

Date: January 11, 2025

To: Governing Body, Finance Committee, and Public Works & Utilities Committee

From:


FH

Via:


JR

Subject:

Vendor Name: Alive Electric, Inc.

Munis Vendor Number: 8046

ITEM AND ISSUE:

CONTRACT NUMBER:

BACKGROUND AND SUMMARY:

ATTACHMENTS:

Procurement Document: ITB

Vendor's Bid

Construction Contract

Item #: _____
Munis Contract #: 3250311
ITB #: 25034

CITY OF SANTA FE

CONSTRUCTION CONTRACT
On-Call General Electrical Services

THIS CONTRACT is made and entered into by and between the City of Santa Fe, New Mexico, hereinafter referred to as the “City,” and **Alive Electric, Inc.**, hereinafter referred to as the “Contractor,” and is effective as of the date set forth below upon which it is executed by the Parties.

1. Scope of Work

A. The Contractor shall perform the following work:

The electrical services will be at the Paseo Real Wastewater Reclamation Facility and other remote sites within the collection system. The work shall include, but not be limited to, installation of new power and lighting circuits; new power services; new electrical devices, equipment, and lighting fixtures; electrical repairs, rewiring, panel and wiring upgrades, inspections of electrical components, repair or replacement of equipment or fixtures, maintaining control systems, lighting systems, and communication systems. The work shall also include the removal and disposal of existing power circuits, lighting fixtures and equipment, and the termination of associated circuits and services. Any related work required to accomplish the requested electrical work is included. Low voltage work could be included and any other related electrical work. The Contractor is required to provide licensed electrical services in a professional manner on every task order given.

The City shall provide, at a minimum, a detailed scope of work and/or drawings, generally defining the electrical work required for the project. The Contractor shall be responsible for verification of all existing conditions, measurements, and dimensions for estimating.

Maintenance service calls to the City’s Wastewater Reclamation Facility shall be scheduled at the convenience of both parties.

The Contractor is responsible for obtaining all required licenses, fees and permits required to perform the work. The Contractor shall be responsible for any applicable Local, County, State and Federal requirements and permits. Alive Electric, Inc. does not have an electrical engineer on staff. Stamped drawings can be subcontracted out, at an extra fee.

The City shall be able to utilize this On-Call Contract as needed and as funding is available.

The award of this Contract is without assurance of quantity or dollar amount of work to be performed.

Wage Rates:

All work covered by this contract shall be in accordance with applicable City and state laws and is subject to the


minimum wage rate determination issued by the Department of Workforce Solutions (DWS), if applicable.

A wage rate decision is required by the Public Works minimum Wage Act for construction, demolition or renovation purposes on projects costing sixty thousand dollars (\$60,000) or more. The Contractor agrees to comply with the current prevailing wage rate schedule when applicable. For current wage rates or for additional information, visit: <http://www.dws.state.nm.us> The City will request a wage rate determination from the DWS for each project that is \$60,000 or more.

When submitting a quote for a specific project valued at more than sixty thousand dollars (\$60,000) for any portion of a public works project that is subject to the New Mexico Public Works Act, the Contractor is required to be registered with the Labor and Industrial Division of the Department of Workforce Solutions prior to submitting its quote. The City may reject any quote that fails to provide a Public Works registration number for the prime Contractor and all other listed Contractors or subcontractors.

Other:

All work shall be in adherence to National Electrical Code (NEC), New Mexico Electrical Code (current adopted year), New Mexico Electrical Safety Code (current adopted year), New Mexico Administrative Code (NMAC), and Local Building Regulations including but not limited to the New Mexico Commercial Building Code (current adopted year), New Mexico Residential Building Code (current adopted year), Santa Fe Green Building Code, New Mexico Existing Building Code (current adopted year) for all projects. The Contractor shall be responsible for all permits associated with this work as required by the governmental Authority Having Jurisdiction (AHJ).

All work shall be in strict compliance with the city and state electrical codes. 

Contractor shall be capable of providing all new or upgrades to the existing electrical service and systems, diagnostic services, perform trouble shooting services for the City, coordinate and supervise electrical services that may include renovations, upgrade, and improvement projects and to provide new electrical services. The Contractor shall prepare quotes for all costs and services needed to perform the work required, in compliance with the national and state electrical codes. The scope of an individual project may include equipment and fixtures whether attached or not to the building. It can include site and utility work. The utility work can include building power systems such as solar panels and geothermal systems. It may also include demolition and abatement projects. It can include security and other low voltage installations with related controls and equipment.

All material shall be new and of the highest quality available for the type of work being performed.

The City reserves the right to purchase materials directly from existing Statewide Price Agreements and other sources, and to provide these materials to the Contractor. The Contractor shall provide an itemized, quantifiable list of materials required for the project.

If the Contractor is requesting reimbursement for materials used on the work, copies of the invoices for the materials must be included when submitting invoices/pay applications.

 Contractor may add markups for the materials purchased.

The City reserves the right to procure specialty services directly from Statewide Price Agreements and other sources to provide to the awarded Contractor. Specialty services provided from Statewide Price Agreements and

other sources shall be coordinated by the Contractor.

The City reserves the right to obtain quotes from multiple vendors covered under this Contract and award a project to a contractor based on the quotes.

The City reserves the right to provide an escort and/or full-time supervision of the Contractor and its employees during any or all phases of a project, should the City feel it is in its best interest to provide these extraordinary security services (at the City's expense).

The City reserves the right to escort any or all employees of the Contractor off its property, for any inappropriate conduct or actions that jeopardize the safety, security or wellbeing of the facility or any individual.

Inappropriate behavior by the Contractor, its employees or subcontractors may be grounds for immediate removal from this Contract. Any employee of the Contractor found in violation of any law, while on the City's property, will be prosecuted.

Contractor:

No person shall act as a Contractor without a license issued by the Construction Industries Division (CID), classified to cover the type of work to be performed. No contractor shall perform any work on a contract unless the Contractor has a valid Contractor's license issued by the CID to perform the type of work to be undertaken, as set forth in §60-13-12, NMSA 1978.

Safety is important and enforced by the Contractor on site and will be periodically inspected by the City's qualified safety personnel. The Contractor shall comply with all local, state, and federal laws governing safety, health, and sanitation. The on-site superintendent shall always have a minimum OSHA 10 and preferably OSHA 30 card with them when on the jobsite. The City shall not in any way be responsible for any fines set forth for such violations of codes, OSHA standards or any other governing agency having jurisdiction at the work site. The Contractor shall provide all needed safeguards, safety devices, protective equipment and take any actions necessary to protect the life and health of employees on the job; the safety of the public and to protect the property of the City in connection with the performance of the work covered by this Contract.

Any work involving disconnect or switching of electrical service to a work area shall follow the Occupational Safety and Health Act (OSHA) 29 CFR 1910.147 Standard pertaining to "Lockout/Tagout" procedures for hazardous energy.

All personnel working on the project and providing these services shall be experienced and certified in all areas related to this work and required by this Contract. Journeymen level personnel shall have the ability and necessary skills to diagnosis problems and to make the appropriate decisions needed to provide these services.

The Contractor shall agree to provide the required labor within 48 hours and respond within 12 hours for emergency situations.

The contractor's price shall include labor costs, permits, overhead, profit, insurance, equipment, tools, and any other fees required to successfully complete the work requested. The Contractor shall be capable of providing a work force with supervision, adequate to perform work for a forty (40) hour work week during normal working hours with the option of working non normal or overtime hours if required. The Contractor shall be responsible

for all permits, fees, and State and/or City inspections associated with their work.

Replacement systems and related equipment shall meet current minimum “Energy Star” energy conservation standards.

Furnishing of submittal date for any/all new equipment and materials as well as O&M’s is required. Training of site personnel for the proper operation of newly installed equipment/systems and its related controls will be required for completion. This training will be acceptable to the person in charge of the facility and/or the City’s Project manager in charge of the project.

The Contractor shall provide all protective coverings necessary to protect existing, adjacent finishes while performing its work. If any damage is encountered during the contractor’s work, the contractor will be held responsible for repairing any damage done by his employees, subcontractors, and vendors. The Contractor shall restore any damage to existing and/or adjacent finishes damaged while performing work and to make new work inconspicuous with the existing adjacent finishes.

Contractor shall be responsible for adherence to the Contract Documents, Construction Documents, Specifications, and approved directives.

The Contractor and its employees agree to cooperate with and to abide by the rules and requirements of the City to not interfere with the daily operations of the City or to jeopardize the health, safety or welfare of the employees or general public conducting business with City.

Clean Up and Storage:

A. The Contractor will provide off-site legal disposal of all waste products, trash, and debris. The City’s trash receptacles will not be used by the Contractor. Sanitary facilities will “not” be available at the job site. The contractor shall be responsible for the provision and maintenance of portable toilets.

B. The Contractor, daily, shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove the Project waste materials, rubbish, the Contractor's tools, and surplus materials and shall then thoroughly clean the premises and the site to City 's satisfaction.

C. Materials or equipment shall be delivered to the project in the manufacturer's original sealed, labeled containers and shall be adequately protected against moisture, dust, tampering or damage from improper handling or storage. Materials shall not be delivered to the site before they are needed.

D. Storage of materials and construction equipment shall be coordinated with the City.

All hazardous and non-hazardous constructions debris shall be removed from the work areas and disposed of at an approved waste disposal site.

Task Order:

The Contractor shall be required to provide On-Call Electrical Services for any number of the activities listed under Scope of Work upon the request of the City. When a service is identified, the City shall provide, at a minimum, a detailed scope of work and/or drawings defining the work required. Each project will be individually described in a “Task Order”. The Task Order will describe the scope of work, the duration of the project with the date of Substantial Completion and if there are liquidated damages for not meeting the date of substantial completion. The date of Substantial Completion is the date when the space can be occupied, or the Work used/operated and is turned over to City. Final completion is the date when the project is totally complete, the

punch list work complete and the Contractor's final pay application/invoice is approved. The terms and conditions of the Contractor's Agreement will apply to all Task Orders.

Upon receiving the City's Task Order, the Contractor shall promptly visit the site and compare the scope of work and/or drawings to the existing conditions and provide all services called for in addition to the requirements set forth in this Agreement. The Contractor will be required to provide a written quote (based upon the rates submitted in the Bid Form) and cost summary to include the work to be performed and the amount of time required for the completion of the project and submit to the City at no cost to City. Project schedules, negotiated price, and completion dates shall be determined on a project-by-project basis and dependent upon the urgency of that task. Failure to respond to the City's requests may be grounds for termination of this Contract.

If any equipment or building system cannot be economically repaired or has reached the end of its life cycle, the Contractor shall justify with costs and other information the need for replacement. If replacement is recommended, the Contractor will provide written justification for system and/or the model, size and type of unit recommended along with any applicable efficiency data. The City's and energy standards will be discussed and taken into consideration when proposing replacement units or systems.

Change Orders:

Any change orders to the project scope will require an additional Task Order with backup materials and labor costs and shall be substantiated without a doubt there was no way of knowing the additional services were needed when the original quote was provided. Change orders shall be managed closely by the City. Preventative measures shall be taken by both the contractor and City prior to issuing the Notice to Proceed. Such measures may include clarification of ambiguity in the project plan, the scope of work, the Task Order, the drawings, etc.; the project scope should be completely defined and agreed upon before any work begins. Alive Electric, Inc. would have to sub-out soil boring/soil tests (at an additional cost), if applicable

Other Construction Related Terms and Conditions:

THE PROVISIONS OF THIS ARTICLE ARE NOT EXCLUSIVE AND DO NOT WAIVE THE CITY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THE PURCHASE ORDER/CONTRACT.

Permits and Fees:

A. IF APPLICABLE- The Contractor shall secure and pay for the Electrical Permit, and Governmental fees, licenses and inspections for proper execution and completion of the Work. Changes or modifications to the Work shall include all requirements of this paragraph.

A. The Contractor shall comply with and give notices required by laws, ordinances, rules, regulations and lawful orders of public authorities applicable to performance of the Work.

C. IF APPLICABLE- Certificates of Inspection, use and occupancy will be delivered to the City upon completion of the Work in sufficient time for occupation of the facility in accordance with the approved schedule for the Work. The Contractor shall deliver a photocopy of the Electrical Permit to the Design Professional and the City as soon as it is obtained.

Schedule, Progress Meetings and Reports:

A. The Contractor, promptly after being awarded a Project and before the first payment application, shall prepare and submit for the City’s information a Critical Path Construction Schedule for the Work that indicates the intended start and completion of the various construction activities, which shall be implemented and adhered to by the Contractor, material suppliers and equipment suppliers. At a minimum, the schedule shall be a GANTT type schedule and shall not exceed time limits allowed by the Task Order or Notice to Proceed with no fewer work breakdown events than line items of the Schedule of Values.

B. The Contractor shall perform the Work in general accordance with the most recent schedule submitted to the City.

C. Progress meetings shall be scheduled on a regular basis. The purpose will be to review the upcoming activities, any open issues, and current progress. The Contractor shall keep any meeting minutes as needed. Progress schedules shall be updated regularly. A three week look-ahead schedule should be presented at every project meeting. A new schedule shall be presented with any change orders.

D. The Contractor shall prepare a daily report each day the Contractor or any other entity are on the project. The daily reports shall be maintained at the site and be well organized. The City may request copies at any time. The reports may include:

1. report date and who prepared the report;
2. weather conditions – low temp, visibility, humidity, wind, wind direction, cloud conditions, precipitation amount, other notes;
3. companies present by name and their number of workers, work location, total man hours that day for each company;
4. equipment – type, source, units of work done, location of work, hour meter reading;
5. material brought to site – description, units, quantity, quality, location, time;
6. visitors to site – name, company, time;
7. safety concerns – company, contact, noticed by, work activity, safety issue, requirement, outcome: and
8. quality assurance and control – company, description of issue, specification section, issued by.

Close-out Requirements:

The Contractor shall submit to the City a separate and detailed Closeout Schedule indicating the date of Final Completion and all work to be completed before Final Completion including Close-Out requirements. The punch list of incomplete or inadequate work shall also be submitted when the work is substantially complete. Failure to include any item on the punch list does not alter the responsibility of the Contractor to complete all work in accordance with the Contract Documents.

Before final completion can be achieved, all Work must be complete and accepted including the following as applicable:

- a. Work associated with Punch List(s);
- b. testing, balance, or performance operations complete and in agreement that associated work is in compliance with the Contract Documents;
- c. one hard copy and one electronic copy in .pdf format of final approved test, balance, or performance report(s) complete with directory of contents submitted to the City;
- d. as-Built drawings delivered in AutoCAD or electronic format;

- e. written certification signed by the City of delivery and stocking of extra material (if applicable), equipment or components required by the Purchase Order at a location established by the City;
- f. delivery of all warranties required by the Work;
- g. all keys, passes, codes, software or other methods or components of control or security which have been correctly and adequately accounted for and closed-out;
- h. completed Operations Liability insurance policy certificate, if applicable;
- i. training of staff on all applicable building systems;
- j. Not used
- k. utility transfer to the City;
- l. Operations and Maintenance Manuals;
- m. a certified statement of Release of Liens (AIA Document G706A or approved form) and Consent of Surety.

Materials and Parts:

Contractor shall submit billings, based on actual Contractor costs for materials, less any applicable percentage for discounts. If there is no discount to be offered, enter zero. Contractor shall provide verification that materials purchased were used for the project. Any unused, billed for materials shall be turned over to the City for which the work was provided.

The City requires that all materials shall be new and of the highest quality and at the best attainable price available for the type of work being performed.

No used materials shall be used on the project. Recycled materials specifically prepared for reuse to meet “LEED” certification may be permitted with the City’s approval

2. Compensation

- A. The total amount payable to the Contractor under this Contract, excluding gross receipts tax and expenses, shall not exceed one hundred fifty thousand dollars (\$150,000) per fiscal year, for a total of six hundred thousand dollars (\$600,000) excluding gross receipts tax and expenses for the four (4) year term of this Contract. The City shall pay the applicable gross receipts tax. The applicable gross receipts tax shall be shown as a separate amount on each billing or request for payment made under the contract.
- B. Payment in future fiscal years is subject to availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties from year to year pursuant to Paragraph 1, Scope of Work, and to approval by the City. All invoices MUST BE received by the City no later than fifteen (15) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.
- C. Contractor must submit a detailed statement accounting for all services performed and expenses incurred. If the City finds that the services are not acceptable, within thirty days after the date of receipt of written notice from the Contractor that payment is requested, it shall provide the Contractor a letter of exception explaining the defect or objection to the services, and outlining steps the Contractor may take to provide remedial action. Upon certification by the City that the services have been received and accepted, payment shall be tendered to the Contractor within twenty-one days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked.

D. If the City fails to pay the contractor within twenty-one days after receipt of an undisputed request for payment, the City shall pay interest to the contractor beginning on the twenty-second day after payment was due, computed at one and one-half percent of the undisputed amount per month or fraction of a month until the payment is issued. If the City receives an improperly completed invoice, the City shall notify the sender of the invoice within seven days of receipt in what way the invoice is improperly completed, and the owner has no further duty to pay on the improperly completed invoice until it is resubmitted as complete.

E. **Notice of Extended Payment Provision for Grant Funded Contracts.** This contract allows the City to make payment within 45 days after submission of an undisputed request for payment for contracts funded by grant money consistent with NMSA 1978, sec. 57-28-5(B).

3. Term

THIS CONTRACT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED IN WRITING BY THE CITY. This contract shall terminate **four (4) years from the date of final signature.**

4. Termination

A. **Grounds.** The City may terminate this Contract for convenience or cause. For contracts within their authority, the City Manager or their designee is authorized to provide the notice of termination, otherwise such notice of termination shall be provided by the Mayor or their designee as authorized by the Governing Body. The Contractor may only terminate this Contract based upon the City's uncured, material breach of this Contract.

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 Contract 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 Contract 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 Contract, the Contractor is suspended or debarred by the City; or (iii) the Contract is terminated pursuant to Paragraph 5, "Appropriations," of this Contract.

C. **Liability.** Except as otherwise expressly allowed or provided under this Contract, 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 Contract. 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 CONTRACT.*

5. Appropriations

The terms of this Contract are contingent upon sufficient appropriations and authorization being made by the Governing Body for the performance of this Contract. If sufficient appropriations and authorization are not made by the Governing Body, this Contract shall terminate immediately 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 Contract to unilaterally reduce funding, the Contractor shall have the option to terminate the Contract or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

6. Status of Contractor

The Contractor and its agents and employees are independent contractors performing construction services for the City and are not employees of the City. The Contractor and its 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 Contract. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. 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.

7. Construction Contract Performance and Payment Bond

A. When a construction task order is approved in excess of twenty-five thousand dollars (\$25,000), the following bonds or security shall be delivered to the City and shall become binding on the parties upon the execution of the task order. If the Contractor fails to deliver the required performance and payment bonds, the Contractor's bid shall be rejected, its bid security shall be enforced to the extent of actual damages. Approval of a task order shall be made pursuant to the Procurement Code in the following manner:

(1) a performance bond satisfactory to the City, executed by a surety company authorized to do business in this state and said surety to be approved in federal circular 570 as published by the United States treasury department or the state board of finance or the local governing authority, in an amount equal to one hundred percent of the price specified in the task order; and

(2) a payment bond satisfactory to the City, executed by a surety company authorized to do business in this state and said surety to be approved in federal circular 570 as published by the United States treasury department or the state board of finance or the local governing authority, in an amount equal to one hundred percent of the price specified in the contract, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the task order.

B. A subcontractor shall provide a performance and payment bond on a public works building project if the subcontractor's contract for work to be performed on a project is one hundred twenty-five thousand dollars (\$125,000) or more. Bonds, if required, to be furnished at an additional cost

8. Assignment

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

9. Subcontracting

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

10. Release

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

11. Confidentiality

Any confidential information provided to or developed by the Contractor in the performance of this Contract 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.

12. Product of Service -- Copyright

All materials developed or acquired by the Contractor under this Contract shall become the property of the City and shall be delivered to the City no later than the termination date of this Contract. Nothing developed or produced, in whole or in part, by the Contractor under this Contract shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

13. Conflict of Interest; Governmental Conduct Act

A. The Contractor represents and warrants that it presently has no interest and, during the term of this Contract, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Contract.

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Contract, will continue to comply with, and that this Contract 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 Article 12 are material representations of fact upon which the City relied when this Contract was entered into by the parties. Contractor shall provide immediate written notice to the City if, at any time during the term of this Contract, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Contract 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 Article 12 were erroneous on the effective date of this Contract 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 Contract to the contrary, the City may immediately terminate the Contract.

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

14. Amendment

A. This Contract 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 Contract 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 Contract, pursuant to the termination provisions as set forth in Article 4 herein, or to agree to the reduced funding.

15. Change Orders

A. Changes. The Contractor may only make changes or revisions within the Task Order as defined by Article 1 and/or Exhibit 1 after receipt of written approval by the Project Manager, Andrew Hardinge, or his/her designee. Such change may only be made to Tasks or Sub-Task as defined in the Scope of Work. Under no circumstance shall such change affect the:

- 1) Deliverable requirements, as outlined in the Task Order;
- 2) Due date of any Deliverable, as outlined in the Task Order;
- 3) Compensation of any Deliverable, as outlined in the Task Order;
- 4) Contract compensation, as outlined in Article 2; or
- 5) Contract termination, as outlined in Article 4.

B. Change Request Process. In the event that circumstances warrant a change to accomplish the Task Order as described above, a Change Request shall be submitted that meets the following criteria:

- 1) The Contractor shall draft a written Change Request for review and approval by the Project Manager to include:
 - (a) the name of the person requesting the change;
 - (b) a summary of the required change;
 - (c) the start date for the change; and request for a time extension (if required/applicable)
 - (d) the reason and necessity for change;
 - (e) the elements to be altered; and
 - (f) the impact of the change.

2. The Project Manager shall provide a written decision on the Change Request to the Contractor within a maximum of ten (10) Business Days of receipt of the Change Request. All decisions made by the Project Manager are final. Change Requests, once approved, become a part of the Task Order, and become binding as a part of the original Task Order.

16. Merger

This Contract 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 contract.

All terms and conditions of the **ITB #25034 – General Electrical Services**, and the Contractor’s response to such document(s) are incorporated herein by reference and is included in the order of precedence.

No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Contract.

17. Penalties for violation of law

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

18. Equal Opportunity Compliance

The Contractor agrees to abide by all federal and state laws and rules and regulations, and Santa Fe City Code, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Contractor assures 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 Contract. If Contractor is found not to be in compliance with these requirements during the life of this Contract, Contractor agrees to take appropriate steps to correct these deficiencies.

19. Applicable Law

The laws of the State of New Mexico shall govern this Contract, 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, section 38-3-2. By execution of this Contract, 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 Contract.

20. 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 Contract may be terminated by the City.

21. Other Insurance

If the services contemplated under this Contract will be performed on or in City facilities or property, Contractor shall maintain in force during the entire term of this Contract, 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 a 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 Contract shall be the greater of (1) the minimum coverage and limits specified in this Contract, 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 Contract are sufficient to cover the obligations of Contractor hereunder.

D. Contractor shall maintain the above insurance for the term of this Contract 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.

22. Records and Financial Audit

The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the Contract's term and effect and retain them for a period of three (3) years from the date of final payment under this Contract. The records shall be subject to inspection by the City. The City shall have the right to audit billings both before and after payment. Payment under this Contract shall not foreclose the right of the City to recover excessive or illegal payments

23. Indemnification

The contractor agrees to indemnify and hold harmless the City, including its officers, employees or agents, against liability, claims, damages, losses or expenses, including attorney fees, only to the extent that the liability, damages, losses or costs are caused by, or arise out of, the acts or omissions of the contractor or its officers, employees or agents.

24. New Mexico Tort Claims Act

Any liability incurred by the City of Santa Fe in connection with this Contract 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 Contract modifies or waives any provision of the New Mexico Tort Claims Act.

25. Invalid Term or Condition

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

26. Enforcement of Contract

A party's failure to require strict performance of any provision of this Contract 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 Contract 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.

27. Notices

Any notice required to be given to either party by this Contract shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To the City:
Andrew Hardinge
73 Paseo Real
Santa Fe, NM 87507
aphardinge@santafenm.gov

To the Contractor:

Alive Electric, Inc.

April R. Montoya or Henry D. Sena

P. O. Box 23411

Santa Fe, NM 87502

april@aliveelectric.net; henry@aliveelectric.net

28. Authority

If Contractor is other than a natural person, the individual(s) signing this Contract on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract.

29. Progress Payments

Based upon Application for Payment submitted to the City by the Contractor and Certificates for Payment issued by the City, the City shall make progress payments on account of the Contract sum to the Contractor as provided in the Contract documents for the period ending the last day of the month as follows:

Not later than twenty-one (21) days following the end of the period covered by the Application for Payment, one hundred percent (100%) of the portion of the Contract Sum properly allocable to labor, materials, and equipment incorporated in the work and one hundred percent (100%) of the portion of the Contract sum properly allocable to materials and equipment suitably stored at the site or some other location agreed upon in writing for the period covered by the Application for Payment, less the aggregate of previous payments made by the City; and upon substantial completion of the entire work, a sum sufficient to increase the total payments to one hundred percent (100%) of the Contract sum, less such amounts as the City shall determine for all incomplete work and unsettled claims as provided in the Contract documents.

30. Final Payment

Final payment, constituting the entire unpaid balance of the Contract sum, unless it is a disputed payment, shall be paid by the City to the Contractor within twenty-one (21) calendar days, after all deficiencies to the Contract document that were noted during the Substantial Completion Inspection and listed on the attachment to the Certificate of Substantial Completion have been corrected, and provided the Contract has been fully performed and a final Certificate for Payment has been issued by the City. In addition, the Contractor shall provide to the City a certified statement of Release of Lien (AIA Document G706A or approved form), Consent of Surety, Warranty from Prime Contractor, Warranties from Suppliers and Manufacturers, training sessions, equipment/operating manuals, and as-built drawings.

31. General and Special Provisions

A. Terms used in this Contract which are defined in the Conditions of the Contract shall have the meanings designated in those Conditions.

B. An enumeration of the Contractor's General Comprehensive Liability Insurance requirements appears in the General Conditions of the Contract for construction. Insurance requirements are also described in the Instructions to the Bidder section of the Project Manual. Contractor shall maintain adequate insurance in at least the maximum amounts, which the City could be liable under the New Mexico Tort Claims Act and shall

provide proof of such insurance coverage to the City. It is the sole responsibility of the Contractor to comply with the law.

C. This Contract shall not become effective until: (1) approved by the Governing Body; and (2) signed by all parties required to sign this Contract.

D. The Contractor shall maintain detailed time records which indicate the date, time and nature of services rendered. These records shall be subject to inspection by the City, the Department of Finance and Administration and the State Auditor. The City shall have the right to audit billings both before and after payment. Payment under this Contract shall not foreclose the right of the City to recover excessive illegal payments.

E. The Contractor warrants that the Contractor presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under this Contract.

F. The Contractor hereby warrants that the Contractor complies with the Americans with Disabilities Act, 29 CFR 1630.

G. Gender, Singular/Plural. Words of any gender used in this Contract shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

H. Captions and Section Headings. The captions and section headings contained in this Contract are for convenience of reference only, and in no way limit, define, or enlarge the terms, scope, and conditions of this Contract.

I. Certificates and Documents Incorporated. All certificates and documentation required by the provisions of the Contract shall be attached to this Contract at the time of execution and are hereby incorporated by reference as though set forth in full in this Contract to the extent they are consistent with its conditions and terms.

J. Separability. If any clause or provision of this Contract is illegal, invalid or unenforceable under present or future laws effective during the term of this Contract, then and in that event, it is the intention of the parties hereto that the remainder of this Contract shall not be affected thereby.

K. Words and Phrases. Words, phrases, and abbreviations, which have well-known technical or trade meanings used in the Contract documents shall be used according to such recognized meaning. In the event of a conflict, the more stringent meaning shall govern.

L. Relationship of Contract Documents. The Contract Documents are complementary, and any requirement of one Contract Document shall be as binding as if required by all.

M. Pursuant to NMSA 1978, section 13-1-191, reference is hereby made to the Criminal Laws of New Mexico (including NMSA 1978, sections 30-14-1, 30-24-2, and 30-41-1 through 30-41-3) which prohibit bribes, kickbacks, and gratuities, violation of which constitutes a felony. Further, the Procurement Code (NMSA 1978, sections 13-1-28 through 13-1-199) imposes civil and criminal penalties for its violation.

N. Pursuant to NMSA 1978, section 13-4-11. Reference is hereby made to the Minimum Wage on Public Works; weekly payments; posting wage scale; withholding funds.

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

CITY OF SANTA FE:

Alan Webber, Mayor

DATE: _____

CONTRACTOR:
Alive Electric, Inc.

April Montoya
April Montoya (Feb 11, 2025 14:20 MST)

Henry D. Sena, Pres. or
April R. Montoya, Vice Pres.

DATE: **Feb 11, 2025**

NMBTIN#: 03-139624-000

ATTEST:

ANDRÉA SALAZAR, CITY CLERK

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (Feb 11, 2025 14:35 MST)

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

Emily K. Oster

EMILY OSTER, FINANCE DIRECTOR

Bidder Instructions:

Items - Bidders should not add or delete items.

Approx. Qty. - Quantities provided are estimates, only, and do not establish a definite quantity contract. Actual quantities purchased under a resulting agreement may vary. Bidders may not change the Approx. Qty.

UOM (Unit of Measure) - Bidders should not change the UOM. Any variation from the UOM identified may be provided in the Comments.

Article and Description - Bidder should not change Article and Description. Any clarification, explanation, brand name identification, etc. must be provided in **Unit Price** - Bidders must provide pricing that conforms with the identified Unit Price.

Comments - Bidders may only provide comments to explain or clarify an item, identify a brand name, or provide information as specifically stated in the corresponding ITB document. Changes and additions to the items, including variations in pricing for an item, are not permitted. Any comments that do not conform to the requirements in the ITB or on this form will be disregarded, and will not be included in the resulting award, if bidder is awarded.

Item	Approx. Qty.	UOM	Article and Description	Unit Price	Comments
			Wage Rates for Projects Under \$60,000.00		
1	1	Hourly	Superintendent – Regular Hourly Rate	\$	85.00
2	1	Hourly	Superintendent – Overtime Hourly Rate	\$	127.50
3	1	Hourly	Journeyman or experienced worker – Regular Hourly Rate	\$	75.00
4	1	Hourly	Journeyman or experienced worker – Overtime Hourly Rate	\$	112.50
5	1	Hourly	Laborer – Regular Hourly Rate	\$	60.00
6	1	Hourly	Laborer – Overtime Hourly Rate	\$	90.00
			Wage Rates for Projects Over \$60,000.00		
7	1	Hourly	Superintendent – Regular Hourly Rate	\$	100.00
8	1	Hourly	Superintendent – Overtime Hourly Rate	\$	150.00
9	1	Hourly	Journeyman or experienced worker – Regular Hourly Rate	\$	90.00
10	1	Hourly	Journeyman or experienced worker – Overtime Hourly Rate	\$	135.00
11	1	Hourly	Laborer – Regular Hourly Rate	\$	60.00
12	1	Hourly	Laborer – Overtime Hourly Rate	\$	90.00
			Other Rates		
13	1	Daily	Sanitary/toilet facilities, rental rates	\$	300.00
14	1	Rate/Mile	Travel Rate from the Contractors facility to the work site, pursuant to the New Mexico Per Diem and Mileage Act.	\$	0.70
15	1	Disc	Discount off parts	%	0%

HEERBRANDT, PAUL F.

From: DUTTON-LEYDA, TRAVIS K.
Sent: Monday, March 6, 2023 1:46 PM
To: HEERBRANDT, PAUL F.
Cc: GUNTER, RAYMOND S.; Purchasing DET; CHAVEZ, JESSICA J.
Subject: RE: Determination Requested - On Call Electrical PUD

Fred:

Under NMSA 1978 13-1-52 I am making a determination of services. Based on NMSA 13-1-87 this falls in line with “**Service.**” If the SOW should change, a new determination will be needed. As it has been determined that the totality of this project is more than \$60K, an ITB or an RFP can be the formal solicitation method used. Please keep this as part of the procurement file for future reference.

Thank you.

Regards,

Travis Dutton-Leyda – CPO
Purchasing Officer
City of Santa Fe
200 Lincoln Avenue
Santa Fe, NM 87501
505-629-8351
tkduttonleyda@santafenm.gov
santafenm.gov



From: GUNTER, RAYMOND S. <rsgunter@santafenm.gov>
Sent: Monday, March 6, 2023 8:25 AM
To: Purchasing DET <purchasing_det@santafenm.gov>
Cc: CHAVEZ, JESSICA J. <jjchavez@santafenm.gov>
Subject: Determination Requested - On Call Electrical PUD

The Contractor shall perform the following work:

- A. The contractor(s) shall provide professional and licensed electrical service, maintenance, and installation including but not limited to routine inspections, checking, cleaning, alignment, repair, troubleshooting, and adjustment of existing and future electrical and instrumentation systems until end of contract date.
 - 1.) The location of these services shall include but is not limited to:
 - a. Santa Fe Wastewater Treatment Facility and Remote Sites
 - b. Canyon Road Water Treatment Facility and Remote Sites

c. Transmission and Distribution Main Office and Remote Sites

B. The contractor(s) shall provide the services outlined in Scope A to systems including but not limited to:

- 1.) Lighting
- 2.) Motors
- 3.) Controls
- 4.) Receptacles
- 5.) Conduit
- 6.) Panels

C. Such maintenance service shall include emergency calls. Parts shall be an additional cost to the city.

D. Contractor shall provide calibration sheets and job reports as it pertains to the work completed.

E. Maintenance service calls to the City's Wastewater Treatment Plant Facility shall be scheduled at the convenience of both parties.

F. Contractor shall furnish the City with a written report from contract after each service call.

3. **Compensation**

The four (4) year contract shall have a maximum total value of \$400,000.00, with \$100,000.00 allocated for each fiscal year, excluding NMGR, beginning in FY 2023/2024. This contract will be utilized by the Public Utilities Department, with the following breakdown:

Amount Per Location

- Santa Fe Wastewater Treatment Facility: \$80,000 Per Year
- Canyon Road Water Treatment Facility: \$10,000 Per Year
- Transmission and Distribution Main Office: \$10,000 Per Year

Raymond 'Scott' Gunter, CPO

Procurement Manager

Finance Department

Central Purchasing Office

City of Santa Fe

c. 505-469-8949

RSGunter@santafenm.gov



DESCRIPTIONS (Continued from Page 1)

Compensation policies provide a Waiver of Subrogation when required by written contract.

RE: Various Jobs and Projects

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location(s) Of Covered Operations
Where required by written contract or written agreement.	All Operations of the Named Insured.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – OWNERS, LESSEES OR
CONTRACTORS – COMPLETED OPERATIONS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location And Description Of Completed Operations
Where required by written contract or written agreement.	All Operations of the Named Insured.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NON CONTRIBUTORY ENDORSEMENT

This endorsement modifies insurance provided under the following:

ALL COVERAGE PARTS

Name Of Additional Insured Person(s) Or Organization(s):
If no entry appears above, this endorsement applies to all Additional Insureds covered under this policy.

Any coverage provided to an Additional Insured under this policy shall be excess over any other valid and collectible insurance available to such Additional Insured whether primary, excess, contingent or on any other basis unless a written contract or written agreement specifically requires that this insurance apply on a primary and noncontributory basis.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Name Of Person Or Organization:

Where required by written contract or written agreement.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The following is added to Paragraph 8. **Transfer Of Rights Of Recovery Against Others To Us** of Section IV – Conditions:

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.



WAIVER OF SUBROGATION

Insured Name: Alive Electric Inc.
Insured Policy Number: WC100-0006661-2025A

Builders Trust of New Mexico waives any right of recovery of subrogation against the certificate holder named on this certificate of insurance, but only to the extent that the employers to whom we provide coverage performs work under a written contract with the certificate holder that requires this waiver.

Name of Person	Name of Organization
	Blanket Waiver of Subrogation

Date: 12/11/2024

Countersigned by Randy L. Alkin

Agency Number: 2 – 4
Agency Name: USI Insurance Services LLC

Signature: P. Fred Heerbrandt, P.E.

P. Fred Heerbrandt, P.E. (Feb 12, 2025 12:13 MST)

Email: pfheerbrandt@santafenm.gov



Services Offered to the City of Santa Fe (9.2023)

Approved:

These services have been approved by the New Mexico Council for Purchasing from Persons with Disabilities and are available through Horizons of New Mexico.

- ADA Accessibility Consulting Services
- Auctioneering Services
- Bulk Mailing and Sorting
- Call Center Services
- Computer Refurbishing
- Courier Services
- Decontamination, Sanitation and Sterilization Services
- Debris Removal
- Document Imaging
- Document Shredding
- Envelope Stuffing
- General Labor
- Hard Drive Destruction
- Janitorial and Housekeeping Services – Including Carpet Cleaning & Floor Care
- Landscape Irrigation
- Landscaping
- Mailing Services
- Management of an Assistive Technology Reuse and Recycling Program
- Meeting Minute Preparation Services
- Pest Control and Extermination Services
- Printing Services
- Rest Area Maintenance
- Screen Printing
- Snow Removal
- Yard, Grounds, and Lawn Maintenance

Permissive:

The services have been approved by the New Mexico Council for Purchasing from Persons with Disabilities as permissible for sale under the State Use Act through Horizons of New Mexico. While the Council recognizes that certain Horizons of New Mexico members are capable of performing the services listed below, said services are considered permissive and excluded from the mandatory aspect of the State Use Program. Any procurement of the below services through Horizons of New Mexico is at the discretion of the purchasing agent and will be considered by the Council on a case-by-case basis.

- Graphic Design
- Graphic Design - Logo Design
- IT – Enterprise Application
- IT – IV & V
- IT Network and Database Management
- IT Support
- IT Security Services
- IT – Web Design
- IT – Web Programmer
- Marketing
- Social Media Marketing
- Training Services

For the complete State Use service list, please go to: <http://horizonsofnewmexico.org/services.html>