CITY OF ALBUQUERQUE

GENERAL INSTRUCTIONS, TERMS, AND CONDITIONS

IMPORTANT: READ CAREFULLY BEFORE SUBMITTING OFFERS. FAILURE TO DO SO SHALL NOT ABSOLVE THE OFFEROR FROM RESPONSIBILITY TO PERFORM OR DELIVER AS SPECIFIED.

1. **Applicability:** Except as otherwise specifically provided in this Request, these General Instructions, Terms, and Conditions shall govern the procurement of the items specified in this Request. In the event of a conflict between these General Instructions, Terms, and Conditions, Supplemental Terms and Conditions or the Specifications of this bid, the order of applications shall be the Specifications, Supplemental Terms and Conditions, and the General Instructions, Terms and Conditions. In addition, the Public Purchases Ordinance (Section 5-5-1 et seq. ROA 1994) and promulgated Rules and Regulations shall apply.

2. **Definitions:** As used in this request, the definitions of the Public Purchases Ordinance (Section 5-5-2 ROA 1994) apply including the following:

   A. "City" means the City of Albuquerque, New Mexico.

   B. "Contract" means any agreement for the procurement of goods, services, construction or concessions. A purchase order issued in response to an offer constitutes a contract.

   C. "Contractor" means an Offeror who has been awarded a contract.

   D. "Offeror" means a business that submits a response to a competitive solicitation.

   E. "Purchase Order" means a document issued by the Purchasing Office directing the Contractor to deliver goods, services or construction.

   F. "Purchasing Office" means the Purchasing Division of the Department of Finance & Administrative Services of the City.

   G. "Purchasing Officer" means the person charged with the responsibility of administering the Purchasing Office.

   H. "Request" means all documents, including those attached or incorporated by reference, issued by the Purchasing Office for soliciting offers to provide goods, services or construction.

   I. "Responsible Offeror" means a business which has the capability in all respects to perform fully the contract requirements set out in the competitive solicitation, and the integrity and reliability which will assure good faith performance, and who has not violated or attempted to violate any provision of law or ethical conduct. Factors which may be considered in determining the Offeror's capability to perform, among others, are its financial resources, production or service facilities, service reputation and experience.

   J. "Responsive Offer" means a written offer to furnish goods, services or construction in conformity with standards, specifications, delivery terms and conditions, and all other requirements established in a competitive solicitation.

3. **Preparation of Offer:**

A. ***Submission:*** All offers must be submitted on the Request for Bid Form enclosed. Failure to do so may disqualify your offer. It is the responsibility of the Offeror to submit sufficient additional information to allow for a thorough evaluation of the offer submitted.

B. ***Preparation Method:*** All information required in this Request must be typewritten or handwritten in ink and must be legible. Erasures or other changes must be initialed by the person signing the offer. Each offer must be signed on the appropriate pages by an individual authorized to bind the Offeror submitting the offer.

C. ***Unit Prices:*** The unit price for each item offered shall be shown unless otherwise specified. In the case of a discrepancy between the unit price and the extended price, the unit price will govern in determining the price used for evaluation. Unit prices offered should be for the units specified.

D. ***Delivery Time:*** Delivery time stated in the specifications shall apply. Deviations by the Offeror shall be stated on the Exception Form. Time, if stated in number of days, will be consecutive calendar days.

E. ***Payment Terms:*** The Request for Bid Form provides space for the Offeror to identify the payment terms that the Offeror is offering. Terms of less than twenty (20) days will not be considered. The discount term shall not begin until the goods, services or construction have been delivered and accepted and the correct invoice is received in the City's Accounts Payable Office.

Prompt payment discounts will NOT be used as a factor in determining the lowest responsive offer.

F. ***Freight Policy:*** Freight will be F.O.B. Destination (as indicated on the Request Form), Freight Prepaid, unless otherwise specified in this Request.

G. ***Taxes:*** Offerors shall include any applicable gross receipts taxes in its offered price, unless specified otherwise in this request, and such offer will be construed in that manner. The City will, under appropriate circumstances, furnish a non-taxable transaction certificate. Determination of whether the tax is due and payment of the tax is the responsibility of the Offeror. Applicable taxes are to be included in each invoice due and may not be billed more than sixty (60) days after providing the goods or services to which the taxes apply.

H. ***New Material, Etc.:*** All materials, supplies, equipment, and vehicles specified in this Request shall be new, the latest in production and manufactured within the last twelve (12) months (computed from the date and time of offer opening) unless otherwise indicated. This does not apply to materials, supplies, equipment or vehicles used by the Contractor to provide the required items of tangible personal property, services or construction.

I. ***Warranty:*** Materials furnished by the Contractor shall be accompanied by the manufacturer's written warranty against defects in quality, craftsmanship, and materials.

The Offeror agrees that the items of tangible personal property, services or construction furnished under any Contract resulting from this Request shall be covered by the most favorable commercial warranties the Offeror gives to any

customer for such items. Further, the Offeror agrees that the rights and remedies provided in such warranties 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 Request. The Offeror agrees not to disclaim warranties of fitness for a particular purpose of merchantability. Warranties shall become effective at the time of acceptance.

J. ***Equivalent Offers:*** Where a product is characteristic of a sole manufacturer, or where a brand name is indicated in the specifications, it shall be defined to mean minimum acceptable level or minimum quality required by the City unless the specifications state that no substitutions or equivalents will be allowed. If the Offeror offers an item other than the one specified, which the Offeror considers comparable, the manufacturer's name and model number of that item must be specified in the offer and sufficient performance specification and descriptive data provided to permit a thorough evaluation. Failure to provide the appropriate information may result in disqualification of the offer.

K. ***Exceptions to Specifications:*** Offerors are to state any exceptions taken to this Request on the Offeror Comments Form. If no exceptions are stated, the Offeror is required to furnish the items exactly as specified and to comply with all other requirements of this Request.

L. ***Indemnity:*** The Contractor to whom an award has been made as a result of this Request expressly agrees to defend, indemnify and save harmless the City and its officers, agents and employees from and against any and all claims, suits demands, actions, or proceedings of every nature and description brought because of any injury or damage received or sustained by any person, persons, or property arising out of the Contractor's providing the goods, services or construction pursuant to the offer or by reason of any act or omission, neglect or misconduct of the Contractor, the agents, employees or subcontractors of the Contractor or the agents or employees of any subcontractor of the Contractor. The indemnity required herein shall not be limited by reason of the specification of any particular insurance coverage.

M. ***Patent Indemnity:*** If any item furnished pursuant to any Contract resulting from this Request shall be covered by any patent, copyright, or application for patent or copyright, the Contractor shall defend, indemnify and save harmless the City from any and all loss, cost or expense or any all claims suits, or judgments as a result of the use of such item in violation of rights under such patent, copyright, or application for patent or copyright.

N. ***Public Inspection:*** Each offer shall be open to public inspection, except to the extent the Offeror designates trade secrets or other proprietary data to be confidential. Material so designated shall accompany the offer and each page shall be clearly marked and readily separable from the offer in order to facilitate public inspection of the non-confidential portion of the offer. Prices and makes and models or catalog numbers of the items offered, deliveries and terms of payment shall be publicly available at the time of the opening of the offer regardless of any designation to the contrary. The City shall endeavor to restrict distribution of the material designated as confidential to only those individuals involved in the review and analysis of the offers. Offerors are cautioned that materials designated confidential may nevertheless be subject to disclosure to any New Mexico citizen under the Inspection of Public Records Act (Sections 14-2-1 through 14-2-3 N.M.S.A. 1978).

O. ***Material Safety Data Sheets:*** To comply with the Occupational Health and Safety Regulation 1910.1200 for general standards on handling hazardous materials, material safety data sheets may be required for all or part of the products included on this Request. It is the responsibility of the Offeror to make this determination and, if required, a copy of the MSDS must accompany the product when delivered to the end user. Failure to comply with this requirement may cause the delivery of products to be rejected and all costs related to such action to be borne by the Offeror.

P. ***Licenses and Certifications:*** The Offeror must provide proof in a manner acceptable and within the time period specified by the Purchasing Office, but prior to award unless otherwise specified in this Request, that they are licensed and certified by the appropriate agencies as required by law to perform the services or provide the goods specified in this Request.

4. **Debarment or Ineligibility Compliance:** By submitting its offer in response to this Request, the Offeror certifies that (i) it has not been debarred or otherwise found ineligible to receive funds by any agency of the federal government, the State of New Mexico, any local public body of the State, or any state of the United States; and (ii) should any notice of debarment, suspension, ineligibility or exclusion be received by the Offeror, the Offeror will notify the City immediately.

5. **Ethical Conduct:** By submitting its offer in response to this Request, the Offeror certifies that:

A. It has not offered, given or agreed to give to any City employee or former employee, a gratuity or offer of employment to influence the preparation of or recommendation of award of this Request;

B. It has not retained a person to solicit or secure a City Contract for a contingent fee;

C. It has not taken any action in restraint of free competitive bidding in connection with this Request;

D. It has not in any way violated the ethical conduct or other provisions of the City's Public Purchases Ordinance; and

E. It currently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with its performance of any contract resulting from this Request.

6. **Requests for Explanations by Offerors:**

A. ***Requests for Explanation:*** Any explanation desired by the Offeror regarding the meaning or interpretation of specifications or any part of this Request must be requested in writing and received in the Purchasing Office not less than ten (10) calendar days before the offer opening date.

B. ***Responses to Requests:*** Oral explanations or instructions given prior to the opening of the offer shall not be binding. Any official explanations must be issued, in writing, by the Purchasing Division.

7. **Addenda:**

Addenda: Changes or amendments to specifications, conditions or provisions herein may be initiated **ONLY** through the Purchasing Office in the form of a written addendum.

Any addenda shall become a part of this Request and should be acknowledged either by being signed and returned with the offer or through letter or telegram that arrives prior to the opening of the offer. Failure to do so may result in disqualification of the offer.

It is the responsibility of all vendors considering making an offer in response to this Request to ensure that they have received all addenda prior to making an offer. Offerors may contact the Purchasing Division to obtain information regarding any addenda issued. Failure to obtain an addendum shall not be grounds for overturning a recommendation of award.

8. **Clarification of Offers:**

The City may, in the evaluation of offers, request clarification from Offerors regarding their offers, obtain additional material or literature, and pursue other avenues of research as necessary to insure that a thorough evaluation is conducted.

9. **Submission of Offer:**

A. ***Time:*** Offers not received by the time and date indicated on the Request will not be accepted.

B. ***Hand Carried:*** Offers may be hand carried to the City Clerk's Office on the basement level of the Albuquerque/Bernalillo County Government Center, One Civic Plaza, Albuquerque, New Mexico.

C. ***Mailed:*** Offers may be mailed to the Attention of the City Clerk, City of Albuquerque, P.O. Box 1293, Albuquerque, New Mexico, 87103. The City shall not be responsible for offers that are mailed and not received by the opening date and time specified in the solicitation.

Note: The City picks up mail at the post office once every morning at 7:00 AM (local time). **ALL SEALED BIDS MUST BE RECEIVED IN THE OFFICE OF THE CITY CLERK BY THE TIME SPECIFIED ON PAGE ONE OF THIS RFB. THE TIME RECORDED IN THE CITY CLERK'S OFFICE WILL CONTROL.**

D. ***Receipts:*** Receipts for hand delivered offers shall be issued by the City Clerk's Office (upon request) for offers which are hand carried.

E. ***Envelope Preparation:*** The envelope/package containing an offer must be sealed and the following identifying information legibly written or typed on the outside:

1) Name of Offeror
2) Request Number assigned by the City to the Request
3) Opening date as identified on the Request or subsequent addenda

F. ***No Other Methods of Offer Delivery:*** Neither telephone, telegraphic, electronic or facsimile Offer shall be accepted.

10. **Civil Rights Compliance:**

Offeror certifies and agrees, by submittal of its offer, to comply and act in accordance with all provisions of the Albuquerque Human Rights Ordinance, the New Mexico Human

Rights Act, Title VII of the U.S. Civil Rights Act of 1964, as amended, and all federal statutes and executive orders, New Mexico statutes and City of Albuquerque ordinances relating to the enforcement of civil rights.
Offeror additionally certifies and agrees to abide by and cooperate in the implementation of the policies and practices set forth in the City's Affirmative Action Plan. Questions regarding civic rights or affirmative action compliance requirements should be directed to the City of Albuquerque Human Rights Division, Community Services Department.

11. **Americans with Disabilities Act Compliance:**

Offeror certifies and agrees, by submittal of its offer, to comply and act in accordance with all applicable provisions of the Americans with Disabilities Act of 1990 and Federal regulations promulgated thereunder.

12. **Withdrawal of Offers:**

An offer may be withdrawn in person at any time BEFORE the scheduled opening of offers, provided a receipt for the withdrawn offer is signed by the Offeror or the Offeror's authorized representative. The City reserves the right to request proof of authorization to withdraw an offer.

13. **Opening of Offers:**

Time and Place: Offers will be opened by the City Clerk at the time and place identified in this Request. Openings are open to the public. Offerors are encouraged to attend.

14. **Disqualification of Offer:**

Any offer received from an Offeror that is, at the time of submitting its offer or prior to receipt of award of a contract, debarred by or otherwise ineligible to receive funds from any agency of the federal government, the State of New Mexico, any local public body of the State, or any state of the United States, shall be rejected. In addition, the City reserves the right to reject an offer for, including but not limited to, any one or more of the following circumstances:

A. In the past the Offeror has failed to comply with previous contractual commitments or offers to the City.

B. In the opinion of the City the Offeror is not capable of providing the offered goods, services, or construction as offered or required by the Request or is otherwise not a responsible Offeror.

C. The Offeror has not provided sufficient or detailed information which allows for the evaluation of the offer.

D. In the opinion of the City, the offered prices are higher than the prices for which the specified items or services can be purchased on the open market.

E. The Offeror failed to properly fill in any space on the Request Form and attached documents where information or a signature is required.

F. The Offeror did not, at the time the offer is made, have an appropriate New Mexico Contractor's License or Certification when one is required by law, regulation or by this Request.

G. The Offeror failed to submit with their offer, bid bonds or other material requirements of the Request or has otherwise submitted a non-responsive offer.

H. There are unauthorized additions, conditions, alternate proposals or other irregularities of any kind which might make the offer incomplete, indefinite or ambiguous in meaning.

I. Offer was not submitted in ink or typewritten or there is any erasure or alteration of words or figures relating to pricing which is not initialed in ink by the Offeror.

J. The City determines that an offer contains any misrepresentations whatsoever.

15. **Rejection/Cancellation of Offers:**

Any solicitation, prior to opening or after opening, may be cancelled or any or all offers may be rejected in whole or in part when it is in the best interest of the City.

16. **Minor or Technical Irregularities:**

Minor or technical irregularities in an offer, when there is no effect on price, quality or quantity, may be waived and clerical errors in an offer may be corrected if permitted by the Purchasing Officer and are in the best interest of the City.

17. **Nonconforming/Conditional, or Counter Offers:**

An offer which is nonconforming or conditional, whether in part or in whole, will be rejected.

18. **Offer Analysis:**

The City reserves the right to analyze, examine and interpret any offer for a minimum period of ninety (90) consecutive calendar days, after the scheduled time for the opening of offers. Offers may not be rescinded during this period except for good cause and with the written approval of the Purchasing Officer. In those situations where the analysis/evaluation exceeds the ninety (90) calendar days, Offerors may withdraw their offers from consideration.

19. **Award of Contract:**

A. ***When Award Occurs:*** The award of a contract occurs when a Purchase Order is issued or another written contractual commitment of acceptance by the City Purchasing Officer is provided to the successful Offeror. A Recommendation of Award or Letter of Intent does not constitute award of contract.

B. ***Award:*** If a contract is awarded, it shall be awarded to the responsive and responsible Offeror whose offer is lowest in total price and is the most advantageous to the City, specifications and other factors considered.

C. ***Basis of Award:*** The City reserves the right to award a contract based on this Request in total or by group of items, on the basis of individual items, or any combination of these, which in the judgment of the Purchasing Officer, best services the interests of the City, unless otherwise stated in this Request.

D. ***Increase of Quantities:*** The City reserves the right to increase the quantities of items of tangible personal property, services or construction to be provided within

a twelve (12) month period, under the terms of the Contract, at the same prices, with the consent of the Contractor.

E. ***Decrease of Quantities:*** The City reserves the right to decrease the quantities of items of tangible personal property, services or construction to be provided under the terms of the Contract. However, the Contractor shall be offered an opportunity to cancel the portion of the Contract affected by such a decrease if the Contractor is not able to meet the contracted prices by delivering the decreased amount. This clause shall not have effect if the Contract was originally awarded based on estimated quantities.

F. ***Contract Changes:*** In no case shall a contract be changed without the prior written approval of the Purchasing Officer.

G. ***Debarment/Cancellation of Contract:*** Upon receipt of notice of debarment of an Offeror awarded a contract as a result of this Request for Bids (the "Contractor"), or other ineligibility of the Contractor to receive funds from any agency of the federal government, the State of New Mexico, any local public body of the State, or any state of the United States, the City shall have the right to cancel the contract with the Contractor for cause as provided in Section 25 below.

H. ***Preferences:*** One or more preferences of five percent (5%) may be afforded an Offeror who qualifies for the Local, Small Business, Resident Contractor or Resident Business Preferences in accordance with the City's Public Purchases Ordinance. Please see attachments to this RFB for a Preference Certification Form and Instructions or a Notice of No Preference.

If one or more preferences apply, the Offeror <u>must</u> complete the Preference Certification Form in accordance with the Form Instructions and return the Preference Certification Form <u>with its offer</u> to be considered. The Form and its Instructions contain information regarding the application of the preferences pursuant to the Public Purchases Ordinance. For additional information contact the City's Purchasing Division at (505) 768-3320.

I. ***Additions/Deletions of Items:*** The City reserves the right to add ancillary items/services or delete items/services specified in the Contract as requirements change during the term of the agreement. Items may only be added or deleted by written approval from the Purchasing Officer or designee.

Prices and/or discounts for additional items/services will be mutually agreed to by the City of Albuquerque and the Contractor either;

1) Under the price structure of the bid to include price margin above Contractor cost; or
2) By quotation from Contractor in which the City reserves the right to solicit comparable quotes within the market to validate pricing to be competitive; or
3) As otherwise determined by the Purchasing Officer.

An amended Contract (Purchase Order) will be issued for each addition or deletion, prior to change taking effect.

The City reserves the right to award these ancillary items to the primary Contract vendor, another vendor based on the lowest price quoted, or to acquire the items through a separate solicitation.

J. ***Price Escalation:*** A request for escalation of Contract pricing may be made under the following conditions:

1) Offered prices must be firm for a least ninety (90) calendar days after written notification of a Contract.
2) The Contractor shall provide written notice to the City of any requested price increases.
3) All requests for price increases shall be accompanied by:
    a. a letter from the Contractor's supplier certifying the price increase to the Contractor; or
    b. evidence of verifiable market conditions resulting in increased costs such as mandated labor rate increases and significant fuel or energy cost increases.
4) All revisions to Contract pricing shall become effective when they are approved by the City.
5) As provided in Section 25, Audits and Inspections below, all supplier invoices for the offered items shall be subject to auditing by the City and furnished without delay upon request.
6) The City reserves the right to cancel a Contract and solicit a new contract if a requested price escalation is unacceptable to the City. Cancellation of the Contract shall not affect any outstanding orders.
7) All approved price changes resulting from this escalation clause shall be firm for a period of ninety (90) calendar days after approval by the City.
8) Contractor shall notify the City within five (5) working days of subsequent price de-escalations from its supplier or cost reductions in areas where pricing increases were previously implemented. The Contractor will reduce its pricing to the City immediately to pass on such de-escalations and reductions unless otherwise agreed by the parties.
9) The City reserves the right to approve pricing increases requested by the Contractor other than those described in this subsection J, if in the best interest of the City.
10) All approvals required by this subsection J must be in writing by the City Purchasing Officer.

K. ***Other Public Governmental Agencies:*** (hereinafter, OPGA), with mutual agreement of awarded vendor, may purchase from any Request for Bid (RFB) issued by the City unless otherwise stated.

1) Extension of use of the City of Albuquerque procurement or contract shall in no way impede on the vendors ability to fulfill the pricing, terms and conditions of the originating agreement with the City.
2) It shall be the responsibility of the vendor to verify whether the purchasing entity is a legitimate entity in which to extend this option or whether it is a legal option for that entity under their applicable laws, rules and regulations.

20. **Goods Produced Under Decent Working Conditions:**

It is the policy of the City not to purchase, lease, or rent goods for use or for resale at City-owned enterprises that were produced under sweatshop conditions. The Offeror certifies, by submittal of its offer in response to this solicitation, that the goods offered to the City were produced under decent working conditions. The City defines under decent working conditions as production in a factory in which child labor and forced labor are not employed; in which adequate wages and benefits are paid to workers; in which workers are not required to work more than 48 hours per week (or less if a shorter workweek applies); in which employees are free from physical, sexual or verbal harassment; and in

which employees can speak freely about working conditions and can participate in and form unions. [Council Bill No. M-8, Enactment No. 9-1998]

21. **Protest Process:**

A. ***Request Documents:*** Protests concerning the specifications of this Request or other matters relating to the solicitation documents must be received by the Purchasing Officer no later than ten days prior to the deadline set for the receipt of offers.

B. ***Recommendation of Award:*** Protests concerning other matters relating to this Request must be filed with the Purchasing Officer not later than 5:00 p.m. of the date stipulated in the Recommendation of Award.

C. ***Timely Protests:*** Protests must be received by the Purchasing Officer prior to the appropriate deadline as set out in A. and B. of this Section or they will not be considered valid. The Purchasing Officer may waive the deadline for good cause, including a delay caused by the fault of the City. Late delivery by the U.S. Postal Service or other carrier shall not be considered good cause.

D. ***Required Information from Offeror:*** All protests must be submitted in written form and must be legible. Facsimile, telephone or telegraphic protests will not be accepted. Protest shall contain at a minimum the following:

1) Name and address of the protesting party
2) The solicitation/Request Number
3) A clear statement of the reason(s) for the protest
4) Details concerning the facts which support the protest
5) Attachments of any written evidence available to substantiate the claims of the protest
6) Statement specifying the ruling requested

E. ***Protest Hearing:*** If a hearing is requested, the request must be included in the protest and received within the time limit to be allowed. The filing fee of twenty dollars ($20.00) must accompany the request for hearing. The grant of a hearing shall be at the discretion of the Purchasing Officer following review of the protest.

F. ***Delivery of Protest:*** Protests may be hand-delivered. Protests which are mailed should be addressed as follows:

Purchasing Officer
City of Albuquerque
Purchasing Division
P.O. Box 1293
Albuquerque, NM 87103

Envelope should also clearly indicate “PROTEST” and the solicitation number.

G. ***Purchasing Officer Action:*** The Purchasing Officer will, after evaluation of a protest, issue a response. Only issues outlined in the written protest will be considered by the Purchasing Officer or may be raised at a protest hearing.

22. **Delivery, Acceptance and Guarantee:**

A. ***No Delivery before Purchase Order is Issued:*** No Offeror, including the Offeror to whom an award is made shall deliver any item of tangible personal

property, commence services or construction prior to the issuance of a Purchase Order or other notice to proceed issued by the City Purchasing Division.

B. ***Cancellation for Non-Delivery:*** The City reserves the right to cancel any order not delivered by a guaranteed date stipulated in any contract resulting from this Request without liability on the City's part.

C. ***Acceptance of Delivery:*** Acceptance by the City of any delivery shall not relieve the Contractor of any guarantee or warranty, expressed or implied. Such acceptance of delivery shall not be considered an acceptance of services or materials not in accordance with the specifications. Such acceptance of delivery shall not waive the City's right to require replacement of defective material or inadequate service.

23. **Inspections:**

Prior to Acceptance of Delivery: All items of tangible personal property, services or construction found inferior to the quality specified in this Request, deficient or incorrect in weight, measurement, workmanship, handicraft or otherwise, may be rejected as a whole or in part and then shall be removed by the Contractor at the Contractor's own risk and expense promptly after notice of rejection. The Contractor shall assume responsibility for taking the necessary action to correct or replace the rejected items, within the time frame specified in the notice of rejection.

24. **Invoices and Payments:**

The Contractor shall submit an accurate invoice, in duplicate, for each purchase. Invoices shall refer to the Purchase Order Number, the Release Form Number if applicable, and shall be itemized unless otherwise specified in this Request. Invoices are to be mailed to:

Accounting Division (AccountsPayable),
City of Albuquerque
P.O. Box 1985
Albuquerque, New Mexico 87103.

Invoices mailed or provided to any other entity will result in a delay in making payment. Offerors are encouraged to inquire if payments due are not received within thirty (30) days after delivery of goods/services and submittal of invoice by contacting the Accounting Division at (505) 768-3400.

25. **Audits and Inspections:** At any time during normal business hours and as often as the City may deem necessary, there shall be made available to the City for examination all of the Contractor's records with respect to all matters covered by the contract resulting from this RFB. The Contractor shall permit the City to audit, examine, and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by said contract. The Contractor understands and will comply with the City's Accountability in Government Ordinance, §2-10-1 et seq. R.O.A. 1994, and also agrees to provide requested information and records and appear as a witness in hearings for the City's Board of Ethics and Campaign Practices pursuant to Article XII, Section 8 of the Albuquerque City Charter.

26. **Default/Termination for Cause:**

If, through any cause, the Contractor fails to fulfill the Contractor's obligations under any contract resulting from this Request in a timely and proper manner, or if the Contractor,

violates any of the covenants, agreements or stipulations of such contract, the City shall notify the Contractor of such violations in writing and allow the Contractor a reasonable time, set out in the notice, to correct the default. If the default is not corrected within the specified time period the City shall have the right to cancel the contract and any or all other current contracts with the Contractor, and, if applicable, to purchase the required goods or services from another source or sources. The City shall provide written notice to the Contractor specifying the effective date of cancellation. The notice of cancellation may be contained in the notice of default.

If a contract resulting from this Request is cancelled, the Contractor shall not be relieved of liability to the City for damages caused by its breach of the contract. The City reserves the right to recover such damages, including but not limited to any excess cost incurred in having to purchase contract goods/services from other sources by a deduction from an unpaid balance due to the Contractor, collection against a performance or labor and materials payment bond, a combination of these remedies, or any other legal method available. In addition, the Contractor may be removed from the Purchasing Office Vendor List or determined to be ineligible to respond to future solicitations, as being not responsible.

27. **Termination for the Convenience of the City:**

The City may terminate any contract resulting from this Request at any time by giving at least thirty (30) days' notice in writing of such termination to the Contractor. In such event, the Contractor shall be paid under the terms of the contract for all goods/services provided to and accepted by the City, if ordered or accepted by the City prior to the effective date of termination.

28. **Termination for Lack of Appropriations:**

Funding for the contract resulting from this Request has been appropriated by the City Council for the City's current fiscal year. Notwithstanding any other provisions in the contract resulting from this Request, its continuation beyond the end of the/any fiscal ear is contingent on the City Council making the appropriations necessary to fund the contract. If sufficient appropriations are not made the contract may be terminated at the end of the City's then current fiscal year upon written notice given by the City to the Contractor. Such termination shall not constitute a default. All payment obligations of the City and all of its interest in the contract will cease upon the date of termination. The City's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final.

Revised: 08/18/2008