

**The City of Santa Fe  
AND  
The Department of Tourism**

**REQUEST FOR PROPOSALS (RFP)**

**Events Planner**



**RFP#**  
23/15/P

RFP Release Date: November 23, 2022

Proposal Due Date: December 7, 2022

**ELECTRONIC-ONLY PROPOSAL SUBMISSION**

## TABLE OF CONTENTS

### Table of Contents

I. INTRODUCTION .....	5
A. <i>PURPOSE OF THIS REQUEST FOR PROPOSALS</i> .....	5
B. <i>BACKGROUND INFORMATION</i> .....	5
C. <i>SCOPE OF PROCUREMENT</i> .....	5
D. <i>PROCUREMENT MANAGER</i> .....	6
E. <i>PROPOSAL SUBMISSION</i> .....	6
F. <i>DEFINITION OF TERMINOLOGY</i> .....	6
G. <i>PROCUREMENT LIBRARY</i> .....	9
II. CONDITIONS GOVERNING THE PROCUREMENT .....	10
A. SEQUENCE OF EVENTS .....	10
B. EXPLANATION OF EVENTS .....	10
1. <i>Issue RFP</i> .....	10
2. <i>Acknowledgement of Receipt Form</i> .....	11
3. <i>Questions</i> .....	11
4. <i>Response to Written Questions</i> .....	11
5. <i>Submission of Proposal</i> .....	11
6. <i>Proposal Evaluation</i> .....	12
7. <i>Selection of Finalists</i> .....	12
8. <i>Oral Presentations</i> .....	12
9. <i>Finalize Contractual Agreements</i> .....	12
10. <i>Contract Awards</i> .....	12
11. <i>Protest Deadline</i> .....	12
C. GENERAL REQUIREMENTS .....	13
1. <i>Acceptance of Conditions Governing the Procurement</i> .....	13
2. <i>Incurring Cost</i> .....	13
3. <i>Prime Contractor Responsibility</i> .....	13
4. <i>Subcontractors/Consent</i> .....	13
5. <i>Amended Proposals</i> .....	13
6. <i>Offeror's Rights to Withdraw Proposal</i> .....	14
7. <i>Proposal Offer Firm</i> .....	14
8. <i>Disclosure of Proposal Contents</i> .....	14
9. <i>No Obligation</i> .....	14
10. <i>Termination</i> .....	14
11. <i>Sufficient Appropriation</i> .....	15
12. <i>Legal Review</i> .....	15
13. <i>Governing Law</i> .....	15
14. <i>Basis for Proposal</i> .....	15
15. <i>Contract Terms and Conditions</i> .....	15
16. <i>Offeror's Terms and Conditions</i> .....	16
17. <i>Contract Deviations</i> .....	16
18. <i>Offeror Qualifications</i> .....	16
19. <i>Right to Waive Minor Irregularities</i> .....	16

20.	<i>Change in Contractor Representatives</i> .....	16
21.	<i>Notice of Penalties</i> .....	16
22.	<i>Department Rights</i> .....	16
23.	<i>Right to Publish</i> .....	17
24.	<i>Ownership of Proposals</i> .....	17
25.	<i>Confidentiality</i> .....	17
26.	<i>Electronic mail address required</i> .....	17
27.	<i>Use of Electronic Versions of this RFP</i> .....	17
28.	<i>Campaign Contribution Disclosure Form</i> .....	17
29.	<i>Letter of Transmittal</i> .....	18
30.	<i>Disclosure Regarding Responsibility</i> .....	18
31.	<i>Local Preferences</i> .....	19
III.	RESPONSE FORMAT AND ORGANIZATION.....	21
A.	NUMBER OF RESPONSES .....	21
1.	<i>ELECTRONIC SUBMISSION ONLY Responses</i> .....	21
B.	PROPOSAL FORMAT .....	22
1.	<i>Proposal Content and Organization</i> .....	22
IV.	SPECIFICATIONS.....	23
A.	DETAILED SCOPE OF WORK .....	23
B.	TECHNICAL SPECIFICATIONS.....	23
1.	<i>Organizational Experience</i> .....	23
2.	<i>Organizational References</i> .....	24
3.	<i>Mandatory Specification</i> .....	24
C.	BUSINESS SPECIFICATIONS.....	25
1.	<i>Letter of Transmittal Form</i> .....	25
2.	<i>Campaign Contribution Disclosure Form</i> .....	25
3.	<i>Oral Presentation</i> .....	25
4.	<i>Cost</i> .....	25
5.	<i>Local Preference</i> .....	25
V.	EVALUATION .....	26
A.	EVALUATION POINT SUMMARY .....	26
B.	EVALUATION FACTORS .....	26
1.	<i>B.1 Organizational Experience (See Table 1)</i> .....	26
2.	<i>B.2 Organizational References (See Table 1)</i> .....	26
3.	<i>B.4 Mandatory Specifications</i> .....	27
4.	<i>C.3 Letter of Transmittal (See Table 1)</i> .....	27
5.	<i>C.4 Campaign Contribution Disclosure Form (See Table 1)</i> .....	27
6.	<i>C.5 Oral Presentation (See Table 1)</i> .....	27
7.	<i>C.6 Cost (See Table 1)</i> .....	27
8.	<i>C.7. Local Preferences</i> .....	27
C.	EVALUATION PROCESS.....	28
	APPENDIX A .....	29
	ACKNOWLEDGEMENT OF RECEIPT FORM.....	29
	APPENDIX B .....	31
	CAMPAIGN CONTRIBUTION DISCLOSURE FORM.....	31
	APPENDIX C .....	35

COST RESPONSE FORM .....	35
APPENDIX D .....	37
LETTER OF TRANSMITTAL FORM.....	37
APPENDIX E.....	39
ORGANIZATIONAL REFERENCE QUESTIONNAIRE .....	39
APPENDIX F.....	43
NON-COLLUSION AFFIDAVIT .....	43
APPENDIX G .....	45
CONFLICT OF INTEREST .....	45
APPENDIX H.....	48
LIVING WAGE ORDINANCE.....	48
APPENDIX I.....	50
DRAFT CONTRACT .....	50
1. DEFINITIONS .....	51
2. SCOPE OF WORK .....	51
3. COMPENSATION .....	52
4. PAYMENT PROVISIONS.....	52
5. TERM.....	53
6. DEFAULT AND FORCE MAJEURE .....	53
7. TERMINATION .....	53
8. AMENDMENT .....	54
9. STATUS OF CONTRACTOR .....	54
10. ASSIGNMENT .....	55
11. SUBCONTRACTING .....	55
12. NON-COLLUSION .....	55
13. INSPECTION OF PLANT .....	55
14. COMMERCIAL WARRANTY.....	55
15. CONDITION OF PROPOSED ITEMS.....	55
16. RECORDS AND AUDIT.....	55
17. APPROPRIATIONS .....	56
18. RELEASE.....	56
19. CONFIDENTIALITY.....	56
20. CONFLICT OF INTEREST.....	56
21. APPROVAL OF CONTRACTOR REPRESENTATIVE(S).....	57
22. SCOPE OF AGREEMENT; MERGER.....	57
23. NOTICE .....	57
24. EQUAL OPPORTUNITY COMPLIANCE .....	57
25. INDEMNIFICATION .....	58
26. NEW MEXICO TORT CLAIMS ACT .....	58
27. APPLICABLE LAW .....	58
28. LIMITATION OF LIABILITY .....	58
29. INCORPORATION BY REFERENCE AND PRECEDENCE .....	58
30. WORKERS' COMPENSATION .....	59
31. INSPECTION.....	59
32. INSPECTION OF SERVICES.....	59
33. INSURANCE .....	60

34. IMPRACTICALITY OF PERFORMANCE .....	60
35. INVALID TERM OR CONDITION .....	61
36. ENFORCEMENT OF AGREEMENT .....	61
37. PATENT, COPYRIGHT AND TRADE SECRET INDEMNIFICATION .....	61
38. SURVIVAL .....	62
39. DISCLOSURE REGARDING RESPONSIBILITY .....	62
40. SUSPENSION, DELAY OR INTERRUPTION OF WORK.....	63
41. NOTIFICATION.....	63
42. SUCCESSION.....	64

# **I. INTRODUCTION**

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

The purpose of the Request for Proposal (RFP) is to solicit sealed proposals to establish a contract through competitive negotiations for the procurement of an events planner to execute two events on the Plaza –New Year’s Eve and Día de Muertos.

## **B. BACKGROUND INFORMATION**

New Year’s Eve has been an annual celebration on the plaza for the past 6 years. This year we plan to add a second event, celebration of Día de Muertos, a traditional Mexican holiday, over the last weekend of October 2023 as a new annual celebration. These events are offered at no cost to the public and are supported by a combination of public and private funding. The successful solicitation of private funding is a part of this contract.

Historically, about 30% of the cost of the New Year’s Eve celebration has been provided by the city. We expect that between 10% and 15% of the funding for Día de Muertos will come from the city, however this will not be determined until a budget is prepared and approved.

## **C. SCOPE OF PROCUREMENT**

Plan, coordinate and execute celebrations for New Year’s Eve and Día de Muertos on the plaza which includes, but is not limited to, all planning of the event, obtaining, hiring and payment to musicians, the coordination and negotiation with independent contractors who will provide necessary equipment and personnel (skilled and unskilled), overseeing all aspects of the production of the events, ensuring proper breakdown and clean up occurs and ensuring that all city rules for the use of the plaza are observed. Independent Contractors can include but are not limited to sound and light providers, tent providers, fireworks providers, private security providers and other independent contractors which may or may not be required by the city but are necessary to ensure the safe and successful production of the events. Contractor will also be responsible for solicitation of private funding that is required to produce the event in excess of funds provided by the city.

Performance Measures:

- 1) Solicit private sector contribution. Contributions from the private sector will be used to offset costs and pay expenses (musicians, fireworks, sound and lights, supplies, security, marketing and other expenses common to an outdoor style city wide production) incurred by the events.
- 2) Product and operating budget for each event. Each budget will reflect all income for the event (both City and private sector funds) and all expenses incurred in the presentation of each event. Every reasonable effort shall be made to present a balanced budget
- 3) Production and execution of the event.
- 4) Serve as a fiscal agent for the event, paying all related invoices.
- 5) Maintain a record for future planning purposes, a copy of which is provided to the city with no retained process ownership by the contractor.
- 6) Hire subcontractors as needed to perform the services in the agreement.

The resulting contract will be a single award. The city wishes to enter into a four-year contract for the production of these events.

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

## D. PROCUREMENT MANAGER

TOURISM Santa Fe 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: Randy Randall, Procurement Manager  
Telephone: (505) 955-6209  
Email: rrandall@santafenm.gov

1. **Any inquiries or requests** regarding this procurement should be submitted, in writing, to the Procurement Manager AND the Central Purchasing Office at the following emails:

Procurement Manager: rrandall@santafenm.gov  
Central Purchasing Office: [purchasing\\_RFP@santafenm.gov](mailto:purchasing_RFP@santafenm.gov)

Offerors may contact ONLY the Procurement Manager and the Central Purchasing Office regarding this procurement. Other city employees or Evaluation Committee members do not have the authority to respond on behalf of the Procurement Manager.

2. **Protests of the solicitation or award must be submitted in writing to the Protest Manager identified in Section II.B.11.** As a Protest Manager has been named in this Request for Proposals, pursuant to §13-1-172, NMSA 1978 and Procurement Manual Section Y, ONLY protests delivered directly to the Protest Manager in writing and in a timely fashion will be considered to have been submitted properly and in accordance with statute, rule and this Request for Proposals. Protests submitted or delivered to the Procurement Manager will NOT be considered properly submitted.

## E. PROPOSAL SUBMISSION

*Submissions of all proposals must be accomplished via email to:  
[purchasing\\_RFP@santafenm.gov](mailto:purchasing_RFP@santafenm.gov).*

## F. DEFINITION OF TERMINOLOGY

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

1. “**Authorized Purchaser**” means an individual authorized by a Participating Entity to place orders against this contract.
2. “**Award**” means the final execution of the contract document.
3. “**Business Hours**” means 8:00 AM thru 5:00 PM MST/MDT, whichever is in effect on the date given.

4. **“Central Purchasing Office”** means the office responsible for the control of procurement of items of tangible personal property, services or construction.
5. **“Chief Procurement Officer”** means that person within the Central Purchasing Office who is responsible for the control of procurement of items of tangible personal property, services or construction.
6. **“City”** means the City of Santa Fe, New Mexico which in the procurement context may act through the Finance Director, City Manager, or Governing Body.
7. **“Close of Business”** means 5:00 PM Mountain Standard or Daylight Time, whichever is in use at that time.
8. **“Confidential”** means confidential financial information concerning Offeror’s organization and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act §§57-3-A-1 through 57-3A-7, NMSA 1978,. The following items may **not** be labelled as confidential: Offeror’s submitted Cost response, Staff/Personnel Resumes/Bios (excluding personal information such as personal telephone numbers and/or home addresses), and other submitted data that is **not** confidential financial information or that qualifies under the Uniform Trade Secrets Act.
9. **“Contract”** means any agreement for the procurement of items of tangible personal property, services or construction.
10. **“Contractor”** means any business having a contract with the City of Santa Fe.
11. **“Department”** means the Requesting Department sponsoring this Procurement.
12. **“Determination”** means the written documentation of a decision of a procurement officer including findings of fact required to support a decision. A determination becomes part of the procurement file to which it pertains.
13. **“Desirable”** – the terms “may,” “can,” “should,” “preferably,” or “prefers” identify a desirable or discretionary item or factor.
14. **“Electronic Submission”** means a successful submittal of Offeror’s proposal.
15. **“Electronic Version/Copy”** means a digital form consisting of text, images or both readable on computers or other electronic devices. The electronic version/copy can only be emailed.
16. **“Evaluation Committee”** means a body appointed to perform the evaluation of Offerors’ proposals.
17. **“Evaluation Committee Report”** means a report prepared by the Procurement Manager and the Evaluation Committee to support the Committee’s recommendation for contract award. It will contain scores and written evaluations of all responsive Offeror proposals.
18. **“Final Award”** means, in the context of this Request for Proposals and all its attendant documents, that point at which the final required signature on the contract(s) resulting from the procurement has been affixed to the contract(s) thus making it fully executed.



19. “**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.
20. “**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.
21. “**Mandatory**” – the terms ”must,” ”shall” ”will,” ”is required,” or ”are required,” identify a mandatory item or factor. Failure to meet a mandatory item or factor may result in the rejection of the Offeror’s proposal.
22. “**Minor Irregularities**” means anything in the proposal that does not affect the price, quality and/or quantity, or any other mandatory requirement.
23. “**Multiple Source Award**” means an award of an indefinite quantity contract for one or more similar services, items of tangible personal property or construction to more than one Offeror.
24. “**Offeror**” is any person, corporation, or partnership who chooses to submit a proposal.
25. “**Procurement Manager**” means any person or designee authorized by the Requesting Department to facilitate the procurement and or administer the contract(s) .
26. “**Project**” means a temporary process undertaken to solve a well-defined goal or objective with clearly defined start and end times, a set of clearly defined tasks, and a budget. The project terminates once the project scope is achieved and project acceptance is given by the project executive sponsor.
27. “**Redacted**” means a version/copy of the Offeror’s proposal with the information considered proprietary or confidential (as defined by §§57-3A-1 to 57-3A-7, NMSA 1978 and summarized herein and outlined in Section II.C.8 of this RFP) blacked-out BUT NOT omitted or removed.
28. “**Request for Proposals (RFP)**” means all documents, including those attached or incorporated by reference, used for soliciting proposals.
29. “**Requesting Department**” means the City Department responsible for overseeing the work or delivery of tangible personal property by a contractor.
30. “**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.
31. “**Responsive Offer**” or means an offer which conforms in all material respects to the requirements set forth in the request for proposals. Material respects of a request for proposals include, but are not limited to price, quality, quantity or delivery requirements.
32. “**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 of Santa Fe 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 City's Chief Procurement Officer. By submitting a proposal, the Offeror agrees to and concurs with this process and accepts the determination of the Chief Procurement Officer in such cases.

33. "**Staff**" means any individual who is a full-time, part-time, or an independently contracted employee with the Offerors' company.
34. "**State (the State)**" means the State of New Mexico.
35. "**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.)
36. "**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.
37. "**Written**" means typewritten on standard 8 ½ x 11 inch paper. Larger paper is permissible for charts, spreadsheets, etc.

#### **G. PROCUREMENT LIBRARY**

A procurement library has been established. Offerors are encouraged to review the material contained in the Procurement Library by selecting the link provided in the electronic version of this document through your own internet connection. The library contains information listed below:

Electronic version of RFP, Questions & Answers, RFP Amendments, etc.  
[https://www.santafenm.gov/bids\\_rfps](https://www.santafenm.gov/bids_rfps)

## II. CONDITIONS GOVERNING THE PROCUREMENT

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

### A. SEQUENCE OF EVENTS

The City's Central Purchasing Office and the Procurement Manager will make every effort to adhere to the following schedule:

Action	Responsible Party	Due Dates
1. Issue RFP	Central Purchasing Office	November 23, 2022
2. Acknowledgement of Receipt Form	Potential Offerors	November 28, 2022
3. Deadline to submit Written Questions	Potential Offerors	November 30, 2022
4. Response to Written Questions	Procurement Manager	December 2, 2022
<b>5. Submission of Proposal</b>	<b>Potential Offerors</b>	December 7, 2022
6.* Proposal Evaluation	Evaluation Committee	December 12, 2022
7.* Selection of Finalists	Evaluation Committee	December 13, 2022
8.* Oral Presentation(s)	Finalist Offerors	December 16, 2022
9.* Finalize Contractual Agreements	Requesting Department/Finalist Offerors	December 19, 2022
10.* Contract Awards	Requesting Department/Finalist Offerors	December 23, 2022
11.* Protest Deadline	Central Purchasing Office	+15 days

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

### B. EXPLANATION OF EVENTS

The following paragraphs describe the activities listed in the Sequence of Events shown in Section II.A., above.

#### 1. Issue RFP

This RFP is being issued on behalf of The City of Santa Fe, Tourism Department on the date indicated in Section II.A, Sequence of Events.

## 2. Acknowledgement of Receipt Form

Potential Offerors may e-mail the Acknowledgement of Receipt Form (APPENDIX A), to the Central Purchasing Office at [Purchasing\\_RFP@santafenm.gov](mailto:Purchasing_RFP@santafenm.gov) , to have their organization placed on the procurement Distribution List. The form must be returned to the Central Purchasing Office by 3:00 pm MST/ MDT on the date indicated in Section II.A, Sequence of Events.

The procurement distribution list will be used for the distribution of written responses to questions, and/or any amendments to the RFP. Failure to return the Acknowledgement of Receipt Form does not prohibit potential Offerors from submitting a response to this RFP. However, by not returning the Acknowledgement of Receipt Form, the potential Offeror's representative shall not be included on the distribution list and will be solely responsible for obtaining from the Procurement Library (Section I.G.) responses to written questions and any amendments to the RFP.

## 3. Questions

Potential Offerors may submit written questions to the Central Purchasing Office and the Procurement Manager as to the intent or clarity of this RFP until 5:00pm MST/MDT as indicated in Section II.A, Sequence of Events. All written questions must be addressed to the Central Purchasing Office and the Procurement Manager as declared in Section I.D. Questions shall be clearly labeled and shall cite the Section(s) in the RFP or other document which form the basis of the question.

## 4. Response to Written Questions

Written responses to the written questions will be provided via e-mail, on or before the date indicated in Section II.A, Sequence of Events, to all potential Offerors who timely submitted an Acknowledgement of Receipt Form (Section II.B.2 and APPENDIX A).

An electronic version of the Questions and Answers will be posted to:  
[https://www.santafenm.gov/bids\\_rfps](https://www.santafenm.gov/bids_rfps)

## 5. Submission of Proposal

At this time, only **electronic** proposal submission is allowed. **Do not** submit hard copies until further notice.

ALL OFFEROR PROPOSALS MUST BE RECEIVED FOR REVIEW AND EVALUATION BY THE CENTRAL PURCHASING OFFICE VIA EMAIL AT [Purchasing\\_RFP@santafenm.gov](mailto:Purchasing_RFP@santafenm.gov) NO LATER THAN **3:00 PM** MST/MDT ON THE DATE INDICATED IN SECTION II.A, SEQUENCE OF EVENTS. **PROPOSALS RECEIVED AFTER THIS DEADLINE WILL NOT BE ACCEPTED.** The date and time of receipt will be recorded on each proposal.

***Proposals must be submitted electronically through email until further notice. Refer to Section III.B.1 for instructions.*** Proposals submitted by facsimile will not be accepted.

A log will be kept of the names of all Offeror organizations that submitted proposals. Pursuant to §13-1-116, NMSA 1978, the contents of proposals shall not be disclosed to competing potential Offerors during the negotiation process. The negotiation process is deemed to be in effect until the contract is awarded pursuant to this Request for Proposals. Awarded in this context means the final

required City of Santa Fe signatures on the contract(s) resulting from the procurement has been obtained.

## **6. Proposal Evaluation**

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

## **7. 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 thereafter. A schedule for Oral Presentation, if any, will be determined at this time. Finalists will be selected based on their proposal that demonstrates proven experience in successful execution of similar sized events including all areas of planning, production and fund raising.

## **8. Oral Presentations**

Finalist Offerors, as selected per Section II.B.8 above, may be required to conduct an oral presentation at a venue to be determined as per schedule Section II.A., Sequence of Events, or as soon as possible thereafter. If oral presentations are held, Finalist Offerors may be required to make their presentations through electronic means (GoToMeeting, Zoom, etc). The Department will provide Finalist Offerors with applicable details. Whether or not Oral Presentations will be held is at the discretion of the Evaluation Committee and Central Purchasing Office.

## **9. Finalize Contractual Agreements**

After approval of the Evaluation Committee Report, any contractual agreement(s) resulting from this RFP will be finalized with the most advantageous Offeror(s), taking into consideration the evaluation factors set forth in this RFP, as per Section II.A., Sequence of Events, or as soon as possible thereafter. The most advantageous proposal may or may not have received the most points. In the event mutually agreeable terms cannot be reached with the apparent most advantageous Offeror in the timeframe specified, the City of Santa Fe reserves the right to finalize a contractual agreement with the next most advantageous Offeror(s) without undertaking a new procurement process.

## **10. Contract Awards**

Upon receipt of the signed contractual agreement, the Department will award as per Section II.A., Sequence of Events, or as soon as possible thereafter. The award is subject to appropriate Department and Governing Body approval.

## **11. Protest Deadline**

Any protest by an Offeror must be timely submitted and in conformance with §13-1-172, NMSA 1978 and applicable procurement regulations. As a Protest Manager has been named in this Request for Proposals, pursuant to §13-1-172, NMSA 1978 and Procurement Manual Section Y, ONLY protests delivered directly to the Protest Manager in writing and in a timely fashion will be

considered to have been submitted properly and in accordance with statute, rule and this Request for Proposals. The 15 calendar day protest period shall begin on the day following the notice of award of contract(s) and will end at 5:00 pm MST/MDT on the 15<sup>th</sup> day. Protests must be written and must include the name and address of the protestor and the request for proposal number. It must also contain a statement of the grounds for protest including appropriate supporting exhibits and it must specify the ruling requested from the party listed below. The protest must be delivered to:

JoAnn Lovato  
Chief Procurement Officer  
City of Santa Fe  
jdlovato@santafenm.gov

**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 these Conditions Governing the Procurement, Section II.C, by completing and signing the Letter of Transmittal form, pursuant to the requirements in Section II.C.30, located in APPENDIX D.

### **2. 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.

### **3. Prime Contractor Responsibility**

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

### **4. Subcontractors/Consent**

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

### **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 Department or the Central Purchasing Office 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 Central Purchasing Office and 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 eighty (180) 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

The contents of all submitted proposals will be kept confidential until the final award has been completed by The City. At that time, all proposals and documents pertaining to the proposals will be available for public inspection, *except* for proprietary or confidential material as follows:

- a. ***Proprietary and Confidential information is restricted to:***
  1. confidential financial information concerning the Offeror's organization; and
  2. information that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, §§57-3A-1 through 57-3A-7.
- b. An additional but separate redacted version of Offeror's proposal, as outlined and identified in Sections III.A.1.a.i and III.B.1, shall be submitted containing the blacked-out proprietary or confidential information, in order to facilitate eventual public inspection of the non-confidential version of Offeror's proposal.

**IMPORTANT:** 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 proprietary or confidential materials, the City Attorney and the Chief Procurement Officer shall examine the 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 proprietary or confidential information.

## 9. No Obligation

This RFP in no manner obligates The City or any of its Departments 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 Department determines such action to be in the best interest of the City of Santa Fe.

## 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 affected by sending written notice to the contractor. The Department's decision as to whether sufficient appropriations and authorizations are available will be accepted by the contractor as final.

## 12. Legal Review

The Department 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 Central Purchasing Office and 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 Central Purchasing Office and the Procurement Manager or contained in this RFP shall be used as the basis for the preparation of Offeror proposals.

## 15. Contract Terms and Conditions

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

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

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

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

If an Offeror 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. 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 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 §13-1-83 and §13-1-85, NMSA 1978.

## **19. Right to Waive Minor Irregularities**

The Evaluation Committee, upon approval from the Chief Procurement Officer, reserves the right to waive minor irregularities, as defined in Section I.F.22. 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 reserves the right to require a change in contractor representatives if the assigned representative(s) is (are) not, in the opinion of The City, adequately meeting the needs of The City.

## **21. Notice of Penalties**

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

## **22. Department Rights**

The Department 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 written approval prior to the release of any information that pertains to the potential work or activities covered by this procurement and/or City contracts deriving from this procurement. Failure to adhere to this requirement may result in disqualification of the 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. If the RFP is cancelled, all responses received shall be destroyed by the Central Purchasing Office unless the Offeror either picks up, or arranges for pick-up, the materials within three (3) business days of notification of the cancellation. Offeror is responsible for all costs involved in return mailing/shipping of proposals.

## 25. Confidentiality

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

The Contractor(s) agrees to protect the confidentiality of all confidential information and not to publish or disclose such information to any third party without The City'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.4, 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 Central Purchasing Office, the Offeror acknowledges that the version maintained by the Central Purchasing Office shall govern. Please refer to: [https://www.santafenm.gov/bids\\_rfps](https://www.santafenm.gov/bids_rfps)

## 28. Campaign Contribution Disclosure Form

Offeror must complete, sign, and return the Campaign Contribution Disclosure Form, APPENDIX B, as a part of their proposal. This requirement applies regardless whether a covered contribution was made or not made for the positions of Governor and Lieutenant Governor, City Officials or other identified official. **Failure to complete and return the signed, unaltered form will result in Offeror's disqualification.**

## 29. Letter of Transmittal

Offeror's proposal must be accompanied by an **unaltered** Letter of Transmittal Form (APPENDIX D), which must be **completed** and **signed** by the individual authorized to contractually obligate the company, identified in #2 below. **DO NOT LEAVE ANY OF THE ITEMS ON THE FORM BLANK** (N/A, None, Does not apply, etc. are acceptable responses).

The Letter of Transmittal MUST:

1. Identify the submitting business entity (its Name, Mailing Address and Phone Number);
2. Identify the Name, Title, Telephone, and E-mail address of the person authorized by the Offeror's organization to (A) contractually obligate the business entity providing the Offer, (B) negotiate a contract on behalf of the organization; and/or (C) provide clarifications or answer questions regarding the Offeror's proposal content (*A response to B and/or C is only required if the responses differs from the individual identified in A*);
3. Identify sub-contractors, if any, anticipated to be utilized in the performance of any resultant contract award;
4. Describe any relationship with any other entity (such as City, County, State Agency, reseller, etc., that is not a sub-contractor identified in #3), if any, which will be used in the performance of this awarded contract; and
5. Be signed and dated by the person identified in #2 above; attesting to the veracity of the information provided, and acknowledging (a) the organization's acceptance of the Conditions Governing the Procurement stated in Section II.C.1, (b) the organizations acceptance of the Section V Evaluation Factors, and (c) receipt of any and all amendments to the RFP.

**Failure to respond to ALL items as indicated above, will result in Offeror's disqualification.**

## 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 any state agency or local public body 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 Chief Procurement Officer 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 Chief Procurement Officer or other party to this Agreement. If it is later determined that the Contractor knowingly rendered an erroneous disclosure, in addition to other remedies available to the Government, the Chief Procurement Officer may terminate the involved contract for cause. Still further the Chief Procurement Officer may suspend or debar the Contractor from eligibility for future solicitations until such time as the matter is resolved to the satisfaction of the Chief Procurement Officer

### **31. Local Preferences**

The City recognizes the value of revenue derived from local businesses and shall procure goods and/or services locally when possible, pursuant to Ordinance and this Manual, except for purchases using City, state and federal grant funds. Applicable City, state and federal law and regulations govern procurements using City, state or federal funds.

#### **A. Local Preference Qualification**

To qualify for a local preference, a vendor must attach a state of New Mexico Taxation and Revenue Department-issued, Resident Business certification of eligibility to its bid or proposal,

showing that the business is located within the Santa Fe municipal limits. If an offer is received without a copy of the appropriate State of New Mexico Taxation and Revenue Department issued Business Registration Certificate, the preference will not be applied. A valid resident business certificate is issued by the Taxation and Revenue Department pursuant to NMSA 1978 §13-1-22.

1. When the City makes a purchase using a formal request for proposals process, not including contracts awarded on a point-based system, the City shall award additional 6% of the total weight of all the factors used in evaluating the proposal to a local resident business. The City shall award an additional 3% of the total weight of all the factors used in evaluating the proposal to a non-local resident business who has hired all local resident business subcontractors.
2. When the City makes a purchase using a formal request for proposal process and the contract is awarded based on a point-based system, the City shall award additional point's equivalent to 6% of the total possible points to a local resident business. The City shall award an additional 3% of the total possible points to a business who has hired all local resident business subcontractors.

The maximum available local preference shall be 6%.

**B. Solicitations above One Million Dollars (\$1,000,000)**

1. The City shall deem a proposal submitted by a resident business to be 6% higher than the proposal actually submitted, if and only if at least 50% of the subcontracted services go to subcontractors who are resident businesses.
2. The City shall deem the proposal submitted by a non-local resident business to be 3% higher than the proposal actually submitted, if and only if at least 50% of the subcontracted services go to subcontractors who are resident businesses.

### III. RESPONSE FORMAT AND ORGANIZATION

#### A. NUMBER OF RESPONSES

Offerors shall submit only one proposal in response to this RFPNUMBER OF COPIES

##### 1. ELECTRONIC SUBMISSION ONLY Responses

**Proposals in response to this RFP must be submitted through City of Santa Fe's Purchasing email ONLY**, the Offeror need only submit one single electronic copy of each portion of its proposal (Technical and Cost) as outlined below. **EXCEPTION: Multiple electronic files may be necessary if there are issues uploading/attaching PDF files.** Separate the proposals as described below into separate electronic files for submission.

Proposals must be submitted in the manner outlined below. Technical and Cost portions of Offerors proposal **must** be submitted in separate uploads as indicated below in this section, and **must** be prominently identified as "Technical Proposal," or "Cost Proposal," on the front page of each upload

- a) **Technical Proposals** – One (1) ELECTRONIC upload must be organized in accordance with **Section III.B.1. Proposal Format**. All information for the Technical Proposal **must be combined into a single file/document for uploading**. **EXCEPTION: Multiple electronic files may be necessary if there are issues uploading/attaching PDF files.** The Technical Proposals **SHALL NOT** contain any cost information.
- i. **Confidential Information:** If Offeror's proposal contains confidential information, as defined in Section I.F.8 and detailed in Section II.C.8, Offeror **must** submit **two (2) separate ELECTRONIC technical files:**
- One (1) ELECTRONIC version of the requisite proposals as **unredacted** (def. Section I.F.36) versions for evaluation purposes; and
  - One (1) **redacted** (def. Section I.F.27) ELECTRONIC. for the public file, in order to facilitate eventual public inspection of the non-confidential version of Offeror's proposal. Redacted versions **must** be clearly marked as "REDACTED" or "CONFIDENTIAL" on the first page of the electronic file;
- b) **Cost Proposals** – One (1) ELECTRONIC upload of the proposal containing **ONLY** the Cost Proposal. All information for the cost proposal **must be combined into a single file/document for uploading**. **EXCEPTION: Multiple electronic files may be necessary if there are issues uploading/attaching PDF files.**

The ELECTRONIC proposal submission must be fully submitted to: [purchasing\\_RFP@santafenm.gov](mailto:purchasing_RFP@santafenm.gov) by the submission deadline in Section II.B.5. Submissions cannot be password protected and must be either PDF or Word format. *The Offeror must ensure to allow adequate time for large PDF files (uploads/attachments) in order to fully complete the proposal response by the deadline, date and time. An electronic submission that is not both: (1) fully complete; and (2) received, via email by the deadline, will be deemed late. Further, a submission that is not fully received by the deadline because the response was captured, blocked, filtered, quarantined or otherwise prevented from reaching the proper destination server by any anti-virus or other security software will be deemed late.*

**NO LATE PROPOSAL CAN BE ACCEPTED**

Any proposal that does not adhere to the requirements of this Section and **Section III.B.1 Proposal Content and Organization** may be deemed non-responsive and rejected on that basis.

## **B. PROPOSAL FORMAT**

All proposals must be submitted as follows:

Organization of files/envelopes for electronic copy proposals:

### **1. Proposal Content and Organization**

Direct reference to pre-prepared or promotional material may be used if referenced and clearly marked. Promotional material must 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 Proposal – DO NOT INCLUDE ANY COST INFORMATION IN THE TECHNICAL PROPOSAL.**

- A. Signed Letter of Transmittal
- B. Signed Campaign Contribution Form
- C. Table of Contents
- D. Proposal Summary
- E. Response to Contract Terms and Conditions (from Section II.C.15)
- F. Offeror's Additional Terms and Conditions (from Section II.C.16)
- G. Response to Specifications (**except Cost information which shall be included ONLY in Cost Proposal/Binder 2**)
  1. Organizational Experience
  2. Organizational References
  3. Oral Presentation (if applicable)
  4. Mandatory Specification
  5. Desirable Specification
  6. Financial Stability – (Financial information considered confidential, as defined in Section I.F. and detailed in Section II.C.8, should be placed in the **Confidential Information** file)
  7. Local Preferences (if applicable)
- H. Other Supporting Material (if applicable)

#### **Cost Proposal:**

1. Completed Cost Response Form (APPENDIX C)

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. **Any and all discussion of proposed costs, rates or expenses must occur ONLY in the Cost Proposal.**

A Proposal Summary may be included in Offeror's Technical Proposal, 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. **DO NOT INCLUDE COST INFORMATION IN THE PROPOSAL SUMMARY.**

## IV. SPECIFICATIONS

### A. DETAILED SCOPE OF WORK

Plan, coordinate and execute celebrations for New Year's Eve and Día de Muertos on the plaza which includes, but is not limited to, all planning of the event, obtaining, hiring and payment to musicians, the coordination and negotiation with independent contractors who will provide necessary equipment and personnel (skilled and unskilled), overseeing all aspects of the production of the event, ensuring proper breakdown and clean up occurs and ensuring that all city rules for the use of the plaza are observed. Independent Contractors can include but are not limited to sound and light providers, tent providers, fireworks providers, private security providers and other independent contractors which may or may not be required by the city but are necessary in the safe and successful production of the events. Contractor will also be responsible for solicitation of private funding that is required to produce the event in excess of funds provided by the city.

Performance Measures:

- A. Solicit private sector contribution. Contributions from the private sector will be used to offset costs and pay expenses (musicians, fireworks, sound and lights, supplies, security, marketing and other expenses common to an outdoor style city wide production) incurred by the events.
- B. Product and operating budget for each event. Each budget will reflect all income for the event (both City and private sector funds) and all expenses incurred in the presentation of each event. Every reasonable effort shall be made to present a balanced budget
- C. Production and execution of the event.
- D. Serve as a fiscal agent for the event, paying all related invoices.
- E. Maintain a record for future planning purposes, a copy of which is provided to the city with no retained process ownership by the contractor.
- F. Hire subcontractors as needed to perform the services in the agreement.

### B. TECHNICAL SPECIFICATIONS

#### 1. Organizational Experience

Offeror **must**:

- a) provide a brief description of relevant event planning experience with city or state government and private sector. The experience of all proposed subcontractors must be described. The narrative **must** thoroughly describe how the Offeror has supplied expertise for similar contracts and must include the extent of their experience, expertise and knowledge as a provider of public events. All public events provided to private sector will also be considered;
- b) provide a detailed resume of all key personnel Offeror proposes to use in performance of the resulting contract, should Offeror be awarded. Offeror must include key personnel education, work experience, and applicable certifications/licenses.
- c) describe at least two project successes and failures of event planning. Include how each experience improved the Offeror's services.



## 2. Organizational References

Offeror must provide a list of a minimum of three (3) references from similar projects/programs performed for private, city, state or large local government clients within the last three (3) years.

Offeror shall include the following Business Reference information as part of its proposals:

- a) Client name;
- b) Project description;
- c) Project dates (starting and ending);
- d) Technical environment (i.e., Software applications, Internet capabilities, Data communications, Network, Hardware);
- e) Staff assigned to reference engagement that will be designated for work per this RFP; and
- f) Client project manager name, telephone number, fax number and e-mail address.

Offeror is required to submit APPENDIX E, Organizational Reference Questionnaire (“Questionnaire”), to the business references it lists. **The business references must submit the Questionnaire directly to the designee identified in APPENDIX E. The business references must not return the completed Questionnaire to the Offeror.** It is the Offeror’s responsibility to ensure the completed forms are submitted on or before the date indicated in Section II. A, Sequence of Events, for inclusion in the evaluation process.

Organizational References that are not received or are not complete, may adversely affect the Offeror’s score in the evaluation process. Offerors are encouraged to specifically request that their Organizational References provide detailed comments.

## 3. Mandatory Specification

Give a detailed explanation of your vision of both events and the plans needed to make that vision possible as outlined in the Scope of Work. Give a detailed explanation of how the following performance measures will be met:

- A. Solicit private sector contribution. Contributions from the private sector will be used to offset costs and pay expenses (musicians, fireworks, sound and lights, supplies, security, marketing and other expenses common to an outdoor style city wide production) incurred by the events.
- B. Product and operating budget for each event. Each budget will reflect all income for the event (both City and private sector funds) and all expenses incurred in the presentation of each event. Every reasonable effort shall be made to present a balanced budget
- C. Production and execution of the event.
- D. Serve as a fiscal agent for the event, paying all related invoices.
- E. Maintain a record for future planning purposes, a copy of which is provided to the city with no retained process ownership by the contractor.
- F. Hire subcontractors as needed to perform the services in the agreement.

## C. BUSINESS SPECIFICATIONS

### 1. Letter of Transmittal Form

The Offeror's proposal **must** be accompanied by the Letter of Transmittal Form located in APPENDIX D. The form **must** be completed and must be signed by the person authorized to obligate the company. **Failure to respond to ALL items, as indicated in Section II.C.29 and APPENDIX D, and to return a signed, unaltered form will result in Offeror's disqualification.**

### 2. 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 B). **Failure to complete and return the signed, unaltered form will result in Offeror's disqualification.**

### 3. Oral Presentation

If selected as a finalist, Offerors agree to provide the Evaluation Committee the opportunity to interview proposed staff members identified by the Evaluation Committee, at the option of the Department. The Evaluation Committee may request a finalist to provide an oral presentation of the proposal as an opportunity for the Evaluation Committee to ask questions and seek clarifications.

### 4. Cost

Offerors must complete the Cost Response Form in APPENDIX C. Cost will be measured by the first year combined cost.

### 5. Local Preference

To ensure adequate consideration and application of NMSA 1978, § 13-1-21 (as amended), Offerors **MUST** include a copy, in this section, of its NM Resident preference certificate, as issued by the New Mexico Taxation and Revenue Department.

## V. EVALUATION

### A. EVALUATION POINT SUMMARY

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

<b>Evaluation Factors</b> <i>(Correspond to section IV.B and IV C)</i>	<b>Points Available</b>
<b>B. Technical Specifications</b>	
B. 1. Organizational Experience	200
B. 2. Organizational References	200
B. 3. Mandatory Specifications	500
<b>C. Business Specifications</b>	
C.1. Letter Of Transmittal	Pass/Fail
C.2. Campaign Contribution Disclosure Form	Pass/Fail
C.3. Oral Presentations	50
C.4. Cost	50
<b>TOTAL POINTS AVAILABLE</b>	<b>1,000</b>
C.5. City of Santa Fe Local Preference per Section IV C.5.	<b>30</b>
C.5. City of Santa Fe Local Preference using Local Subcontractors Section IV C.5	<b>60</b>

Table 1: Evaluation Point Summary

### B. EVALUATION FACTORS

#### 1. B.1 Organizational Experience (See Table 1)

Points will be awarded based on the thoroughness and clarity of Offeror's response in this Section. The Evaluation Committee will also weigh the relevancy and extent of Offeror's experience, expertise and knowledge; and of personnel education, experience and certifications/licenses. In addition, points will be awarded based on Offeror's candid and well-thought-out response to successes and failures, as well as the ability of the Offeror to learn from its failures and grow from its successes.

#### 2. B.2 Organizational References (See Table 1)

Points will be awarded based upon an evaluation of the responses to a series of questions on the Organizational Reference Questionnaire (Appendix E). Offeror will be evaluated on references that show positive service history, successful execution of services and evidence of satisfaction by each reference. References indicating significantly similar services/scopes of work and comments provided by a submitted reference will add weight and value to a recommendation during the evaluation process. Points will be awarded for each individual response up to 1/3 of the total points for this category. Lack of a response will receive zero (0) points.

The Evaluation Committee may contact any or all business references for validation of information submitted. If this step is taken, the Procurement Manager and the Evaluation Committee must all be

together on a conference call with the submitted reference so that the Procurement Manager and all members of the Evaluation Committee receive the same information. Additionally, the City reserves the right to consider any and all information available to it (outside of the Organizational Reference information required herein), in its evaluation of Offeror responsibility per Section II.C.18.

**3. B.4 Mandatory Specifications**

Points will be awarded based on the thoroughness and clarity of Offeror’s response in this Section. The Evaluation Committee will also weigh the relevancy and extent of Offeror’s experience, expertise and knowledge.

**4. C.3 Letter of Transmittal (See Table 1)**

Pass/Fail only. No points assigned.

**5. C.4 Campaign Contribution Disclosure Form (See Table 1)**

Pass/Fail only. No points assigned.

**6. C.5 Oral Presentation (See Table 1)**

Points will be awarded based on the quality, organization and effectiveness of communication of the information presented, as well as the professionalism of the presenters and technical knowledge of the proposed staff. Prior to Oral Presentation, Agency will provide the Offeror a presentation agenda. (If no Oral Presentations are held all Offerors will receive the maximum amount of total points for this Evaluation Factor).

**7. C.6 Cost (See Table 1)**

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

$$\frac{\text{Lowest Responsive Offeror's Cost}}{\text{Each Offeror's Cost}} \times \text{Available Award Points}$$

**8. C.7. Local Preferences**

Percentages will be determined based upon the point-based system outlined below.

To qualify for a local preference, a vendor must attach a state of New Mexico Taxation and Revenue Department-issued, Resident Business certification of eligibility to its bid or proposal, showing that the business is located within the Santa Fe municipal limits. If an offer is received without a copy of the appropriate State of New Mexico Taxation and Revenue Department issued Business Registration Certificate, the preference will not be applied. A valid resident business certificate is issued by the Taxation and Revenue Department pursuant to NMSA 1978 §13-1-22.

- A. When the City makes a purchase using a formal request for proposals process, not including contracts awarded on a point-based system, the City shall award additional 6% of the total weight of all the factors used in evaluating the proposal to a local resident

business. The City shall award an additional 3% of the total weight of all the factors used in evaluating the proposal to a non-local resident business who has hired all local resident business subcontractors.

- B. When the City makes a purchase using a formal request for proposal process and the contract is awarded based on a point-based system, the City shall award additional point's equivalent to 6% of the total possible points to a local resident business. The City shall award an additional 3% of the total possible points to a business who has hired all local resident business subcontractors.

The maximum available local preference shall be 6%.

C. Solicitations above One Million Dollars (\$1,000,000)

1. The City shall deem a proposal submitted by a resident business to be 6% higher than the proposal actually submitted, if and only if at least 50% of the subcontracted services go to subcontractors who are resident businesses.
2. The City shall deem the proposal submitted by a non-local resident business to be 3% higher than the proposal actually submitted, if and only if at least 50% of the sub- contracted services go to subcontractors who are resident businesses.

## 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 Central Purchasing Office or/and the Procurement Manager may contact the Offeror for clarification of the response as specified in Section II. B.7.
3. Responsive proposals will be evaluated on the factors in Section IV, which have been assigned a point value in Section V. The responsible Offerors with the highest scores will be selected as finalist Offerors, based upon the proposals submitted. In accordance with 13-1-117 NMSA 1978, the responsible Offerors whose proposals are most advantageous to the City taking into consideration the Evaluation Factors in Section V will be recommended for award (as specified in Section II.B.9). 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**

# APPENDIX A

## REQUEST FOR PROPOSAL

Event Planner  
23/15/P

### ACKNOWLEDGEMENT OF RECEIPT FORM

This Acknowledgement of Receipt Form should be signed and submitted no later than **3:00 PM MST/MDT ON THE DATE INDICATED IN SECTION II.A, SEQUENCE OF EVENTS. PROPOSALS RECEIVED AFTER THIS DEADLINE WILL NOT BE ACCEPTED.** The date and time of receipt will be recorded on each proposal. Only potential Offerors who elect to return this form will receive copies of all submitted questions and the written responses to those questions, as well as any RFP amendments, if any are issued.

In acknowledgement of receipt of this Request for Proposal, the undersigned agrees that he or she has received a complete copy of the RFP, beginning with the title page, and ending with APPENDIX I.

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

ORGANIZATION: \_\_\_\_\_

CONTACT NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_ PHONE NO.: \_\_\_\_\_

E-MAIL: \_\_\_\_\_

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

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

**Submit Acknowledgement of Receipt Form to:**

To: Central Purchasing  
E-mail: [Purchasing\\_RFP@santafenm.gov](mailto:Purchasing_RFP@santafenm.gov)  
Subject Line: Event Planner, RFP #23/15/P

**APPENDIX B**  
**CAMPAIGN CONTRIBUTION DISCLOSURE FORM**



## APPENDIX B

# CAMPAIGN CONTRIBUTION DISCLOSURE FORM

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

A prospective contractor or a family member or representative of the prospective contractor shall not give a campaign contribution or other thing of value to an applicable public official or the applicable public official's employees during the pendency of the procurement process or during the pendency of negotiations for a sole source or small purchase contract.

Furthermore, a solicitation or proposed award for a proposed contract may be canceled pursuant to Section [13-1-181](#) NMSA 1978 or a contract that is executed may be ratified or terminated pursuant to Section [13-1-182](#) NMSA 1978 if a prospective contractor fails to submit a fully completed disclosure statement pursuant to this section; or a prospective contractor or family member or representative of the prospective contractor gives a campaign contribution or other thing of value to an applicable public official or the applicable public official's employees during the pendency of the procurement process.

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

**THIS FORM MUST BE INCLUDED IN THE REQUEST FOR PROPOSALS AND MUST BE FILED BY ANY PROSPECTIVE CONTRACTOR WHETHER OR NOT THEY, THEIR FAMILY MEMBER, OR THEIR REPRESENTATIVE HAS MADE ANY CONTRIBUTIONS SUBJECT TO DISCLOSURE.**

The following definitions apply:

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

**“Campaign Contribution”** means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made to or received by an applicable public official or any person authorized to raise, collect or expend contributions on that official's behalf for the purpose of electing the official to statewide or local office. “Campaign Contribution” includes the payment of a debt incurred in an election campaign, but does not include the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who

volunteer a portion or all of their time on behalf of a candidate or political committee, nor does it include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee.

**“Family member”** means a spouse, father, mother, child, father-in-law, mother-in-law, daughter-in-law or son-in-law of (a) a prospective contractor, if the prospective contractor is a natural person; or (b) an owner of a prospective contractor;

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

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

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

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

Mayor Alan M Webber  
Councilor Signe Lindell, Pro-tem  
Councilor Renee Villarreal  
Councilor Michael Garcia  
Councilor Carol Romero-Wirth  
Councilor Lee Garcia  
Councilor Christopher Rivera  
Councilor Amanda Chavez  
Councilor Jaime Cassutt

**DISCLOSURE OF CONTRIBUTIONS BY PROSPECTIVE CONTRACTOR:**

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

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

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

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

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

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

(Attach extra pages if necessary)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
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 C**  
**COST RESPONSE FORM**

## APPENDIX C COST RESPONSE FORM

Description	Type	Cost per Item
New Year's Eve	Celebration	
Día de Muertos	Celebration	

All amounts provided must include all labor, materials, equipment, transportation, configuration, installation, training and profit to provide the services described in Section IV.A, (as amended by any current RFP amendments for the period specified).

Option Year 1: (12/23/2022 thru 06/30/2023) Price: \$ \_\_\_\_\_

Option Year 2: (07/01/2023 thru 06/30/2024) Price: \$ \_\_\_\_\_

Option Year 3: (07/01/2024 thru 06/30/2025) Price: \$ \_\_\_\_\_

Option Year 4: (07/01/2025 thru 06/30/2026) Price: \$ \_\_\_\_\_

## **APPENDIX D**

### **LETTER OF TRANSMITTAL FORM**

# APPENDIX D

## Letter of Transmittal Form

**ITEMS #1 to #4 EACH MUST BE COMPLETED IN FULL (pursuant to Section II.C.29). FAILURE TO RESPOND TO ALL FOUR (4) ITEMS WILL RESULT IN THE DISQUALIFICATION OF OFFEROR'S PROPOSAL! DO NOT LEAVE ANY ITEM BLANK! (N/A, None, Does not apply, etc. are acceptable responses.)**

RFP#: 23/15/P

**1. Identify the following information for the submitting organization:**

<b>Offeror Name</b>	
<b>Mailing Address</b>	
<b>Telephone</b>	
<b>FED ID#</b>	
<b>NM CRS#</b>	

**2. Identify the individual(s) authorized by the organization to (A) contractually obligate, (B) negotiate, and/or (C) clarify/respond to queries on behalf of this Offeror:**

	A Contractually Obligate	B Negotiate*	C Clarify/Respond to Queries*
<b>Name</b>			
<b>Title</b>			
<b>E-mail</b>			
<b>Telephone</b>			

\* If the individual identified in Column A also performs the functions identified in Columns B & C, then no response is required for those Columns. If separate individuals perform the functions in Columns B and/or C, they must be identified.

**3. Use of subcontractors (Select one):**

- No subcontractors will be used in the performance of any resultant contract, OR  
 The following subcontractors will be used in the performance of any resultant contract:

\_\_\_\_\_  
 (Attach extra sheets, as needed)

**4. Describe any relationship with any entity (such as the City of Santa Fe, State Agency, reseller, etc. that is not a subcontractor(s) listed in #3 above), if any, which will be used in the performance of any resultant contract.**

(N/A, None, Does not apply, etc. are acceptable responses to this item.)

\_\_\_\_\_  
 (Attach extra sheets, as needed)

**By signing the form below, the Authorized Signatory attests to the accuracy and veracity of the information provided on this form, and explicitly acknowledges the following:**

- On behalf of the submitting-organization identified in item #1, above, I accept the Conditions Governing the Procurement, as required in Section II.C.1. of this RFP;
- I concur that submission of our proposal constitutes acceptance of the Evaluation Factors contained in Section V of this RFP; and
- I acknowledge receipt of any and all amendments to this RFP, if any.

\_\_\_\_\_, 20\_\_\_\_\_  
 Authorized Signature and Date (Must be signed by the individual identified in item #2.A, above.)

## **APPENDIX E**

### **ORGANIZATIONAL REFERENCE QUESTIONNAIRE**

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

Offeror is required to send the following Organizational Reference Questionnaire to each business reference listed in its proposal, as per Section IV.B.2. The business reference, if it chooses to respond, is required to submit its response to the Organizational Reference Questionnaire directly to: Central Purchasing at [Purchasing\\_RFP@santafenm.gov](mailto:Purchasing_RFP@santafenm.gov) by December 7, 2022, 3:00PM MST for inclusion in the evaluation process. The Questionnaire and information provided will become a part of the submitted proposal. Businesses/Organizations providing references may be contacted for validation of content provided therein.



**RFP # 23/15/P**  
**ORGANIZATIONAL REFERENCE QUESTIONNAIRE**  
**FOR:**

\_\_\_\_\_  
(Name of Offeror)

This form is being submitted to your company for completion as a reference for the organization listed above. This Questionnaire is to be submitted to the City of Santa Fe, Purchasing Division via e-mail at:

Name: Central Purchasing Office  
Email: Purchasing\_RFP@santafenm.gov

Forms must be submitted no later than December 7, 2022, 3:00PM MST and **must not** be returned to the organization requesting the reference. References are **strongly encouraged** to provide comments in response to organizational ratings.

**For questions or concerns regarding this form**, please contact the City of Santa Fe **Procurement Manager** at rrandall@santafenm.gov. When contacting the Procurement Manager, include the Request for Proposal number provided at the top of this page.

<b>Organization providing reference</b>	
<b>Contact name and title/position</b>	
<b>Contact telephone number(s)</b>	
<b>Contact e-mail address</b>	
<b>Project description</b>	
<b>Project dates (start and end dates)</b>	
<b>Technical environment for the project you're providing a reference i.e., events planner</b>	

QUESTIONS:

1. In what capacity have you worked with this vendor in the past?

COMMENTS:

2. How would you rate this firm's knowledge and expertise?

\_\_\_\_\_ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)

COMMENTS:

3. How would you rate the vendor's flexibility relative to changes in the project scope and timelines?

\_\_\_\_\_ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)

COMMENTS:

4. What is your level of satisfaction with hard-copy materials produced by the vendor?

\_\_\_\_\_ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable, N/A = Not applicable)

COMMENTS:

5. How would you rate the dynamics/interaction between vendor personnel and your staff?

\_\_\_\_\_ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)

COMMENTS:

6. Who are/were the vendor's principal representatives involved in your project and how would you rate them individually? Would you, please, comment on the skills, knowledge, behaviors or other factors on which you based the rating?

\_\_\_\_\_ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)

Name: \_\_\_\_\_ Rating:

Name: \_\_\_\_\_ Rating:

Name: \_\_\_\_\_ Rating:

Name: \_\_\_\_\_ Rating:

COMMENTS:

7. How satisfied are/were you with the products developed by the vendor?

\_\_\_\_\_ (3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable, N/A = Not applicable)

COMMENTS:

8. With which aspect(s) of this vendor's services are/were you most satisfied?

COMMENTS:

9. With which aspect(s) of this vendor's services are/were you least satisfied?

COMMENTS:

10. Would you recommend this vendor's services to your organization again?

COMMENTS:

**APPENDIX F**  
**NON-COLLUSION AFFIDAVIT**

# NON-COLLUSION AFFIDAVIT

*Complete, Sign and Return with your proposal.*

I hereby affirm that: I am the \_\_\_\_\_ (insert title) and the duly authorized representative of \_\_\_\_\_ (insert organization's name) whose address is \_\_\_\_\_.

And, that I possess the legal authority to make this affidavit on behalf of myself and the firm for which I am acting.

I affirm:

1. I am fully informed respecting the preparation and contents of the attached proposal and of all pertinent circumstances respecting such proposal.
2. Such proposal is genuine and is not a collusive or sham proposal.
3. Neither the said Offeror nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with any Offeror, firm or person to submit a collusive or sham proposal in connection with the Contract for which the attached proposal has been submitted or to refrain from offering a proposal in connection with the Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Offeror, firm or person to fix the price or prices in the attached proposal or of any other Offeror, or to fix any overhead, profit or cost element of the proposal or the offer price of any other Offeror, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the Mayor and Council of City of Santa Fe, New Mexico or any person interested in the proposed Contract; and
4. The price or prices quoted in the attached proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Offeror or any of its agents, representatives, owners, employees, or parties in interest, including this affiant. I do solemnly declare and affirm under the penalties of perjury that the contents of this affidavit are true and correct.

Signature \_\_\_\_\_

Printed Name \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

**APPENDIX G**  
**CONFLICT OF INTEREST**

# CONFLICT OF INTEREST STATEMENT FOR CONSULTING FIRMS

*Complete, sign and return with your proposal.*

The City of Santa Fe policy is to prevent personal or organizational conflict of interest, or the appearance of such conflict of interest, in the award and administration of City contracts and Purchase Orders.

The Offeror shall comply with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978 and include a full disclosure of all potential organization conflicts of interest in the Proposal.

In addition to the Event Contractor, each key personnel shall also complete the Conflict of Interest Form below certifying that the entity has read and understands the City's policy regarding conflict of interest and the CFR. Each key personnel must also certify that there is no conflict of interest with the Project. If there is a conflict with the Project, then the Event Contractor and known key personnel needs to describe the conflict.

The Event Contractor agrees that, if after award, an organizational conflict of interest is discovered, the Event Contractor makes an immediate and full written disclosure to the City that includes a description of the action that the Event Contractor has taken or proposes to take to avoid or mitigate such conflicts. If an organizational conflict of interest is determined to exist, the City may, at its discretion, cancel the contract for the Project. If the Event Contractor was aware of an organizational conflict of interest prior to the award of the contract and did not disclose the conflict to the City, the City may terminate the contract for default.

The City may disqualify an Offeror if any of its key personnel belong to more than one Submitter organization/firm.

I, \_\_\_\_\_ certify that I/We have no personal or financial interests and no present employment or activity which would be incompatible with this firm's participation in any activity related to the RFP or execution of the awarded Events Planner Contract. For the duration of this firm's involvement in the Events Planner contract, this firm agrees not to accept any gift, benefit, gratuity or consideration, or begin a personal or financial interest in a party who is bidding and/or proposing, or associated with a bidder and/or Offeror on the Events Planner contract.

I certify that this firm will keep all Events Planner contract information confidential and secure. This organization will not copy, give or otherwise disclose such information to any other person unless the City of Santa Fe has on file a confidentiality agreement signed by the

other person, and the disclosure is authorized and necessary to the Events Planner contract. I understand that if this firm leaves this Events Planner contract before it ends, this firm must still keep all contract information confidential. I agree to follow any instructions provided by the City relating to the confidentiality of the Events Planner contract information. I fully understand that any unauthorized disclosure made by this firm may be a basis for civil or criminal penalties. I agree to advise the City's Procurement Officer, at 505-955-6432 immediately in the event that I or another person within this organization either learn or have reason to believe that any person who has access to the Events Planner contract confidential information has or intends to disclose that information in violation of this agreement.

This statement must be fully completed and signed by an authorized representative.

Company Name:

---

Authorized Representative/Title:

---

Phone Number:

---

Fax Number:

---

E-mail Address:

---

Signature:

---

Date:

---

---

The above information is subject to verification by the City of Santa Fe. If the City finds a misrepresentation, the bid may be automatically disqualified from the procurement process or the contract may be canceled.



**APPENDIX H**  
**LIVING WAGE ORDINANCE**



# City of Santa Fe Living Wage Ordinance

PURSUANT TO THE CITY OF SANTA FE  
LIVING WAGE ORDINANCE, SECTION 28-1 SFCC 1987  
EFFECTIVE MARCH 1, 2022 ALL WORKERS WITHIN THE  
CITY OF SANTA FE  
SHALL BE PAID A LIVING WAGE OF

**\$12.95**  
**PER HOUR**

The Santa Fe Living Wage Ordinance establishes minimum hourly wages. The March Living Wage increase corresponds to the increase in the Consumer Price Index (CPI).

## **Who is Required to Pay the Living Wage?**

- Contractors for the City, that have a contract requiring the performance of a service but excluding purchases of goods;
- Businesses receiving assistance relating to economic development in the form of grants, subsidies, loan guarantees or industrial revenue bonds in excess of twenty-five thousand dollars (\$25,000) for the duration of the City grant or subsidy;
- Businesses required to have a business license or registration from the City; and
- Nonprofit organizations, except for those whose primary source of funds is from Medicaid waivers.
- For workers who customarily receive more than one hundred dollars (\$100) per month in tips or commissions, any tips or commissions received and retained by a worker shall be counted as wages and credited towards satisfaction of the Living Wage provided that, for tipped workers, all tips received by such workers are retained by the workers, except that the pooling of tips among workers shall be permitted.
- All employers required to have a business license or registration from the City of Santa Fe ("City") must pay at least the adjusted Living Wage to employees for all hours worked within the Santa Fe city limits.

More Information, including the Living Wage Ordinance, is available at  
[www.santafenm.gov/living\\_wage\\_information](http://www.santafenm.gov/living_wage_information)

**APPENDIX I**  
**DRAFT CONTRACT**

**The Agreement included in this Appendix C represents the contract the City intends to use to make an award. The City of Santa Fe reserves the right to modify the Agreement prior to, or during, the award process, as necessary.**

Item# \_\_\_\_\_  
Munis Contract# \_\_\_\_\_

City of Santa Fe  
PROFESSIONAL SERVICES AGREEMENT  
REQUEST FOR PROPOSALS ONLY

THIS AGREEMENT is made and entered into by and between the City of Santa Fe, herein after referred to as the "City", and <Enter Contractor Name>herein after referred to as the "Contractor."

**IT IS MUTUALLY AGREED BETWEEN THE PARTIES:**

**1. Definitions**

A. "Products and Services Schedule" refers to the complete list of products and services offered under this Agreement and the price for each. Product and service descriptions may be amended with the prior approval of the Agreement Administrator. New products and services shall not be added to the Products and Services Schedule.

B. "Business Hours" means 8:00 a.m. to 5:00 p.m. Mountain Time.

C. "You" and "your" refers to **(Contractor Name)**. "We," "us" or "our" refers to the City and whose accounts are created under this Agreement.

**2. Scope of Work**

A. The Contractor shall perform the following work:

Plan, coordinate and execute celebrations for New Year's Eve and Día de Muertos on the plaza which includes, but is not limited to, all planning of the event, obtaining, hiring and payment to musicians, the coordination and negotiation with independent contractors who will provide necessary equipment and personnel (skilled and unskilled), overseeing all aspects of the production of the events, ensuring proper breakdown and clean up occurs and ensuring that all city rules for the use of the plaza are observed. Independent Contractors can include but are not limited to sound and light providers, tent providers, fireworks providers, private security providers and other independent contractors which may or may not be required by the city but are necessary to ensure the safe and successful production of the events. Contractor will also be responsible for solicitation of private funding that is required to produce the event in excess of funds provided by the City.

Performance Measures:

- 1) Solicit private sector contribution. Contributions from the private sector will be used to offset costs and pay expenses (musicians, fireworks, sound and lights, supplies, security, marketing and other expenses common to an outdoor style city wide production) incurred by the events.
- 2) Product and operating budget for each event. Each budget will reflect all income for the event (both City and private sector funds) and all expenses incurred in the presentation of each event. Every reasonable effort shall be made to present a balanced budget
- 3) Production and execution of the event.
- 4) Serve as a fiscal agent for the event, paying all related invoices.
- 5) Maintain a record for future planning purposes, a copy of which is provided to the city with no retained process ownership by the contractor.
- 6) Hire subcontractors as needed to perform the services in the agreement.

### 3. Compensation

The City shall pay to the Contractor based upon fixed prices for each Deliverable item as listed here.

<u>Deliverable item:</u>	<u>U/I (unit of issue)</u>	<u>Price</u>
01 \$		
02 \$		

The total compensation under this Agreement shall not exceed [Insert Dollar Amount] [CHOICE #1- excluding New Mexico gross receipts tax. CHOICE #2 - including New Mexico gross receipts tax.]

### 4. Payment Provisions

All payments under this Agreement are subject to the following provisions.

- A. Acceptance - In accordance with Section 13-1-158 NMSA 1978, the City shall determine if the product or services provided meet specifications. Until the products or services have been accepted in writing by the City, the City shall not pay for any products or services. Unless otherwise agreed upon between the City and the Contractor, within thirty (30) days from the date the City receives written notice from the Contractor that payment is requested for services or within thirty (30) days from the receipt of products, the City shall issue a written certification (by letter or email) of complete or partial acceptance or rejection of the products or services. Unless the City gives notice of rejection within the specified time period, the products or services will be deemed to have been accepted.

- B. Payment of Invoice - Upon acceptance that the products or services have been received and accepted, payment shall be tendered to the Contractor within thirty (30) days after the date of invoice. After the thirtieth day from the date that written certification of acceptance is issued, late payment charges shall be paid on the unpaid balance due on the contract to the Contractor at the rate of 1.5 % per month. Contractor may submit invoices for payment no more frequently than monthly. Payment will be made to the Contractor's designated mailing address. Payment on each invoice shall be due within 30 days from the date of the acceptance of the invoice. The City agrees to pay in full the balance shown on each account's statement, by the due date shown on said statement.

## 5. Term

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED IN WRITING BY THE CITY. This Agreement shall begin on date approved by the City, and end on \_\_\_\_\_. The City reserves the right to renew the contract on an annual basis by mutual Agreement not to exceed a total of four years in accordance with NMSA 1978, §§ 13-1-150 through 152.

## 6. Default and Force Majeure

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

## 7. Termination

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

B. Notice; City Opportunity to Cure.

1) Except as otherwise provided in Paragraphs 7.A and 17, the City shall give Contractor written notice of termination at least thirty (30) days prior to the intended date of

termination.

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

3) Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor (i) if the Contractor becomes unable to perform the services contracted for, as determined by the City; (ii) if, during the term of this Agreement, the Contractor is suspended or debarred by the City; or (iii) the Agreement is terminated pursuant to Paragraph 17, "Appropriations", of this Agreement.

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

## **8. Amendment**

A. This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

B. If the City proposes an amendment to the Agreement to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Agreement, pursuant to the termination provisions as set forth in Paragraph 7 herein, or to agree to the reduced funding.

## **9. Status of Contractor**

The Contractor, and Contractor's agents and employees, are independent Contractors for the City and are not employees of the City. The Contractor, and Contractor's agents and employees, shall not accrue leave, retirement, insurance, bonding, use of City vehicles, or any other benefits afforded to employees of the City as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are personally reportable by the Contractor for income tax purposes, including without limitation, self-employment tax and business income tax. The Contractor agrees not to purport to bind the City unless the Contractor has written authority to do so, and then only within the strict limits of that authority.

## **10. Assignment**

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

## **11. Subcontracting**

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the City. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the City.

## **12. Non-Collusion**

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

## **13. Inspection of Plant**

The City may inspect, at any reasonable time during Contractor's regular business hours and upon prior written notice, the Contractor's plant or place of business, or any subcontractor's plant or place of business, which is related to the performance of this contract.

## **14. Commercial Warranty**

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

## **15. Condition of Proposed Items**

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

## **16. Records and Audit**



During the term of this Agreement and for three years thereafter, the Contractor shall maintain detailed records pertaining to the services rendered and products delivered. These records shall be subject to inspection by the City, the State Auditor and other appropriate state and federal authorities. 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.

## **17. Appropriations**

The terms of this Agreement, and any orders placed under it, are contingent upon sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorization are not made by the legislature, this Agreement, and any orders placed under it, 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. If the City proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

## **18. Release**

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

## **19. Confidentiality**

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without prior written approval by the City.

## **20. Conflict of Interest**

A. The Contractor represents and warrants that it presently has no interest and, during the term of this Agreement, 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 Contractor shall comply with any applicable provisions of the New Mexico Governmental Conduct Act and the New Mexico Financial Disclosures Act.

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978.

C. Contractor's representations and warranties in Paragraphs A and B of this

Paragraph are material representations of fact upon which the City relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the City if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Paragraph 20 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Paragraph 20 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the City and notwithstanding anything in the Agreement to the contrary, the City may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this section.

## **21. Approval of Contractor Representative(s)**

The City reserves the right to require a change in Contractor representative(s) if the assigned representative(s) are not, in the opinion of the City, adequately serving the needs of the City.

## **22. Scope of Agreement; Merger**

This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this written Agreement. No prior agreements or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

## **23. Notice**

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

## **24. Equal Opportunity Compliance**

The Contractor agrees to abide by all federal and state laws, and local Ordinances, pertaining to equal employment opportunity. In accordance with all such laws, rules, and regulations, the Contractor agrees to assure that no person in the United States shall on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, 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 Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

## **25. Indemnification**

The Contractor shall hold the City and its employees harmless and shall indemnify the City and its employees against any and all claims, suits, actions, liabilities and costs of any kind, including attorney's fees for personal injury or damage to property arising from the acts or omissions of the Contractor, its agents, officers, employees or subcontractors. The Contractor shall not be liable for any injury or damage as a result of any negligent act or omission committed by the City, its officers or employees.

## **26. New Mexico Tort Claims Act**

Any liability incurred by the City of Santa Fe in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended. The City and its “public employees” as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

## **27. Applicable Law**

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with NMSA 1978, § 38-3-1 (G). By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

## **28. Limitation of Liability**

The Contractor's liability to the City, for any cause whatsoever shall be limited to the purchase price paid to the Contractor for the products and services that are the subject of the City's claim. The foregoing limitation does not apply to paragraph 25 of this Agreement or to damages resulting from personal injury caused by the Contractor's negligence.

## **29. Incorporation by Reference and Precedence**

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

In the event of a dispute under this Agreement, applicable documents will be referred to for the purpose of clarification or for additional detail in the following order of precedence: (1) amendments to the Agreement in reverse chronological order; (2) the Agreement, including the scope of work and all terms and conditions thereof; (3) the request for proposals, including attachments thereto and written responses to questions and written clarifications; (4) the

Contractor's best and final offer if such has been made and accepted by the City; and (5) the Contractor's response to the request for proposals.

### **30. Workers' Compensation**

The Contractor agrees to comply with state laws and rules applicable to workers' compensation benefits for its employees. If the Contractor fails to comply with the Workers' Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the City.

### **31. Inspection**

If this contract is for the purchase of tangible personal property (goods), final inspection and acceptance shall be made at Destination. Tangible personal property rejected at Destination for non-conformance to specifications shall be removed at Contractor's risk and expense promptly after notice of rejection and shall not be allowable as billable items for payment.

### **32. Inspection of Services**

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

A. Services, as used in this Article, include services performed, workmanship, and material furnished or utilized in the performance of services.

B. The Contractor shall provide and maintain an inspection system acceptable to the City covering the services under this Agreement. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the City and for as long thereafter as the Agreement requires. The City has the right to inspect and test all services contemplated under this Agreement to the extent practicable at all times and places during the term of the Agreement. The City shall perform inspections and tests in a manner that will not unduly delay or interfere with Contractor's performance.

C. If the City performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of such inspections or tests.

D. If any part of the services do not conform with the requirements of this Agreement, the City may require the Contractor to re-perform the services in conformity with the requirements of this Agreement at no increase in contract amount. When the defects in services cannot be corrected by re-performance, the City may:

- (1) require the Contractor to take necessary action(s) to ensure that future performance conforms to the requirements of this Agreement; and
- (2) reduce the contract price to reflect the reduced value of the services performed.

E. If the Contractor fails to promptly re-perform the services or to take the necessary action(s) to ensure future performance in conformity with the requirements of this Agreement, the City may:

- (1) by contract or otherwise, perform the services and charge to the Contractor any cost incurred by the City that is directly related to the performance of such service; or
- (2) terminate the contract for default.

### **33. Insurance**

If the services contemplated under this Agreement will be performed on or in City facilities or property, Contractor shall maintain in force during the entire term of this Agreement, the following insurance coverage(s), naming the City as additional insured.

**A. Commercial General Liability** insurance shall be written on an occurrence basis and be as broad as ISO Form CG 00 01 with limits not less than \$2,000,000 per occurrence and \$2,000,000 in the aggregate for claims against bodily injury, personal and advertising injury, and property damage. Said policy shall include broad form Contractual Liability coverage and be endorsed to name the City of Santa Fe their officials, officers, employees, and agents as additional insureds.

**B. Business Automobile Liability** insurance for all owned, non-owned automobiles, with a combined single limit not less than \$1,000,000 per accident.

**C. Broader Coverage and Limits.** The insurance requirements under this Agreement shall be the greater of (1) the minimum coverage and limits specified in this Agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the Named Insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required herein. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of Contractor hereunder.

**D.** Contractor shall maintain the above insurance for the term of this Agreement and name the City as an additional insured and provide for 30 days cancellation notice on any Certificate of Insurance form furnished by Contractor. Such certificate shall also specifically state the coverage provided under the policy is primary over any other valid and collectible insurance and provide a waiver of subrogation.

### **34. Impracticality of Performance**

A party shall be excused from performance under this Agreement for any period that the party is prevented from performing as a result of an act of God, strike, war, civil disturbance, epidemic, or court order, provided that the party has prudently and promptly acted to take any and all steps that are within the party's control to ensure performance. Subject to this provision, such non-performance shall not be deemed a default or a ground for termination.

### **35. Invalid Term or Condition**

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

### **36. Enforcement of Agreement**

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

### **37. Patent, Copyright and Trade Secret Indemnification**

A. The Contractor shall defend, at its own expense, the City against any claim that any product or service provided under this Agreement infringes any patent, copyright to trademark in the United States or Puerto Rico, and shall pay all costs, damages and attorneys' fees that a court finally awards as a result of any such claim. In addition, if any third party obtains a judgment against the City based upon Contractor's trade secret infringement relating to any product or services provided under this Agreement, the Contractor agrees to reimburse the City for all costs, attorneys' fees and amount of the judgment. To qualify for such defense and or payment, the City shall:

- 1) give the Contractor prompt written notice within 48 hours of any claim;
- 2) allow the Contractor to control the defense of settlement of the claim; and
- 3) cooperate with the Contractor in a reasonable way to facilitate the defense or settlement of the claim.

B. If any product or service becomes, or in the Contractor's opinion is likely to become the subject of a claim of infringement, the Contractor shall at its option and expense:

- 1) provide the City the right to continue using the product or service and fully indemnify the City against all claims that may arise out of the City's use of the product or service;

or,

replace or modify the product or service so that it becomes non-infringing;

- 2) accept the return of the product or service and refund an amount equal to the value of the returned product or service, less the unpaid portion of the purchase price and any other amounts, which are due to the Contractor. The Contractor's obligation will be void as to any product or service modified by the City to the extent such modification is the cause of the claim.

### **38. Survival**

The Agreement paragraphs titled “Patent, Copyright, Trademark, and Trade Secret Indemnification; Indemnification; and Limit of Liability” shall survive the expiration of this Agreement. Software licenses, leases, maintenance and any other unexpired Agreements that were entered into under the terms and conditions of this Agreement shall survive this Agreement.

### **39. 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 any City for professional services, tangible personal property, services or construction agrees to disclose whether the Contractor, or any principal of the Contractor’s company is presently debarred, suspended, proposed for debarment, or declared ineligible for award of contract by any federal entity, 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 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 be grounds for immediate termination of this Agreement pursuant to the conditions set forth in Paragraph 7 of this Agreement.

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. If it is later determined that the Contractor

knowingly rendered an erroneous disclosure, in addition to other remedies available to the Government, the City may terminate the involved contract for cause. Still further the City 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.

#### **40. Suspension, Delay or Interruption of Work**

The City may, without cause, order the Contractor, in writing, to suspend, delay or interrupt the work in whole or in part for such period of time as the City may determine. The contract sum and contract time shall be adjusted for increases in cost and/or time associated with Contractor's compliance therewith. Upon receipt of such notice, Contractor shall leave the jobsite and any equipment in a safe condition prior to departing. Contractor must assert rights to additional compensation within thirty (30) days after suspension of work is lifted and return to work is authorized. Any compensation requested for which entitlement is granted and the contract sum adjusted, shall have profit included (for work completed) and for cost only (not profit) for Contractor costs incurred directly tied to the suspension itself and not otherwise covered by Contract remedy. Any change in Total Compensation must be reflected in an Amendment executed pursuant to Section 8 of this Agreement.

#### **41. Notification**

Either party may give written notice to the other party in accordance with the terms of this Paragraph. Any written notice required or permitted to be given hereunder shall be deemed to have been given on the date of delivery if delivered by personal service or hand delivery or three (3) business days after being mailed.

To the City:

Randy Randall

201 W. Marcy Street

Santa Fe, NM 8750

[rrandall@santafenm.gov](mailto:rrandall@santafenm.gov)

To the Contractor:

Either party may change its representative or address above by written notice to the other in accordance with the terms of this Paragraph. The carrier for mail delivery and notices shall be the agent of the sender.



**42. Succession**

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

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date of the signature by the required approval authorities below.

CITY OF SANTA FE:

CONTRACTOR:

\_\_\_\_\_  
CITY MAYOR/MANAGER

\_\_\_\_\_  
NAME

DATE: \_\_\_\_\_

\_\_\_\_\_  
TITLE

DATE: \_\_\_\_\_

CRS# \_\_\_\_\_

Registration # \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
KRISTINE BUSTOS MIHELICIC, CITY CLERK

CITY ATTORNEY'S OFFICE (REQUEST FOR PROPOSALS ONLY):

Marcos Martinez  
Marcos Martinez (Nov 22, 2022 09:10 MST)

\_\_\_\_\_  
SENIOR ASSISTANT CITY

ATTORNEY APPROVED:

\_\_\_\_\_  
EMILY OSTER, FINANCE DIRECTOR

\_\_\_\_\_  
Org.Name/Org.#