



**STATE OF NEW MEXICO
EMERGENCY DETERMINATION FORM**

The emergency procurement method (*NMSA 1978, Section 13-1-127*) may only be used when the service, construction or item of tangible personal property procured:

1. is needed immediately to:
 - a. control a serious threat to public health, welfare, safety or property caused by a flood, fire, epidemic, riot, act of terrorism, equipment failure or similar event; or
 - b. plan or prepare for the response to a serious threat to public health, welfare, safety or property caused by a flood, fire, epidemic, riot, act of terrorism, equipment failure or similar event; and
2. cannot be acquired through normal procurement methods.
 - a. The agency entering into an emergency procurement should employ a competitive process to the extent practicable under circumstances.

The purchase or lease of heavy road equipment is not allowed under the emergency procurement statute.

The state purchasing agent or a central purchasing office that makes an emergency procurement shall outline its determination of the basis for the procurement and its selection of the contractor in writing and include the writing in the procurement file. (That writing can be made on this form.) Promptly thereafter:

- the state purchasing agent shall post notice of the procurement on its website; or
- the central purchasing office shall post notice of the procurement on its website, if it maintains one, and shall transmit the notice to the state purchasing agent for posting on the state purchasing agent's website.

NOTE: the state purchasing agent or a central purchasing office that makes an emergency procurement to plan or prepare for the response to a serious threat to public health, welfare, safety or property caused by a flood, fire, epidemic, riot, act of terrorism, equipment failure or similar event shall account for the money spent in making the procurement and report on that accounting to the legislative finance committee and the department of finance and administration within sixty days after the end of the fiscal year in which the procurement was made.

I. Name of Agency: **City of Elephant Butte**

Agency Chief Procurement Officer: **Kristin Saavedra**

CPO Email Address: **ksaavedra@cityofeb.com**

II. Name of Contractor: **Advanced Building Solutions**

Address of Contractor: **PO Box 311
Elephant Butte, NM 87935**

Amount of prospective contract: **\$ 75,000.00**

Term of prospective contract: **Possibly 120 days, depending on material**

III. Thoroughly list the services (scope of work), construction or items of tangible personal property being procured:

Remove all latillas and vigas from structure, remove all rotted deck boards, remove all jost beams 6x12, remove all handrails throughout, install new 6x12 beams as per engineer plans, install fabricated bracing as per engineer plans, install new decking throughout, install new handrails throughout, and install new vigas and latillas cover

IV. Provide an explanation for the justification of the procurement including a description of the emergency condition(s) requiring use of emergency procurement and the practicable competition utilized in compliance with *NMSA 1978, Section 13-1-127*.

The condition of the deck was discovered during an inspection of the property prior to the closing of a sale of the property, scheduled for January 31, 2023. Unfortunately, due to turnover within City administration in recent years, current officials did not know or realize the extent to which the deck's condition had deteriorated. During the appraisal process, the condition was not discovered either. The condition was such that it posed a direct threat of harm to the public who were using the premises and employees working on, under, or around the deck. Additionally, the condition was raised by the buyer as a possible default under the sales contract and requested that it be remedied in order to timely close. The contractor selected had already been providing services on the property, had materials and laborers available to immediately begin work on the property, and was able to provide a prompt and reasonable quote. Given the safety hazard and the short amount of time available to begin work prior to closing, it was impractical for the City to locate others who were not already familiar with property and able to begin work immediately.

V. Describe what measures are being taken to minimize the duration and effect of this particular emergency procurement (for example: is the emergency only in place until a competitive process can be completed, etc.).

The City was able to obtain a bid that only slightly exceeded the small purchase threshold under NMSA 1978, Section 13-1-125. The City further utilized a contractor who was already on site with the resources to accomplish the project promptly and efficiently and that the property's purchaser was willing to work with.

VI. Describe what measures the Agency will take in the future to prevent/mitigate use of an emergency procurement under similar circumstances.

The City anticipates this is a one time occurrence as the sale of the golf course is expected to close on January 31, 2023. For future sales of real property, if there are any, that involve structures owned by the City, the City will engage in more thorough and comprehensive inspections to ensure there are no hazardous conditions that arise in the week or two prior to closing.

Certified by:

Date: 01/31/2023

Kristin Saavedra

Digitally signed by Kristin Saavedra
DN: cn=Kristin Saavedra, o=City of Elephant Butte, ou=City
Treasurer, email=citytreasurer@cityofeb.com, c=US
Date: 2023.01.31 08:25:50 -0700

Agency Chief Procurement Officer

Agency Approval by:

Date: 1/31/23

John Maserao

Cabinet Secretary/Governmental Entity Head or Designee