to the City is and what hazards are associated with the treatment option. If, as a result of this Request for Proposals, a pesticide treatment option is agreed upon between the Offeror and the City, the Offeror agrees to comply with restrictions and recommendations as made by applicable environmental rules and regulations.

The above is not intended to be all inclusive phases of a pole testing and inspection service. Offerors, as part of their response to this RFP, are encouraged to submit in their responses any techniques, processes, methods of pole classification and assessment, suggested treatments and other aspects of in-place wood pole testing and inspection which could be advantageous to the City as part of their wood pole maintenance and management program.

General Provisions

- 1) Priority Reject Poles are any visually rejected pole, or pole which poses a safety hazard and in need of immediate attention. Offeror will, as soon as possible, but no later than by the end of the same business day, notify the City of Aztec Line Superintendent of the location and pole number of the priority reject pole.
- 2) Some distribution and transmission poles to be inspected may be located along City easements passing through State lands and / or other Federally managed land. Offeror is to observe and abide by all state and federal rules and regulations while inspecting and testing poles on behalf of the City to include traffic control measures if necessary.
- 3) Offeror may be required to pass through private property, in close proximity to a home or in the backyard or back lot of a home. Prior to entering private property, every effort shall be made by Offeror to notify the property owner or residents at least one (1) week prior to the pole inspection and testing to include the use of City provided door hangers. Offeror and the City will establish further instructions for a notification process.
- 4) All items such as turf, bushes, flowers, trees, lawn furniture, etc. which may need to be moved or removed by Offeror in performance of the services shall be replaced with care.
- 5) If the ownership of the pole is unclear, untagged or otherwise questionable, Offeror shall notify the City of Aztec Line Superintendent for verification before proceeding with any inspection or testing of the pole in question.
- 6) Offeror to provide as a separate line item, The "MapSight" costs to furnish electronic data; pictures and measurement data, in an electronic format of inspected and tested poles.
- 7) The City will provide awarded Offeror with maps, pole locations and desired schedules for the pole testing project.
- 8) All poles should be treated as being on private property. Prior to commencing any work for the City, the Contractor and City will meet to coordinate notice requirements and identify any areas which may require additional efforts.

Pole Tagging

Offer to provide aluminum tags for each pole inspected. All inspected poles shall be tagged using the following tagging system:

- 1) Metal tags attached to power poles that have been inspected are an indication of that pole's physical condition at the date of inspection. Pole tags are to be installed by the Offeror on the road side of the pole and approximately six (6) feet above the ground. The metal tags indicate the date of the pole inspection. Each pole will receive a pole-tag with a unique number that is referenced on the report.

- 2) Servicable Pole. One (1) silver aluminum tag is preferred by the City to indicate the pole has been inspected and is in sound condition. The tag information shall include the awarded Offeror's company name, month and year of inspection.
- 3) Priority Reject Pole. One (1) red tag is preferred by the City to indicate a pole posing a safety hazard which needs immediate attention. The tag information shall include the awarded Offeror's company name, month and year of inspection.
- 4) Other Pole Conditions. Identification of other pole conditions will be contingent on the testing and assessment methods presented by the Offeror and agreed upon by the City under this RFP. Pole tag colors and sizes to identify pole conditions will be agreed upon at the time a contract is entered into and subject to City approval.

Pole Inspection Reports

- 1) All information collected in the field shall be recorded daily. Information should be entered accurately and reports supplied to the City electronically on a weekly basis. A full completed report of all inspected poles shall be supplied to the City on a CD or thumbdrive in an Excel file format and "MapSight" data entered into City's GIS system at the conclusion of the project. The Excel file shall not be protected and capable of being sorted, copied and otherwise manipulated by the City.
- 2) Reports shall provide individual pole information for all poles inspected during the week by an individual Foreman. This report shall be provided no later than one week after the work is performed.
- 3) Report Heading. Each report sheet shall have the following information listed in the heading:

Utility Name Contractor Name
Inspected by: (Name) Week Ending Date

- 4) Report Content. Each report shall contain the column headings in the order listed below on the report from left to right starting with "Pole ID" as being the first column heading and "Remarks" being the last column heading.

Pole ID (COA tag number)
Lat (Y) / Long (X)
Height/Class / type of wood / year of pole
Circumference of pole at ground line.
Feeder/Circuit Name
Decay Type
Inspection Date Species/Treatment
Inspection Type estimated Percent Strength Left
Distribution or Transmission Pole Loading Analysis
Maintenance Needed / Remarks

- 5) The “Remarks” section should spell out words instead of abbreviating them unless the abbreviations are standard industrial jargon. Additionally, the “Remarks” section should be capable of describing all decay conditions as well as maintenance items that should be noted.
- 6) Pending the review of proposals and acceptance of a pole maintenance and management program; other summary reports may be requested as agreed upon by the awarded Offeror and the City.

Quality Control

- 1) The City and Contractor’s Supervisor shall spot check at least three (3) poles at random upon the completion of each feeder. The spot check shall consist of checking the Pole Inspection reports against the existing field conditions. Each selected pole shall be completely re-inspected and tested. A completed Quality Control Report shall be provided by the Contractor to the City for each random set of spot checks.
- 2) The City may inspect tested poles at its discretion during the project. If poles do not reflect the Offeror’s visual inspections or other errors are found, to include checking reports against existing pole conditions; at no cost to the City, the City may request all previously tested poles on the same feeder to be reinspected. All associated reports shall be updated and provided to the City.
- 3) Major discrepancies will be brought to the Offeror’s attention for corrective action which may result in, but not be limited to, reworking each inspected pole to the point where pole test results are accurate. Any corrective action needing made will include submitting updated Pole Inspection Records.
- 4) Offeror, in their response to this RFP, may propose an alternate Quality Control Plan for review and approval by the City.

Contractor Requirements

- 1) Offeror shall furnish all supervision, labor, tools, equipment, report forms, transportation and material necessary for the inspection and treatment of the City's poles as identified and outlined in these specifications. The City will furnish copies of this specification and maps showing locations of poles which are subject to inspection and/or treatment.
- 2) Offeror shall have a minimum five (5) years in the wood pole inspection and treatment business. Included with the Proposal shall be discussion of projects of the same or similar type service provided by the Offeror within the last five (5) years to include estimated number of poles inspected per year.
- 3) Personnel listed, as submitted by your firm, shall remain responsible throughout the period of the agreement and be available for meetings and phone calls as needed regarding this

project. No substitution in personnel may be made without written submission of the proposed replacement and final approval being granted by a City representative.

- 4) Offeror shall provide a description of employee organizational information to include the relationship in the company amongst Offeror's employees and their titles.
- 5) As a safety precaution, Offeror shall provide an emergency contact list with names and cell phone numbers, two-way radios, or by some means of reaching personnel within a moment's notice who are testing and inspecting the City 's wood poles.
- 6) Offeror, while performing the services set out in this RFP on behalf of the City, shall be properly identified as representatives of the City. At a minimum this includes magnetic company of firm logo signs be placed on side doors of Offeror's vehicles and Offeror's employees wear a company of firm uniform shirt and identification badge. Further, Offeror's employees shall at all times maintain a professional attitude toward the project, City employees, customers, and the general public.
- 7) The firm must identify any and all subconsultants and subcontractors.
- 8) Offeror shall report to the City any hazardous conditions observed while testing poles.

Offeror's Policies – Documentation

Documentation of Offeror's policies for conforming to EPA, OSHA, DOT, NESC and APPA regulations must be included with the bid proposal and also include the following information:

- 1) Safety Manual or an electronic link (URL) to the manual.
- 2) If Offeror's response proposes the use of pesticide then Offeror must provide:
 - a) Evidence of commercial pesticide license certification by the State of New Mexico for the proposed pesticide application.
 - b) A description of how Offeror meets all reporting requirements by the various regulatory agencies and meeting all applicable Federal and State rules and regulations to include but not limited to pesticide training programs, spill prevention process, personal protective equipment, and any other applicable measures taken by Offeror to meet OSHA and other requirements.
- 3) Work Schedule - Offeror must supply a schedule outlining the number of crews proposed to complete work along with start dates and completion dates to include an estimated timeframe work to begin after execution date of the contract.

Invoicing

Offeror shall furnish the City with an invoice itemized per pole on a biweekly basis. Invoices shall have corresponding Pole Inspection Reports attached and charges shall be for a complete work week and not partial weeks.

Qualifications of Offerors

- 1) Professional in-service ground line pole inspection and testing specialists must perform all pole inspection and testing. They must be trained and experienced a minimum of six (6) months in the inspection and testing of in-service wood poles. Further, any additional services agreed upon by the Offeror and the City as a result of this Request for Proposals must be performed in a like manner by personnel who are skilled, trained and if applicable, certified. The City reserves the right to ask for evidence of previous experience and training in the form of letters of reference and test results. Personnel are subject to approval by the Owner before awarding the contract or at any time thereafter. Failure to maintain an adequately trained inspector will result in payment being withheld by the City in the area being inspected.
- 2) Supervision of pole inspection and treating shall be performed using full-time supervisors with at least two (2) years of field experience in in-service pole inspection and treatment. Offeror to provide proven track record of pole inspection and testing to include estimated number of poles supervisors have previously inspected and tested using Ultrasonic and / or Resistograph equipment.
- 3) Personnel not specifically qualified to inspect and test in-service poles as outlined above shall not be allowed to work as pole inspectors.
- 4) The City may send Line-personnel along with Offeror for training purposes to improve their ability to recognize unsafe poles to climb. Offeror shall also be able to provide training in visual inspection and sounding of poles.

Workmanship and Damages

1. All work shall be performed in a workmanlike manner and shall be in accordance with this specification and all applicable Federal, State, County, and Municipal regulations. The Offeror shall at all times exercise care to prevent injury to any persons and to prevent damage to any property during performance of the work.
2. The City considers work not in accordance with this specification or work not in accordance with State or Federal regulations, or unskilled or careless work to be sufficient reason to order the Offeror to stop work. Work will not be allowed to resume until deficiencies are corrected to the satisfaction of the City. Further, the City reserves the right to require the Offeror to replace any worker before work is allowed to continue. If not satisfied, the City will consider this to be just cause for termination of the contract.

3. Any damages, real or personal, off the right-of-way arising directly from the performance of the work specified herein, or any damages on the right-of-way as a result of negligent operations, shall be settled promptly by the Offeror.

B. BUSINESS SPECIFICATIONS

Submittal Form

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

Campaign Contribution Disclosure Form

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

Debarment/Suspension Form

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

Certificate(s) of Insurance

The Offeror must include current Certificate(s) of insurance

W-9 Form

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

Resident Business or Resident Veterans Preference

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

Contractual Considerations

All commercial, technical, legal or other conditions or exceptions relating to the provisions of the RFP and the draft Agreement must be clearly stated in this section of the proposal. Respondents should be aware that any conditions or exceptions are made solely at the risk of the Respondent and the City reserves the right to reject proposals containing any unacceptable conditions or

exceptions. Respondents shall use this section to discuss guarantees and warranties that the Respondent will offer the City and the risks it is willing to take.

C. COST PROPOSAL

Offerors must complete the Cost Response Form in APPENDIX F.

V. EVALUATION

A. EVALUATION POINT SUMMARY

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

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

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

Factors	Points Available
Technical Specifications	
Tech1. Adequacy of Proposed Approach to Tasks in Scope of Work	90
Tech2. Experience and Qualifications to Perform Tasks	30
Tech3. Project Management and Resources	20
Tech 4. Proposal Responsiveness	10
Business Specifications	
Bus1. Submittal Form	Pass/Fail
Bus2. Signed Campaign Contribution Disclosure Form	Pass/Fail
Bus3. Debarment/Suspension Form	Pass/Fail
Bus4. Certificate of Insurance	Pass/Fail
Bus5. W9 Complete	Pass/Fail
Bus6.A New Mexico Preference - Resident Vendor Points per Section IV C. 6 <u>Certification must be included to be considered</u>	
Bus.6.B New Mexico Preference - Resident Veterans Points per Section IV C.6 <u>Certification must be included to be considered</u>	
Cost	
Cost1. Cost Proposal with MapSite Requirements	50
TOTAL	200 points

Table 1: Evaluation Point Summary

B. POINT CALCULATIONS

Bus.6. New Mexico Preferences

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

A. New Mexico Business Preference

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

B. New Mexico Resident Veterans Business Preference

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

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

Cost1. Cost

Offerors must complete the Cost Response Form in APPENDIX F.

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

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

C. EVALUATION PROCESS

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

APPENDIX A: ACKNOWLEDGEMENT OF RECEIPT FORM

REQUEST FOR PROPOSAL

RFP 2019-686 DISTRIBUTION AND TRANSMISSION POLE INSPECTION SERVICES ACKNOWLEDGEMENT OF RECEIPT FORM

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

The acknowledgement of receipt should be signed and returned to the Procurement Manager no later than 10:00 AM MST/MDT on April 16, 2019. Only potential Offerors who elect to return this form completed with the indicated intention of submitting a proposal will receive copies of all Offeror written questions and the written responses to those questions as well as RFP amendments, if any are issued.

FIRM: _____

REPRESENTED BY: _____

TITLE: _____ PHONE NO.: _____

E-MAIL: _____ FAX NO.: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

SIGNATURE: _____ DATE: _____

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

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

Kathy Lamb, Procurement Manager

RFP 2019-686 DISTRIBUTION AND TRANSMISSION POLE INSPECTION SERVICES

City of Aztec

201 W Chaco

Aztec NM 87410

Fax: 505-334-7649

E-mail: klamb@aztecnm.gov

APPENDIX B: SUBMITTAL FORM

REQUEST FOR PROPOSALS SUBMITTAL FORM
RFP 2019-686 DISTRIBUTION AND TRANSMISSION POLE INSPECTION SERVICES
Sealed proposals due by **April 25, 2019, 3:00 P.M. MDT**

1. OFFEROR INFORMATION

COMPANY NAME

ADDRESS/CITY/STATE/ZIP

If a corporation, state of incorporation: _____

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

2. CONTACT PERSON TO CLARIFY/RESPOND TO INQUIRIES

NAME TELEPHONE NUMBER

TITLE EMAIL ADDRESS

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

NAME TELEPHONE NUMBER

TITLE EMAIL ADDRESS

4. PERSON AUTHORIZED TO NEGOTIATE ON BEHALF OF THIS OFFER

NAME TELEPHONE NUMBER

TITLE EMAIL ADDRESS

IMPORTANT – PROPOSALS SUBMITTED ELECTRONICALLY MUST BE SUBMITTED THROUGH THE CITY’S E-PROCUREMENT SYSTEM ONLY. HARD COPY PROPOSALS MUST BE SUBMITTED IN A SEALED ENVELOPE WITH THE RFP NUMBER AND OPENING DATE CLEARLY INDICATED ON THE FRONT OF THE ENVELOPE. EMAILED OR FAXED PROPOSALS WILL NOT BE ACCEPTED.

Sealed proposals will be received until **April 25, 2019, 3:00 P.M. MDT** and then opened at the **City of Aztec Finance Department**. The opening of proposals shall be conducted in private in order to maintain the confidentiality of the contents of all proposals during the negotiation process.

The undersigned declares that the amount and nature of the service to be furnished is understood and that the nature of this proposal is in strict accordance with the conditions set forth and is a part of this Request for Proposal (“RFP”), and that the undersigned Offeror has read and understands the scope and conditions of the RFP.

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

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

The undersigned acknowledges receipt of any and all amendments.

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

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

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

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

Signature

Title

Date

APPENDIX C: CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Campaign Contribution Disclosure Form

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

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

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

The following definitions apply:

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

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

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

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

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

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

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

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

Contribution Made By: _____

Relation to Prospective Contractor: _____

Name of Applicable Public Official: _____

Date Contribution(s) Made: _____

Amount(s) of Contribution(s) _____

Nature of Contribution(s) _____

Purpose of Contribution(s) _____

(Attach extra pages if necessary)

Signature

Date

Title (position)

—OR—

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

Signature

Date

Title (Position)

APPENDIX D: DEBARMENT/SUSPENSION CERTIFICATION FORM

DEBARMENT/SUSPENSION CERTIFICATION FORM

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

CONFLICT OF INTEREST

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

DEBARMENT/SUSPENSION STATUS

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

CERTIFICATION

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

Signature: _____ Title: _____ Date: _____

Names Typed: _____ Company Name: _____

Address: _____ City/State/Zip: _____

APPENDIX E: NEW MEXICO PREFERENCE RESIDENT VETERANS CERTIFICATION

New Mexico Preference Resident Veterans Certification

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

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

Please check one box only

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

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

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

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

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

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

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

(Signature of Business Representative)*

(Date)

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

APPENDIX F: COST RESPONSE FORM

Cost Response Form

Pricing shall be on a per pole basis. A pole, regardless of the type, is considered to be a individual structure.

The per pole fee is all inclusive and shall include any and all costs, but not limited to: equipment, mobilization, travel, labor, testing, fees and any other foreseen or unforeseen expenses incurred by the awarded Offeror in the execution of this proposal.

The Offeror agrees to test each pole per the scope of work and provide all deliverables as specified.

ITEM	DESCRIPTION	ESTIMATED POLE QUANTITY	UNIT PRICE	TOTAL PRICE
A	Distribution Pole Features	2,000		
B	Transmission Pole Features	19		
C	Pole Tags	2,019		
D	Pictures of tested/inspected poles	2,019		
TOTAL COST PROPOSAL				

APPENDIX G: SAMPLE AGREEMENT

DRAFT Services Agreement

This agreement is made and entered into on this _____ day of _____ 2019 by and between **(Contractor)**, hereinafter referred to as the “Contractor”, and the City of Aztec, New Mexico, hereinafter referred to as the “City”.

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

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

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

1. **Scope of Services:**

The Contractor shall perform professional planning services to the City, as per contractor’s response to RFP 2019-686 Distribution and Transmission Pole Inspection Services, as hereafter stated: **Exhibit A Scope of Services**

2. **Compensation:**

In consideration for the services provided pursuant to Paragraph 1, the Contractor shall charge the City on a **net 30 days** basis and City shall pay only the following charges for services performed as stated: **Exhibit B Payment Schedule.**

3. **Term:**

This agreement shall be effective from the (Start Date) to (End Date) unless sooner terminated.

4. **Termination:**

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

Termination for Convenience: Notwithstanding the above, this Agreement may be terminated without cause by the City upon written notice delivered to the CONTRACTOR at least Thirty (30) **DAYS** prior to the intended date of termination. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination.

4. **Status of Contractor:**

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

5. **Indemnification:**

Contractor agrees to indemnify and hold harmless the City from any and all claims, suits and causes of action which may arise from his performance under this agreement unless specifically exempted by New Mexico law. Contractor further agrees to hold harmless the City from all personal claims for any injury or death sustained by Contractor while engaged in the performance of this agreement.

6. **Assignment:**

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

7. **Subcontracting:**

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

8. **Records and Audit:**

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

9. **Taxes:**

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

10. Appropriation:

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

11. Release:

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

12. Confidentiality:

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

13. Conflict of Interest:

The Contractor warrants that it currently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under this Agreement. The Contractor further covenants that, in the performance of this Agreement, no person having any such

interest shall be employed by the Contractor. The Contractor warrants that it does not employ, has not employed, and will not employ during the term of this Agreement any City employee while such employee was or is employed by the City and participating directly or indirectly in the City's contracting process.

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

14. Amendment:

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

15. Scope of Agreement:

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

16. Notice of Procurement Code:

The Procurement Code of the City of Aztec imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities, and kickbacks.

17. Equal Opportunity Clause:

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

18. Fair Labor Standards

Contractor shall comply with the Fair Labor Standards Act of 1938, as amended, and any regulations issued pursuant thereto by the Department of Labor. It is agreed that

all applicable laws, rules and regulations are incorporated herein by referenced in this Agreement and bind Contractor as a contractor of City.

19. **Drug and Alcohol Policy**

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

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

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

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

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

20. **Insurance:**

Contractor shall provide certificate of insurance which includes statutory limits for worker's compensation, commercial liability including automotive/vehicle liability, and professional errors and omissions liability. Certificate evidencing the above shall be furnished to the City of Aztec with the City named as additional insured on the commercial liability policy.

Worker's Compensation Insurance. To cover obligations imposed by federal and state statutes pertaining to Contractor's employees engaged in the performance of

any services, and Employer's Liability Insurance with a minimum limit of One Million Dollars (\$1,000,000).

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

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

21. Waiver of Contractual Right:

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

22. Severability:

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

23. Notice:

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

City of Aztec:

Steve Mueller
City Manager
City of Aztec
201 W Chaco
Aztec, New Mexico 87410

Contractor:

24. Designated Representative and Project Manager:

City Designated Representative:

Ken George
Electric Utility Director
201 W Chaco
Aztec, New Mexico 87410

The Designated Representative's authority shall encompass but not be limited to (1) issuance of instructions, (2) interpretation of plans, (3) review and inspection of Contractor's Services, (4) rejection of nonconforming Work, (5) determination of when Services is complete, (6) approval of progress payments and final payment, and (7) first point of contact for certain Change Orders as set forth in Article 3 "Changes to Services". All field communications from Contractor to City shall be directed to the Designated Representative. City may appoint another Contract Administrator at any time by written notice to Contractor.

Contractor Project Manager:

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

25. Governing Law and Venue:

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

26. Counterparts:

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

27. Agreement Authors:

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

28. Entire Agreement:

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

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

In witness hereof, the parties have executed this agreement as of the _____ day of _____ 2019.

CONTRACTOR:

Company Name: _____

Signed By: _____

Date: _____

Printed Name: _____

Title: _____

Federal Taxpayer Identification or
Social Security Number

NM Taxpayer Identification
Number

City Business License
Number

CITY OF AZTEC, NEW MEXICO

By: _____

Date: _____

Mayor Victor C. Snover

Attest:

Karla Sayler, City Clerk

Date:_____

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

Date:_____