



## TOWN OF TAOS, NM

### REQUEST FOR QUALIFICATIONS

#### PROFESSIONAL ENGINEERING SERVICES FOR TAOS REGIONAL AIRPORT

**Control Number: RFQ 18-19-01**

**Issue Date:** Thursday, November 8, 2018

**Pre-Proposal Conference:** Thursday, November 16, 2018 at 10:00 a.m. local time at the Taos Regional Airport Terminal, 24662 US-64, Taos, New Mexico 87571

**Proposal Question Deadline:** Tuesday, November 27, 2018

**Response to Questions:** Tuesday, December 4, 2018

**Proposal Due Date:** Tuesday, December 18, 2018 at 4:00 p.m. local time

**Deliver to:** Town of Taos  
Purchasing Division  
400 Camino de la Placita Room 202  
Taos, NM 87571

**Purchasing Contact:** Sharon Voigt, Chief Procurement Officer  
Finance Department-Purchasing Division  
Phone: (575) 751-2025  
Email: svoigt@taosgov.com

#### **Introduction**

The Town of Taos is requesting competitive sealed qualifications for the selection of a professional firm to provide engineering services for design and construction of Taos Regional Airport which may include preliminary design, final design, bidding and negotiating and construction phase. The selected firm will coordinate projects with the Federal Aviation Administration, New Mexico Department of Transportation Aviation Division and the Town of Taos.

**Description:** A copy of this RFQ can be obtained from the Town of Taos website at [www.taosgov.com/finance/solicitation/php](http://www.taosgov.com/finance/solicitation/php) until the expiration date of this solicitation. It is incumbent upon the Offeror to check the website for additional information and/or addenda. RFQs can also be obtained from Sharon Voigt, Chief Procurement Officer, Town of Taos Purchasing Division, 400 Camino de la Placita - Room 202, Taos, NM 87571. If you have any questions, please call (575) 751-2025 or email svoigt@taosgov.com.

Written questions regarding the substance of the RFQ or scope of services must be submitted via e-mail to the purchasing contact listed above no later than the Proposal Question Deadline indicated above.

Sealed Responses are due prior to the Response Deadline indicated above and must be delivered to the Purchasing Division, located at Taos Town Hall, Room 202, 400 Camino de la Placita, Taos, NM 87571. Late responses will not be accepted.

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## TOWN OF TAOS, NEW MEXICO

### NOTICE TO OFFERORS

Professional Engineering Services for Taos Regional Airport, RFQ 18-19-01

Notices for solicitations will no longer be sent via mail, beginning November 8, 2018, unless a vendor specifically requests notification by mail. Electronic notices will be sent via email, posted on our website and sent via "Vendor Registry". Vendors may register for "Vendor Registry" on the Town of Taos website at <http://www.taosgov.com/finance/solicitation.php>.

RFQ documents may be retrieved by accessing the Purchasing page of the Town of Taos website, <http://www.taosgov.com/finance/solicitation.php>, by calling (575) 751-2025 or visiting the Purchasing Division at 400 Camino de la Placita, Room 202, Taos, New Mexico.

The above document has been issued by the Town of Taos for a competitive solicitation. Interested parties may obtain documents as described herein.

The Town of Taos, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC §§ 2000d to 2000d-4) and the Regulations, hereby notifies all offerors that it will affirmatively ensure that any contract entered into pursuant to this advertisement, select disadvantaged business enterprises or airport concession disadvantaged business enterprises will be afforded full and fair opportunity to submit proposals in response to this RFQ and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

Publication Date: November 8, 2018

## Qualifications-based Proposals

As required by 13-1-111 NMSA 1978 the Town of Taos (Town) is requesting qualifications-based proposals (RFQs) for professional services pursuant to Sections 13-1-120 to 13-1-124, NMSA 1978.

The opening of sealed proposals shall be conducted in private in order to maintain the confidentiality of the information/data provided. Proposals will remain confidential during the negotiation process.

Offerors submitting proposals may be afforded an opportunity for discussion and revision of proposals. Revisions may be permitted after submission of proposals and prior to award.

The Town will open all proposals, assign an evaluation committee and evaluate all proposals; determine the need for, conduct any negotiations; and make a final recommendation to the Town Council for award of the agreement or contract.

The agreement or contract award shall be made to the responsible Offeror or Offerors whose proposal is most advantageous to the Town of Taos, taking into consideration the evaluation factors set forth in the RFQ. The award of an agreement or contract for professional services shall be made based upon the criteria which does not include price.

The Town reserves the right to reject any or all proposals, cancel the RFQ in its entirety or to waive irregularities at its option when it is in the best interest of the Town of Taos.

Award of an agreement or contract is contingent upon the budgeting and appropriation of funds for continuation of the professional services contemplated by this RFQ.

## SECTION 1 - INSTRUCTIONS

### 1) COMMUNICATIONS

In an effort to create a more competitive and unbiased procurement process, the Town of Taos (Town) desires to establish a single point of contact throughout the procurement process. From the issue date of this RFQ, until a Successful Offeror(s) is selected, all requests for clarification or additional information regarding this RFQ or contacts with the Town personnel concerning this RFQ or the evaluation process must be solely to the contact person (or her designee) listed on the cover page of this RFQ.

The Offeror, including any person affiliated with or in any way related to the Offeror, is strictly prohibited from any contact with members of the Town Council or Town staff on any matter having to do in any respect with this RFQ other than outlined herein. Questions and requests for information regarding this RFQ, site visits or other requirements shall be presented to the Town as prescribed in this RFQ. Failure by any Offeror to adhere to this prohibition may, at the sole discretion of the Town, result in disqualification and rejection of any proposal. Offerors shall have no claim against the Town for failure to obtain information made available by the Town which the Offeror could have remedied through the exercise of due diligence.

### 2) PRE-RESPONSE INFORMATION AND QUESTIONS

Each response that is timely received will be evaluated on its merit and completeness of all requested information. In preparing responses, Offerors are advised to rely only upon the contents of this RFQ, its accompanying documents and any written clarifications or addenda issued by the Town. If an Offeror finds a discrepancy, error, or omission in the RFQ package, or requires any written addendum thereto, the Offeror is requested to notify the Purchasing contact noted on the cover of this RFQ, so that written clarification may be sent to all prospective Offerors. THE TOWN IS NOT RESPONSIBLE FOR ANY ORAL INSTRUCTIONS. All questions must be submitted in writing to the Purchasing contact only before the Pre-Response Question Deadline indicated on the front of this document.

### 3) RFQ MODIFICATIONS

Clarifications, modifications, or amendments may be made to the RFQ at any time prior to the Response Deadline at the discretion of the Town. It is the Offeror's responsibility to periodically check the Town's website until the posted Response Deadline to obtain any issued addenda.

### 4) PRE-PROPOSAL CONFERENCE

The date, time and location of the meeting, if any, are indicated on the cover page of this RFQ. All Offerors are strongly encouraged to attend any scheduled meetings.

### 5) RESPONSE SUBMISSION

To be considered, the Response must be prepared in the manner and detail specified in this RFQ.

- a. Responses must be submitted to Sharon Voigt, Town Purchasing Division, 400 Camino de la Placita, Room 202, Taos, NM 87571, before the date and time indicated as the deadline. It is each Offeror's responsibility to ensure that the Purchasing Division receives its Response prior to the deadline. This responsibility rests entirely with the Offeror, regardless of delays resulting from postal handling or for any other reasons. Responses will be accepted at any time during the normal course of business only, said hours being 8:00 a.m. to 12:00 p.m. and 1:00 p.m. to 5:00 p.m. local time, Monday through Friday, except for legal holidays.
- b. Responses received after the above deadline will not be accepted and will be returned to the Offeror unopened. The Purchasing Division's timestamp shall be the official time.
- c. The opening of a Response does not constitute the Town's acceptance of the Offeror as a responsive and responsible Offeror.
- d. Responses must be enclosed in a **sealed envelope, box, or package**, and clearly marked on the outside with the following: project name, control Number, deadline date and time, and Offeror's name, address, phone, fax, and contact name.
- e. Submission of a Response establishes a conclusive presumption that the Offeror is thoroughly familiar with the RFQ and specifications and terms of the Sample Contract, and the Town's Procurement Policy and that the Offeror understands and agrees to abide by each and all of the stipulations and requirements contained therein.

- f. All prices and notations if applicable must be typed or printed in ink. No erasures are permitted. Mistakes may be crossed out and the person(s) signing the Response must initial corrections in ink.
- g. Responses sent by telegraph, facsimile, or other electronic means will not be considered.
- h. All costs incurred in the preparation and presentations of the Response, as well as any resulting contract, are the Offeror's sole responsibility; no such costs will be reimbursed to any Offeror. All documentation submitted with the Response will become the property of the Town.
- i. Responses are subject to public disclosure after the award in accordance with state law under the Freedom of Information Act (FOIA).

**6) RESPONSE SIGNATURES**

An authorized official must sign the Responses. Each signature represents binding commitment upon the Offeror to provide the goods and/or services offered to the Town if the Offeror is determined to be the most responsive and responsible Offeror.

**7) CONTRACT AWARD**

The Town reserves the right to withdraw the RFQ, to award to one Offeror, to any combination of Offerors, by item, group of items, or total RFQ. The Town may waive informalities if it is in the Town's interest. The award shall be made to the responsible Offeror whose proposal is the most advantageous to the Town taking into consideration the evaluation factors set forth in the Request for Qualifications. Qualifications-based proposals are based on Offerors' qualifications to perform the required scope of work. Responses will be evaluated and assigned scores. The Offeror(s) to whom the recommendation to award is made will be notified at the earliest possible date. The Town will then negotiate a contract with the top ranked Offeror for a firm fixed price agreeable to both parties. If, for any reason, a contract is not executed with the selected Offeror within 14 days, then the Town may recommend the next most responsive and responsible Offeror. Award of this RFQ is contingent upon the availability of funds for this project, within the sole discretion of the Town. Acceptance of the Offeror's RFQ does not constitute a binding contract. There is no contract until the Town's policies have been fulfilled. The Town is not liable for performance costs until the successful Offeror has been given a fully executed contract. Failure to accept the terms and conditions of the Town's Standard Contract may deem the Offeror non-responsive.

**8) RESPONSE MODIFICATIONS**

Clarifications, modifications, or amendments to any Response that has been submitted, but prior to the Response Deadline Date, may be made only within the discretion and written approval of the Procurement Officer.

**9) DUPLICATE RESPONSES**

No more than one (1) Response from any Offeror, including its subsidiaries, affiliated companies and franchisees will be considered by the Town. In the event multiple Responses are submitted in violation of this provision, the Town will have the right to determine which Response will be considered, or at its sole option, reject all such multiple Responses.

**10) WITHDRAWAL**

Responses may only be withdrawn by written notice prior to the Deadline date set for the opening of Response. No Response may be withdrawn after the deadline for submission.

**11) REJECTION**

The Town reserves the right to reject any or all Responses, or to accept or reject any Response in part, and to waive any minor informality or irregularity in Responses received, if it is determined by the Procurement Officer or designee that the best interest of the Town will be served by doing so. The Town may reject any Response from any person, firm or corporation in arrears or in default to the Town on any contract, debt, or other obligation, or if the Offeror is debarred by the Town from consideration for a contract award, or if Offeror has committed a violation of the ethics or anti-kickback provisions of the Town's Procurement Ordinance which resulted in a termination of a contract or other material sanction within the two (2) years immediately preceding the date of issuance of this document.

**12) PROCUREMENT POLICY**

Procurement for the Town will be handled in a manner providing fair opportunity to all businesses. This will be accomplished without abrogation or sacrifice of quality and as determined to be in the best interest of the Town. The Mayor has the vested authority to execute all Town contracts, subject to Council approval where required.

**13) COMPLIANCE WITH LAWS**

The Offeror must comply with all federal, state, and local laws and policies. The laws of the State of New Mexico shall govern this procurement and any agreement with Offerors that may result. In submitting a proposal, the Offeror represents that the Offeror has familiarized himself with the nature and extent of the RFQ dealing with federal, state, and local requirements that are part of this RFQ. The successful Offeror(s) shall perform work under the resultant Contract in strict accordance with the latest version of all State and local codes, ordinances, and regulations governing the work involved. All materials and labor necessary to comply with the rules, regulations and ordinances shall be provided by the successful Offeror(s). In the event of a conflict between various codes and standards, the more stringent shall apply.

**14) CONFIDENTIALITY**

It is understood by the Offeror and the Town that the Town is a New Mexico municipal corporation and, as such, is subject to the provisions of the New Mexico Inspection of Public Records Act, Section 14-2-1 through 14-2-12 NMSA 1978 and the Public Records Act, Chapter 14 Article 3 NMSA 1978. In the event Offeror has responded to a Town Request for Qualifications (RFQ) and marked all or any part of the information submitted as "CONFIDENTIAL INFORMATION" or as "PROPRIETARY INFORMATION," the Town agrees to notify Offeror of any third party request for any rates, terms, compensation amounts, or other information documented in the Purchase Order, Agreement, or Contract. To the extent Offeror provides the Town with written direction to withhold such requested Confidential Information or Proprietary Information and litigation results, Offeror agrees that the action would be brought in a New Mexico court of competent jurisdiction under New Mexico law. Offeror, being aware of said facts, agrees to provide legal counsel on behalf of the Town in any such litigation and shall bear the complete cost of litigation, including attorney fees and court costs. If Offeror fails or refuses to provide legal counsel at its expense within ten (10) calendar days after written notification, as aforesaid, such failure may result in the Town agreeing to release the Purchase Order, Agreement, or Contract or any portion thereof which is relevant to the denied request.

Confidential data are normally restricted to confidential financial information concerning the Offeror's organization and data that qualifies as a trade secret in accordance with the Uniform Trade Secrets Act, §57-3A-1 to §57-3A-7 NMSA, 1978.

**15) NON-DISCRIMINATION**

The Town will not contract with any person or firm that discriminates against employees or applicants for employment because of any factor not related to job performance. The Offeror must comply with all federal, state and local laws and policies that prohibit discrimination in employment contracts. The Offeror must include in its subcontracts provisions that prohibit subcontractors from discriminating in their employment practices.

**16) NO RESPONSE**

Businesses who receive this RFQ but who do not submit a Response should return a notice stating the reason(s) for not responding. Failure to return this may result in removal of the business' name from all bidder lists.

**17) CONTRACT NEGOTIATION**

All Responses must be firm for at least 120 days from the due date of the Response. If, for any reason, a contract is not executed with the selected Offeror within 30 days after notice of recommended award, then the Town may recommend the next most responsive and responsible Offeror. There is no contract until the Town's policies have been fulfilled.

**18) DISQUALIFICATION OF OFFERORS**

Any one or more of the following causes may be considered sufficient for the disqualification of an Offeror and the rejection of the Response:

- a. Evidence of collusion among Offerors.
- b. Lack of competency as revealed by either financial, experience, or equipment statements.
- c. Lack of responsibility as shown by past work.
- d. Uncompleted work under other contracts which, in the judgment of the Town, might hinder or prevent the prompt completion of additional work if awarded.

**19) DISCUSSIONS**

Discussions may be conducted with responsible Offerors, in order to clarify and assure full understanding of, and conformance to, the solicitation requirements. Discussions may be conducted with Offerors who submit Responses determined to be reasonably susceptible of being elected for award, but Responses may be accepted without such discussions.

Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussions and revisions of Responses. Such revisions may be permitted after submission and prior to award for the purpose of obtaining best and final offers. If during discussions there is a need for any substantial clarification of or change in the RFQ, the RFQ shall be amended to incorporate such clarification or change. The Offeror shall reduce any substantial oral clarification of a Response to writing.

**20) SUBCONTRACTORS**

In an effort to promote supplier diversity, the Town encourages Offerors to identify and include qualified disadvantaged businesses as subcontractors when proposing to provide products and services to the Town.

The Contract will not be assignable to any other business entity without the Town's approval.

**21) OFFEROR RESPONSIBILITIES**

The Offeror must be capable, either as a firm or a team, of providing all services as described under SECTION 2 – SCOPE OF WORK and to maintain those capabilities until notification of the fact that their Response was unsuccessful. Exclusion of any service for this Response may serve as cause for rejection. The Successful Offeror must remain capable of providing all services as described under SECTION 2 – SCOPE OF WORK and must maintain those capabilities until the agreement is successfully finished. The successful Offeror will be responsible for all services in this Response whether they are provided or performed by the Successful Offeror or Subcontractor(s). Further, the Town will consider the Successful Offeror to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the cost of any contract. The Successful Offeror must identify all Subcontractors and the Services they provide. The Successful Offeror is responsible for all payments and liabilities of all Subcontractor(s).

It is strongly recommended that the Offeror visit the Town of Taos and familiarize themselves with the site, including attendance at the Pre-Response Conference, if any.

The Town reserves the right to approve or reject, in writing, any proposed Subcontractor. If the Town rejects any proposed Subcontractor in writing, the Successful Offeror shall be responsible to assume the proposed Subcontractor's responsibilities. The Successful Offeror may propose another Subcontractor if it does not jeopardize the effectiveness or efficiency of the contract. Nothing contained in the Response or in the contract shall create or be construed as creating any contractual relationship between any Subcontractor and the Town.

**22) TOWN PARTICIPATION**

The Town will provide appropriate personnel support for implementation of these agreements. The Offeror's Response should identify Town FTEs required and tasks to be performed by Town personnel. For the purpose of contract administration, the Town will designate a person to serve as Town Contract Manager. The Town Contract Manager will serve as the primary liaison between the Town and the Successful Offeror and will coordinate overall management and administration of the contract for the Town.

**23) DISCLOSURE OF CONTENTS**

All information provided in the Response shall be held in confidence and shall not be revealed or discussed with competitors, until after award of the contract except as provided by law or court decision. All material submitted with the Response becomes the property of the Town and may be returned only at the Town's option.

Offerors must make no other distribution of their Responses other than authorized by this RFQ. An Offeror who shares cost information contained in its Response with other Town personnel or competing Offeror personnel shall be subject to disqualification.

Offerors shall not be provided any information about other Responses or prices or where the Offeror stands in relation to others at any time during the evaluation process. Any request for such information by an Offeror, its subcontractor or an affiliated party may be viewed as a compromise to the evaluation process and the requesting Offeror may be eliminated from further consideration.

**24) PROPOSAL EVALUATION**

An evaluation committee will perform the evaluation of proposals. Points will be allocated by each member. Each member's point totals will be translated into a numeric ranking of all proposals. The individual member rankings will be totaled together to determine the overall ranking of proposals.

It is at the discretion of the Evaluation Committee to hold interviews with the three highest-ranked proposals. The Evaluation Committee may award the selection based on the results of the ranking without interviews. If interviews

are held, rankings from the initial evaluation are weighted 40% and the interview rankings are weighted 60% to determine final award. If fewer than three proposals are received the Evaluation Committee may recommend an award to the Governing Body for approval or direct that the RFQ be reissued.

During this time, the Town of Taos may initiate discussions with Offerors who submit responsive or potentially responsive proposals for the purpose of clarifying aspects of the proposals, but proposals may be accepted and evaluated without such discussion. Discussions SHALL NOT be initiated by the Offerors.

**25) PROTESTS**

Any protest by an Offeror must be timely and in conformance with Section 13-1-172 NMSA 1978 and applicable procurement regulations. Protests must be written and must include the name and address of the protestor and the request for proposals number. It must also contain a statement of grounds for protest including appropriate supporting exhibits, and it must specify the ruling requested from the Town of Taos. The protest must be delivered to the Town of Taos, Chief Procurement Officer 400 Camino de la Placita Room 202, NM 87571 within 24 hours after the facts or occurrences giving rise thereto, but in no case later than 15 calendar days after the facts or occurrences giving rise thereto. Protests received after the 15-day period deadline will not be accepted.

In the event of a timely protest under this section, the Town of Taos shall not proceed further with procurement unless the Procurement Officer makes a determination that the award of Agreement is necessary to protect substantial interests of the Contracting Agency (13-1-173 NMSA 1978).

The Procurement Officer or designee shall have the authority to take any action reasonably necessary to resolve a protest of an aggrieved Offeror concerning procurement.

The Procurement Officer or designee shall promptly issue a determination relating to the protest.

The aggrieved Offeror has the right to judicial review of the determination pursuant to 13-1-183 NMSA 1978.

**26) OFFEROR QUALIFICATIONS**

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

**27) RIGHT TO WAIVE MINOR IRREGULARITIES**

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

**28) CHANGE IN CONTRACTOR REPRESENTATIVES**

The Town of Taos reserves the rights to require a change in contractor representatives if the assigned representatives are not, in the opinion of the Town of Taos, meeting its needs adequately. If the contractor wishes to change its designated representative, that change must be approved by the Town of Taos.

**29) NOTICE**

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

**30) TOWN OF TAOS RIGHTS**

The Town of Taos reserves the right to accept all or a portion of an Offeror's proposal.

**31) MULTIPLE AWARDS**

The Town reserves the right to make multiple awards of the items, projects and/or sections of this RFQ.

**32) RIGHT TO PUBLISH**

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

**33) OWNERSHIP OF PROPOSALS**

All documents submitted in response to this Request for Proposals shall become the property of the Town of Taos. However, any technical or user documentation submitted with the proposals of non-selected Offerors shall be returned after the expiration of the protest period. Unsuccessful Offerors may retrieve all but one copy of their proposal as soon as award is made. Any unsuccessful Offeror wishing to retrieve copies of their proposal must do so within two weeks after the award.

**34) ELECTRONIC MAIL ADDRESS REQUIRED**

A large part of the communication regarding this procurement will be conducted by electronic mail (e-mail). Offeror must have a valid e-mail address to receive this correspondence.

**35) STATUS OF SUCCESSFUL OFFERORS.**

The successful Offeror(s) is an independent contractor performing services for the Town and neither he/she nor his/her agents or employees shall, as a result of the resultant Contract, accrue leave, retirement, insurance, bonding authority, use of Town vehicles, or any other benefits, prerequisites or allowances normally afforded only to employees of the Town. The successful Offeror(s) acknowledges that all sums received under the resultant Contract are personally reportable by him/her for income, self-employment and other applicable taxes.

**36) ASSIGNMENT/TRANSFER**

Assignment or transfer of this contract without written consent of Town may be construed by the Town as a breach of contract sufficient to cancel this agreement at the discretion of the Town.

**37) EXCISE AND SALES TAX**

The prices herein must not include any Federal excise taxes or sales taxes imposed by any State or Municipal Government. Such taxes, if applicable, must be included by the Seller when submitting invoice for payment.

**38) DEBARMENT, SUSPENSION, AND INELIGIBILITY**

By submitting a response to this Request for Qualifications, the business (Bidder/Offeror/Contractor) represents and warrants that it is not debarred, suspended, or placed in ineligibility status under the provisions of Federal Executive Order 12549 and FAR 521.209-5.

## SECTION 2 - SPECIFICATIONS AND SCOPE OF SERVICES

### 1) INTRODUCTION

The purpose of this solicitation is to enter into a contract with a qualified engineering firm (Consultant) that will be ready and able to perform any or all of the services described herein, if and when funding becomes available and the Town is ready and willing to proceed. There is no guarantee that the Town will require any or all of such services.

Through this Request for Qualifications (RFQ), the Town of Taos (Town) hereby invites entities who meet the qualifications and specifications set forth herein to submit responses for the Town of Taos RFQ 18-19-01 Professional Engineering Services for Taos Regional Airport.

### 2) SCOPE OF SERVICES:

Projects that may be contracted under this Request for Qualifications include any project at the Taos Regional Airport whose funding originates from local, state or federal grants that are undertaken during the term of the engineering contract, and may include but not be limited to any or all of the following:

1. *Airport Layout Plan*
2. *Airport Master Plan*
3. *Airport Action Plan*
4. *Rehabilitation or construction of taxiways, aprons, roads and parking facilities*
5. *Property Map including deeds, individual parcels/property map, survey data/metes & bounds, etc.*
6. *Annual Maintenance and Forecasting of Maintenance*
7. *New or modified terminal facilities, aviation and commercial structures, fire station and multi-purpose public safety response and training facility.*
8. *Main and perimeter Access Roads*
9. *Perimeter Fencing and Airport Security Items*
10. *Well, Tank & Fire Ramp*
11. *Relocation of Navigational Aids and Radio Facilities (RCO & AWOS).*
12. *Construction of Additional Hangars, Hangar Ramps/Pads*
13. *Equipment Building(s)*
14. *Hard Stands*
15. *Grant application/pre applications*
16. *Planning and Zoning Related Services*
17. *Necessary environmental approvals*
18. *Maintenance and Updates of SWPPP and DBE Plans*
19. *On-call Engineering Services*
20. *Other projects as specified or necessary*

Services, as outlined in FAA Advisory Circular 150/5100-14E (Chapter One) and 18.11.9 NMAC, include engineering, consulting and planning services and required incidental services. The Engineer shall provide the full range of engineering services required for all projects at the Taos Regional Airport. All work, contracts, reports, and deliverables must be in full compliance with the funding agencies' requirements and requirements of the Town of Taos.

The successful Offeror shall:

- DBE goals (period May 1, 2019 to April 30, 2022) The Awarded Offeror will be required to submit their methodology to the Town.
- Advertise for bids, assist the Town in receipt of bids and prepare recommendations of award to the Town of Taos governing body.
- Provide project management, general engineering oversight and contract administration thru project completion.
- Provide periodic or full time on site observation during construction.

The following tasks are identified as the Scope of Work that the Offeror team will be requested to perform. This scope of work may be adjusted and modified to meet the needs of the Town.

**Preliminary Design:**

- Consult with the owner to determine the general scope, extent and character of the project.
- Develop project plans and specifications for the Taos Regional Airport

**Final Design:**

- Prepare bid documents setting forth in detail the requirements for the construction of the entire project.
- Submit a revised opinion of probable project cost.
- Submit five (5) copies of the final design documents and present and review them in person with the owner.

**Funding Phase:**

- Apply for federal and state grants for the Town of Taos to help defray the cost of the engineering services and construction.

**Bidding and Negotiating Phase:**

- Assist owner in advertising for and obtaining bids.
- Distribute bid documents to prospective bidders and construction reporting services.
- Coordinate and conduct a pre-bid conference.
- Clarify and answer questions concerning the bid documents and issue addenda as requested.
- Attend bid opening, prepare bid tabulation and assist owner in evaluating bids and in assembling and awarding contracts.
- Prepare recommendation of award to the Town of Taos governing body

**Construction Phase:**

- Provide project management, general engineering supervision and contract administration during construction.
- Submit to the owner a list of critical observation milestones.
- Provide periodic or full time on-site inspection at such times as appropriate during the progress of the work, to determine that work is completed in conformance with the contract documents.
- Review contracts pay applications and provide recommendation for payment.
- Render interpretations of construction documents.
- Review contract submittals for conformance.
- Prepare field and change orders as necessary.
- Coordinate and conduct final inspection and obtain all warranties and related documents as required by the contract documents.
- Develop and review with owner and contractor a punch list.
- Modify the original reproducible drawings delineating recorded as-built conditions.
- Coordinate and conduct warranty review.
- Achieve Multi Agency Compliance with rules and regulations

Deliverables will include conceptual and final design drawings, cost estimates, and final construction documents for the Invitation to Bid documents.

**No services or construction or furnishing of goods is permitted either before a written contract is signed by the Town and the Contractor or after the contract terminates. Working without a contract may result in non-payment for such work.**

**3) CONTRACT TERM**

The Town of Taos intends to enter into an initial one (1) year contract with the successful Offeror for the services contemplated by this Request for Qualifications. Any such contract will be subject to approval by the Town of Taos Council, availability of funds and other terms and conditions. In no such case will the contract including all renewals exceed a total of four (4) years in duration. Subsequent contract for the same services will be subject to a new RFQ process and to Mayor and Council or Management approval as called for by law and Town ordinances and policies. Task orders will be assigned for specific projects and it is anticipated that this contract will commence on December 2018 or shortly thereafter. The successful firm shall commence work only after the full execution of a contract between the Town of Taos and the chosen firm(s), the transmittal of a Purchase Order with an issuance of a Notice to Proceed.

## SECTION 3 - EVALUATION CRITERIA AND SUBMITTAL REQUIREMENTS

**EVALUATION CRITERIA:** All Responses received will be evaluated by an Evaluation Committee. The following factors will be considered in making the selection of the qualified Offerors with maximum possible points:

- a) Completeness, originality and creativity of the proposal approach to the project. **100 points**
- b) **Specialized Design** - Provide information about the firm's specific technical experience with similar projects that demonstrate competence to successfully complete the project. Indicate the relevance of previous projects to the anticipated scope of work. Demonstrate the successful aspects of past design projects and the corresponding applications to the proposed scope of work.

The personnel named in the statement of qualification submitted by your firm, shall remain responsible throughout the period of this project. No diversion or replacement may be made without submission of the proposed replacement with final approval being granted by the Town's Project Manager. **250 points**

- c) **Capacity and Capability** - Provide information about the business that demonstrates the ability to provide sufficient professional competence, meet time schedules, accommodate cost considerations and project administration requirements. Indicate the relationship of the work in this solicitation to the firm's other current projects. Indicate proposed work schedules and milestones, with completion methods and strategies. Indicate key project team members and their specific roles, experience and background. Demonstrate or indicate project team organization and working relationships. Other items could include references from clients, financial institutions and insurance carriers. **250 points**
- d) **Past Record of Performance** - Demonstrate through historical documentation that the firm has the ability to meet schedules and budgets, as well as user program goals, and final construction project costs. Include information regarding owner budgets, construction estimates, bidding and completed project cost including change order information. Project schedules should provide information about the progress of work as related to owner schedules and goals as well as the overall success of projects and client satisfaction. References from past clients can be included. **200 points**
- e) **Design Work Produced by a New Mexico Business** – Summarize the amount of design work that will be produced by a New Mexico business. (The Town will apply a formula, based on the percent of work performed compared to total scope, to reduce points earned if using firms outside of New Mexico). **50 points**
- f) **Proximity to or Familiarity with Site Location** - Proximity to or familiarity with the area in which the project is located. Provide a summary addressing projects completed by your firm which address proximity to or familiarity with the area in which the project is located. **50 points**
- g) **Volume of Work Previously Done** - The volume of work previously done for the Town of Taos which is not seventy-five percent complete with respect to basic professional design services, with the objective of effecting an equitable distribution of contracts among qualified businesses and of assuring that the interest of the public in having available a substantial number of qualified businesses is protected; provide, however, that the principle selection of the most highly qualified businesses is not violated. **50 points**
- h) **Evidence of Understanding of the Scope** - Describe in detail the anticipated scope of work for the project. Include information about the project site, project administration, scheduling, budget and programmatic user requirements. The proposal should demonstrate competent knowledge of project constraints as well as any applicable discussion of possible options for design approaches or techniques. Offerors are not encouraged to provide specific design solutions for the project. Without completion of programming activities, any specific design proposals could be inappropriate and may result in a reduction in scoring. This would not preclude discussion of project parameters that may affect design decisions, concept approaches or design philosophies. **50 points**
- i) **Fee/Cost** - Cost is not a factor in the evaluation of proposals submitted in response to this RFQ (NMSA 13-1-120). The most highly qualified Offeror submitting a responsive proposal will be selected and the selected Offeror will then be required to submit a man-hour and fee schedule will be used in summarizing the cost proposal, with adequate back-up to verify the proposed fixed fee, and shall include the following information. This pricing shall be used in negotiating the contract price (Ref. NMSA 1978 13-1-120 through 13-1-124).

- The itemized cost for individual elements, such as studies, reports, etc.
- The cost of each task or segment of the task shall be itemized.
- Breakdown of direct labor and labor overhead costs including number of man-hours and applicable actual or average hourly rates, overhead rate and supporting schedule.
- Travel and per diem or subsistence costs, if any, supported by breakdown including destination, duration and purpose. Automobile mileage and per diem shall not exceed the amounts authorized by the New Mexico mileage and per diem act. Air transportation shall be coach fair.
- Breakdown of other expenses such as clerical support, other overhead costs, supplies, etc.
- Breakdown of fee or profit.

The schedule shall also indicate company name, date and signature of an officer authorized to contract for the work. Price shall be determined by negotiations related to scope of work following ranking of the proposals received (NMSA 1978 13-1-112 C) and in accordance with Federal Procurement requirements.

**1,000 points The Proposal will be evaluated based on the above 1,000 points. If oral presentations are held, the oral presentations will be based upon re-evaluation of the above criteria.**

Each Response submitted in response to this solicitation shall focus on the above criteria. The Evaluation Committee also may consider past performance of the Offeror on other contracts with the Town or other entities. Responses will be evaluated equally and fairly; no preference will be given to any Offeror based solely on previous experience with the Town or to an incumbent thereof. The Town reserves the right to make additional inquiries and may request the submission of additional information.

**Offeror to whom award of an Agreement is under consideration shall submit upon request, information and data to prove that their financial resources, production of service facilities, personnel, and service reputation and experience are adequate to make satisfactory delivery of the services described in the Request for Proposals (13-1-82 NMSA 1978).**

A serious deficiency in any one category may be grounds for rejection of the proposal regardless of the overall score.

**Oral Presentations/Interview:** It is at the discretion of the Evaluation Committee to hold oral presentations/interviews with the two or three highest-ranked proposals. The Evaluation Committee may award the selection based on the results of the ranking without oral presentations/interviews. If oral presentations/interviews are held, the oral presentations/interviews will be based on re-evaluation of the above criteria. If fewer than three proposals are received the Evaluation Committee may recommend an award to the Governing Body for approval or direct that the RFQ be reissued.

During this time, the Town of Taos may initiate discussions with Offerors who submit responsive or potentially responsive proposals for the purpose of clarifying aspects of the proposals, but proposals may be accepted and evaluated without such discussion. Discussions SHALL NOT be initiated by the Offerors.

## **RESIDENT BUSINESS PREFERENCE OR RESIDENT VETERAN BUSINESS PREFERENCE**

***This contract is not subject to the New Mexico Resident Contractor provisions as the contract is funded in whole or part by federal aid or funds (13-1-21J NMSA 1978).***

### **1) PROPOSAL FORMAT REQUIREMENTS:**

- NUMBER OF COPIES:** One (1) unbound original, plus five (5) copies (six total) of the entire Response must be submitted. The original must be marked "ORIGINAL". Each copy must be identical to the original.
- RESPONSE FORMAT:** To facilitate comparison and evaluation, Offerors must follow the format outlined in this section. Failure of the Offeror to follow the required format may at the sole discretion of the Town, result in the rejection of the submittal. Proposals shall contain concise written material and illustrations that enable a clear understanding and evaluation of the capabilities of the Offeror. Legibility, clarity and completeness are essential. An 8-1/2" x 11" format is required for typed submissions and an 11" x 17" format may be used for illustrations. Submittals may utilize either single-sided or double-sided copying and be bound with numbered tab dividers corresponding to the requirements contained in the balance of this section. If double-sided pages are used, each side shall be numbered and counted as separate pages. The page limitation will only be increased by addendum.

**It is the Offeror's responsibility to ensure that all information in the proposal is easily readable by the Town. The Town, at its sole discretion, may reject a proposal which is unclear in any way.**

## **Proposal Organization**

The proposal must be organized in the following manner:

- I. Transmittal Letter
- II. Project Team Members
- III. Offeror's Experience
- IV. Design/Technical Approach
- V. Cost Control
- VI. Contractual Considerations

## **Mandatory Items to be Included in Proposals**

- I. Required Forms – see Section 5, Fully executed – Response Form, Campaign Disclosure Form and Federal Form/Certification;
- II. Conditions or Exceptions to Draft Contract Agreement
- III. All items identified in this section 3 titled Evaluation Criteria and Proposal Format Requirements

## **Contractual Considerations**

All commercial, technical, legal or other conditions or exceptions relating to the provisions of the RFQ and the draft Agreement must be explicitly stated in this section of the proposal. Offerors should be aware that any conditions or exceptions are made solely at the risk of the Offeror and the Town reserves the right to reject proposals containing any unacceptable conditions or exceptions. Offerors shall use this section to discuss guarantees and warranties that the Offeror will offer the Town and the risks it is willing to take.

## **Maximum Page Limitation: 15 (Single Sided)**

- a) If supplied, the following pages will be excluded from being counted as part of the maximum page limitation:
  - Front and back cover and binding pages
  - Mandatory Forms
  - Transmittal Letter
  - Title Page
  - The Table of Contents
  - Dividers between proposal information categories
  - The Agreement, Insurance Certification form, other certifications, and any contractual considerations
- b) Any 17" x 11" pages shall be numbered as two pages.
- c) Drawings on 24" x 36" sheets shall be numbered as four pages.
- d) Your proposal should be as clear and concise as you can make it while still providing the Evaluation Committee with information addressing the requirements in each of the categories stipulated in the RFQ.

Proposals exceeding the maximum page limitation will be rejected and will not be evaluated.

## **Guidelines**

The following guidelines have been prepared to assist Offerors in the preparation of the proposals by clarifying certain components of the evaluation criteria categories. All Offerors should adhere to the format shown below. Use of this format will help expedite our review process.

## **Category 1 – Transmittal Letter**

The Offeror shall submit a formal transmittal letter on *official company letterhead* that contains the following:

**Statement of Interest** - This statement shall indicate your firm's general interest and capability to perform the project. It shall also include a brief summary of any information that you feel might be especially important to the Town of Taos.

**Statement of Response Life** - The proposal must have a *response life* of at least one hundred twenty (120) calendar days from the solicitation due date. This shall represent the minimum time during which the response is a firm offer and a contract may be entered into based upon it.

**Statement of Acceptance** - This statement shall state acceptance of all terms and conditions of the Town of Taos RFQ and Town of Taos terms or conditions not accepted and the reasons for non-acceptance and/or proposed changes or additional Terms and Conditions. Responses taking exception to any language in the Form of Contract may be rejected as nonresponsive,

**Contact Person** - Please include the name, title, address, telephone number, fax number and e-mail of the key contact person for any questions regarding your proposal. Include also the location of the office from which service will be provided, with the hours of operation at that location.

**Signature of Authorized Representative** - An authorized representative of the firm must sign the transmittal letter.

### Category II – Project Team Members

1. Provide an organization plan for management of the project.
2. Identify all consultants to be used on the project.
3. Provide qualifications of project team members shown in the organization plan, including registration and membership in professional organizations.
4. Provide and unique knowledge of key team members relevant to the project.

Component One can be accomplished using an organizational chart that shows the proposed relationships between key team members and support staff who are expected to participate on the project. Also indicate which aspects of the work each person will be responsible for performing.

When addressing Component Two, you should also provide a summary description of the work to be performed by each consultant proposed for the project.

For Component Three, describe each person’s work experience, field or fields of specialization, education, certifications. Component Three shall also outline a list of directly relevant projects for each key member which include the following: client name, project name, project description, role of the individual, and project completion date.

Component Four should be self-explanatory.

### Category III – Offerors Experience

1. Describe previous projects of a similar nature, including client contact (with phone numbers), the year(s) services were provided, construction costs (if applicable), and a narrative description of how those projects relate to this project.
2. Provide examples of Project Manager’s government agency experience with the past five (5) years that serve to demonstrate the Project Manager’s knowledge of performance on contracts with government agencies.
3. Provide the volume of work previously done for the Town which is not seventy-five percent complete.
4. Provide this information using the following format:

Name of Project	Contract Date	Contract Amount	% Completed and Invoiced to Date
-----------------	---------------	-----------------	----------------------------------

The projects described should be projects that were worked on by the people shown on the organizational chart. Specific project responsibilities of these individuals should be addressed.

### Category IV – Design/Technical Approach

1. Describe Offeror’s understanding of the project scope.
2. Describe how Offeror plans to perform the services required by this project.
3. Describe specialized problem solving required in any phase of the project.
4. To demonstrate your understanding of the project scope, you must describe what you intend to do. You must describe the quality control procedures you will use to assure the accuracy and adequacy of the work that you and your consultants propose to perform.

### Category V - Cost Control

This category of the proposal evaluation criteria has two components:

1. Describe cost control and cost estimating techniques to be used for this project.

2. Provide comparisons of bid award amount to final cost estimate for projects designed by the Offeror during the past five (5) years. The consultant may provide justification for any discrepancies that may exist with this information.

Component One should be subdivided as follows:

- Cost Control of the Design Process: How will you control expenditures for this project within your organization for work hours, other direct costs, and all other costs associated with the basic services fee that you will negotiate with the Town? For example, some firms use a project management application software program to monitor work hour usage and costs as a means of controlling total expenditures for accomplishing design tasks.
- Cost Control of the Construction Cost: How often do you make estimates of probable costs to construct the project as design progresses and compare these to the Town’s budget for the project? For example, some firms review project costs on a biweekly basis using a spreadsheet application software program and a job costing database.
- What corrective actions do you take if it appears that the budget will be exceeded or that the project scope can be achieved at a much lower cost than what was discussed during negotiations?
- Cost Estimating Techniques: Design professionals use a variety of cost estimating techniques such as:
- In-house databases from bid prices on projects designed by the firm.
- Estimating data published by specialists in construction estimating such as Means, Building News, etc. Town of Taos independent fee estimated unit prices for contract items.
- Current six month compilation of New Mexico State Highway & Transportation Department (NMSHTD) unit prices.
- Businesses specializing in construction cost estimating.
- What techniques will you use for this project and why?

Component Two should be supplied in the following format:

Name of Project	Month and Year Bid	No. of Bids Received	Final Cost Estimate	Bid Award Amount	Final Contract Amount including Change Orders

The final cost estimate is the dollar amount your firm provided to your client at bid opening. For a Town project, it would be the estimated construction cost your firm provided to the Town for use at the bid opening and would contain all adjustments to earlier estimates caused by addenda issued during the bidding time for the project.

**SECTION 4 –TERMS AND CONDITIONS OF CONTRACT**

# SAMPLE -FOR REVIEW ONLY

## **AGREEMENT BETWEEN THE TOWN OF TAOS AND ENGINEER FOR PROFESSIONAL ENGINEERING SERVICES**

**PROJECT (short title)** \_\_\_\_\_ **Contract No.** \_\_\_\_\_

**PROJECT LOCATION** \_\_\_\_\_



### **THE TOWN OF TAOS PURCHASING DIVISION 2013 EDITION, Part A of Two Parts**

Changes, additions, deletions and/or any modifications other than those agreed upon execution of this contract without the written consent of Taos shall render this document null and void.

**THIS AGREEMENT** is made and entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between THE TOWN OF TAOS (hereinafter referred to as "the Town"), a municipal corporation organized and existing under the Laws of the State of New Mexico, and \_\_\_\_\_, licensed to do business in the State of New Mexico), hereinafter referred to as the "Engineer".

Hereinafter "Taos":

Richard Bellis, Town Manager  
400 Camino De La Placita  
Taos, New Mexico 87571  
(575) 751-2002  
(575) 751-2026

Hereinafter "Engineer":

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

## RECITALS

**WHEREAS**, the Town needs the services of a professional licensed engineer to \_\_\_\_\_ ; and

**WHEREAS**, in accordance with Section 13-1-112 NMSA 1978 and Taos Purchasing Regulations, the Town issued Request of Proposal (RFP) No. 18-19-01; and

**WHEREAS**, \_\_\_\_\_ ; and

**WHEREAS**, the Town requires the services of the Engineer, and the Engineer is willing to provide these services and both parties wish to enter into this Agreement.

**NOW THEREFORE**, in consideration of the premises and mutual obligations herein in Parts A and Part B of this Agreement, the parties hereto do mutually agree as follows:

### 1. PROJECT DESCRIPTION:

The engineer shall provide the full range of engineering services required for all projects at the Taos Regional Airport. This shall include, but not be limited to, Projects outlined in the "Scope of Services, below. All work shall be completed as outlined in FAA Advisory Circular 150/5100-14E (Chapter One) and 18.11.9 NMAC, and shall include engineering and planning services and required incidental services. All work, contracts, reports, and deliverables must be in full compliance with the funding agencies' requirements and requirements of the Town of Taos (the "Project).

### 2. SCOPE OF WORK

Projects that may be contracted under this Agreement include any project at the Taos Regional Airport whose funding originates from local funds, local matching funds, state appropriations, or federal grants that are undertaken during the term of the engineering contract, and may include but not be limited to any or all of the following:

1. *Airport Layout Plan*
2. *Airport Master Plan*
3. *Airport Action Plan*
4. *Rehabilitation or construction of taxiways, aprons, roads and parking facilities*
5. *Property Map including deeds, individual parcel/property maps, survey data/metes & bounds, etc.*
6. *Annual Maintenance and Forecasting*
7. *New or modified terminal facilities, aviation and commercial structures, fire station and multi-purpose public safety response and training facility*
8. *Main and perimeter access roads*
9. *Perimeter fencing and airport security items*
10. *Well, tank, & fire ramp*
11. *Relocation of navigational aids and radio facilities (RCO, & AWOS)*
12. *Construction of additional hangars, ramps/pads*
13. *Equipment Building(s)*
14. *Hard stands*
15. *Grant application/pre-applications*
16. *Planning and zoning and related services*
17. *Necessary environmental approvals*
18. *Maintenance and updates of SWPPP and DBE plans*

- 19. *On-call engineering services*
- 20. *Other projects as specified or necessary*

### **3. TASK ORDERS**

- A. All work under this contract shall be initiated only by issuance of fully executed task orders issued by the Town. The work to be performed under each task order must be within the general scope of the contract. The Town shall only be liable for expenditures under the terms and conditions of this contract to the extent that a fully executed task order has been issued and covers the required work, expenses and costs. Charges for any work not authorized shall be disallowed.
- B. A task order is initiated by the Town through a request for proposals to the Engineer. The request will contain a detailed description of the tasks to be achieved, a schedule for completion of the task order, and deliverables to be provided by the Engineer. The Engineer shall submit a proposal defining the technical approach to be taken to complete the task order, work schedule and proposed cost/price. After any necessary negotiations, the Engineer shall submit a final proposal, as appropriate.
- C. Task orders will be considered fully executed upon authorized signature of the Town and the Engineer. The Engineer shall begin work on the task order in accordance with the effective date of the task order and be completed by the date specified in the task order.
- D. The Engineer shall notify the Town of any instructions or guidance given that may impact the cost, schedule or deliverables of the task order. A formal modification to the task order must be issued by the Town before any changes can be made in the task order.
- E. Task orders may be placed during the period of performance of the contract. Labor rates applicable to hours expended in performance of an order will be the contract rates that are in effect at the time the task order is issued.

### **4. COMPENSATION, INVOICING, AND SET-OFF**

- A. In consideration of its obligations under this Agreement the Engineer shall be compensated as follows:
  - 1) Taos shall pay to the Engineer in full payment for services satisfactorily performed and all costs and expenses shall be in accordance with Exhibit A (Compensation and Schedule).
  - 2) Any New Mexico gross receipts tax levied on the amounts payable under this Agreement shall be paid by Taos to the Engineer.
  - 3) This amount is a maximum and not a guarantee that the work assigned to be performed by Engineer under this Agreement shall equal the amount stated herein. The parties do not intend for the Engineer to continue to provide services without compensation when the total compensation amount is reached. Taos will notify the Engineer when the services provided under this Agreement reach the total compensation amount. In no event will the Engineer be paid for services provided in excess of the total compensation amount without this Agreement being amended.
- B. The Engineer shall submit a written request for payment, on the form attached hereto as Exhibit B (Pay Request Form), when payment is due under this Agreement. Upon the Town of Taos's

receipt of the written request, the Town of Taos shall issue a written certification of complete or partial acceptance or rejection of the contractual items or services for which payment is sought. The Engineer acknowledges and agrees that the Town of Taos may not make any payment hereunder unless and until Town of Taos has issued a written certification accepting the contractual items or services. Within 30 days of the issuance of a written certification accepting the contractual items or services, the Town of Taos shall tender payment for the accepted items or services. In the event the Town of Taos fails to tender payment within 30 days of the written certification accepting the items or services, the Town of Taos shall pay late payment charges of one and one-half percent (1.5%) per month, until the amount due is paid in full.

- C. In the event the Engineer breaches this Agreement, the Town of Taos may, without penalty, withhold any payments due the Engineer for the purpose of set-off until such time as Taos determines the exact amount of damages it suffered as a result of the breach.
- D. Payment under the Agreement shall not foreclose the right of the Town of Taos to recover excessive or illegal payment.

## **5. ENGINEER'S BASIC SERVICES**

The Engineer shall provide the following Basic Services:

### **A. Study and Report Phase.**

- 1) The Engineer shall consult with the Town of Taos to define and clarify the requirements for the Project.
- 2) Advise the Town of Taos of any need for the Town of Taos to provide additional data or services which are not a part of the Engineer's Basic Services.
- 3) Identify and analyze requirements of governmental agencies having jurisdiction to approve the portions of the Project designed or specified by the Engineer.
- 4) Prepare draft Study and Report and brief and obtain the written approval of the Town of Taos for the draft Study and Report, before commencing work on the Preliminary Design, Study and Report Phase.

### **B. Preliminary Design, Study and Report Phase**

- 1) Convene a meeting with the Town of Taos and other interested parties to review the Project site. Advise the Town of Taos if additional data, reports, or services are necessary and assist the Town of Taos in obtaining such data, reports, or services.
- 2) Develop and complete a Development Plan for the area in schematic form for review with the Town of Taos. The plans shall allow for phased construction if necessary.
- 3) Upon approval of the schematic Development Plan documents by the Town of Taos, the Engineer will develop and complete preliminary Design Plans and a construction cost estimate within 30 days of authorization to proceed and review with the Town of Taos. If necessary, revise Preliminary Design Phase documents in response to the Town of Taos's comments.
- 4) From the approved Scope of Work the Engineer as applicable shall produce a study consisting of drawings and other documents necessary to illustrate the general planning concepts, probable Engineering system, types of materials needed and preliminary alternatives, a breakdown of the budget on current area, volume, or other unit costs, and the approximate dimensions of the project area. The Engineer shall brief and obtain the

written approval of the Town of Taos for the Preliminary Design, Study and Report Phase drawings and documents.

- 5) The Engineer shall obtain written approval from the Town of Taos for the proposed Preliminary Design as modified by any comment during review before commencing work on the Final Design Phase.

#### C. Final Design Phase

Upon approval of Preliminary Design Phase documents by the Town of Taos, the Engineer shall:

- 1) Prepare Final Design Plans, documents, project specifications, and develop a construction cost estimate.
- 2) Prepare a statement that identifies the need for additional data, surveys, or tests.
- 3) Submit to the Town of Taos for review of written approval a statement of Probable Construction Cost at the completion of the Final Design Phase. Should the Engineer conclude at any time that the budget and Scope of Work to accomplished are incompatible; the Town of Taos shall be notified immediately in writing with proposed recommendations to reconcile the incompatibility.
- 4) Convene a meeting with the Town of Taos and other interested parties to review the Final Design Plans, Project Specifications and Cost Estimate. If necessary revise such final Design Phase documents, Project Specifications, and Cost Estimate.
- 5) Upon approval of final Design Phase documents by the Town of Taos, prepare and deliver Design Phase document, Project Specifications and Cost Estimate.
- 6) Deliver signed/sealed construction drawings and bid documents for submittal for permits.
- 7) Assist the Town of Taos at all regulatory review meetings, present design, respond to review questions, revise plans if necessary to obtain approvals.
- 8) Provide the Town of Taos with three full size and three half size sets of the 100% construction plan, electronic copy of the Project specifications and cost estimate. AutoCAD and PDF copies of the construction drawings shall be provided to Taos upon request.

#### D. Bidding and Negotiating Phase

The Engineer shall:

- 1) If requested, assist the Town of Taos in obtaining bids or proposals and awarding and preparing contracts for construction.
- 2) Attend pre-bid conference and assist in preparing addenda.
- 3) Assist the Town of Taos to clarify and answer any questions about the bidding or proposal documents during the bidding or proposal process.
- 4) Identify any changes during the bidding or proposal process that may require addenda.
- 5) Submit all proposed addenda, including all revised drawings and sections, for approval by the Town of Taos prior to distribution. The Engineer shall allow sufficient time for the Town of Taos review and acceptance of each addendum.
- 6) Assist the Town of Taos to issue addenda as required to all bidders or offerors.
- 7) Assist the Town of Taos to identify the apparent successful bidder or proposal and provide written recommendation to accept or reject the bids and/or related proposals.

#### E. Construction Phase

The Engineer shall:

- 1) Participate in a pre-construction conference.
- 2) Provide a minimum of one weekly or one monthly on-site observation(s) during the Construction Phase to protect the Town of Taos against defects and deficiencies in construction, in addition to critical inspections, reviews and evaluations required by the Scope of Work. The results of all on site observations shall be documented in field reports submitted to the Town of Taos within seven days of each site visit.
- 3) Determine, certify, and make recommendations to the Town of Taos for payment of amounts owing to the construction contractor subject to the Town of Taos's approval, based on observations at the site and on evaluations of the construction contractor's application for payment.
- 4) Assist the Town of Taos in reviewing change orders.
- 5) Conduct final site visit with the Town of Taos to determine if completed work is acceptable and issue a Notice of Substantial Completion.
- 6) Finalize "As-Built" plans to include construction contractor's mark-ups.

F. Project Closeout and 11 Month Warranty Inspection Phase

- 1) General. The Engineer shall submit to the Town of Taos recommendations to regarding the completion of the construction. The Engineer shall obtain from the construction contractor as applicable all releases, waivers of lien, guarantees, warranties, maintenance data, bonds, and acknowledgement receipts of any contraction contractors record drawing. The Engineer shall obtain and deliver to the Town of Taos a signed receipt for all materials turned over by the Contractor.
- 2) Eleven Month Inspection and Report. The Engineer shall have 11 months after Substantial Completion of the project, schedule a meeting with the Town of Taos to evaluate the construction site, inspect the Engineer's Design to identify any defects in material products and workmanship. The Engineer shall provide a written report of this activity to the Town of Taos with in seven calendar days. The Town of Taos through the Engineer shall notify the construction contractor of any corrective action noted in the report. The Engineer shall obtain and deliver to the Town of Taos a signed receipt of all corrective action completed to the satisfaction of the Engineer and the Town of Taos.

G. Attached as Exhibit C and incorporated into this Agreement is the Amendment for Engineering Basic Services form.

## 6. REIMBURSABLES

- A. Reimbursable expenses are those beyond Basic Services compensation and are the actual expenditures made by the Engineer or its employees, in the interest of the Project. Reimbursable expenses are in accordance with the agreed upon compensation as identified in Exhibit A (Compensation and Schedule).
- B. Reimbursable expenses, if allowed by this Agreement, shall be compensated at direct cost not to exceed the reimbursable amounts as indicated in Exhibit A of this Agreement, unless otherwise modified by written amendment.

## 7. ADDITIONAL SERVICES

- A. Additional Services are services that are in addition to but not included as part of Basic Services, provided that the Engineer is not obligated to perform or furnish such services as part of the Engineer's Basic Services. These Additional Services shall be provided when authorized in advanced in writing by the Town of Taos, and shall be paid for by the Town of Taos as provided in paragraph 3 and Exhibit A. Attached as Exhibit D and incorporated into this Agreement is the Amendment for Engineering Additional Services form.
- B. Additional Services may include but are not limited to the following.
- 1) Subservice geotechnical investigation with associated laboratory testing to include soil borings to determine subsurface profiles, relative strengths, compressibility and other characteristics of the surface layer(s).
  - 2) Survey services for mapping, construction layout and/or to determine Project and surrounding area boundaries.
  - 3) Traffic study that may include volume, movement counts, accident crash data, pedestrian traffic, and parking, sidewalk and walk/bike trail considerations.
  - 4) Drainage Plan to determine the amount of runoff/drainage impacting the Project area and make recommendations accordingly.
  - 5) Storm water management to provide viable flood control, runoff and drainage conveyance options and recommendations for surface treatment plan(s).
  - 6) Environmental Review and as applicable Cultural Resource Study, to include preparation of documentation regarding the mandatory evaluation of physical, social, and economic impacts of the proposed Project area to ensure compliance with environmental laws and authorities and as required obtain environmental clearance(s) from governmental agencies.
  - 7) Feasibility Study to evaluate and analyze the potential of the proposed Project to support recommendations for project implementation.
  - 8) Market analysis to determine, develop and recommend conceptual options for future use of the Project site.

## 8. EXHIBITS LIST

Exhibit A	Compensation and Schedule – To be determined
Exhibit B	Engineer Pay Request – To be determined
Exhibit C	Amendment for Basic Services – To be determined
Exhibit D	Amendment for Additional Services – To be determined
Exhibit E	Amendment for Consultant Services – To be determined
Exhibit F	Consultant List – To be determined
Exhibit G	Professional Services FAA Federal Contract Provisions (attached)
Exhibit H	Task Order Form – To be determined



**IN WITNESS WHEREOF**, the parties have duly executed this Agreement as of the date first written above.

**THE TOWN OF TAOS**

\_\_\_\_\_  
Daniel R. Barrone, Mayor

**ATTEST:**

\_\_\_\_\_  
Francella Garcia, Town Clerk

Approved as to form:

\_\_\_\_\_  
Stephen C. Ross, Town of Taos Attorney

\_\_\_\_\_  
Date

Finance Department:

\_\_\_\_\_  
Marietta S. Fambro, Finance Director

\_\_\_\_\_  
Date

**ENGINEER**

\_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
*(print name and title)*



## **THE TOWN OF TAOS PURCHASING DIVISION**

# **GENERAL TERMS AND CONDITIONS OF THE AGREEMENT BETWEEN THE TOWN OF TAOS and ENGINEER FOR PROFESSIONAL SERVICES**

2013 Edition, Version 1.0, Part B of the Agreement

Changes, additions, deletions and/or any modifications other than those agreed upon execution of this contract, without the written consent of the Town of Taos shall render this document null and void.

### **1. SCOPE OF WORK**

Engineer shall provide the services set forth in Part A Section 2 (Scope of Work) of this Agreement and as provided in Exhibit A.

### **2. EFFECTIVE DATE AND TERM**

The Agreement shall, upon due execution by all parties, become effective as of the date first written in Part A and shall terminate \_\_\_\_\_( ) , unless earlier terminated pursuant to Section 4 (Termination) or Section 5 (Appropriations and Authorizations) of these General Terms and Conditions.

### **3. ADDITIONAL SERVICES**

- A. The parties agree that all tasks set forth in Section 1 (Scope of Work) above and Section 4 (Engineer's Basic Services) of Part A of the Agreement, shall be completed in full, to the satisfaction of the Town of Town, for the amount set forth in Section 3 (Compensation, Invoicing, and Set-Off) of Part A of this Agreement, and for no other cost, amount, fee, or expense.
- B. The Town of Taos may from time-to-time request changes in the Scope of Work to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contractor's compensation, which are mutually agreed upon by and between the Town of Taos and the Engineer, shall be incorporated in written amendments to this Agreement.

### **4. TERMINATION**

- A. Termination of Agreement for Cause. Either party may terminate the Agreement based upon any material breach of this Agreement by the other party. The non-breaching party shall give the breaching party written notice of termination specifying the grounds for the termination. The termination shall be effective thirty (30) days from the breaching party's receipt of the notice of termination, during which time the breaching party shall have the right to cure the breach. If, however, the breach cannot with due diligence be cured within 30 days, the breaching party shall have a reasonable time to cure the breach, provided that, within 30 days of its receipt of the written notice of termination, the breaching party began to cure the breach and advised then non-breaching party in writing that it intended to cure.
- B. Termination for Convenience of the Town of Taos. The Town of Taos may, in its discretion, terminate this Agreement at any time for any reason by giving the Engineer written notice of termination. The notice shall specify the effective date of termination, which shall not be less than 15 days from the Engineer's receipt of the notice. The Town of Taos shall pay the Engineer for acceptable work, determined in accordance with the specifications and standards set forth in this Agreement, performed before the effective date of termination but shall not be liable for any work or service performed after the effective date of termination.

## **5. APPROPRIATIONS AND AUTHORIZATIONS**

This Agreement is contingent upon sufficient appropriations and authorizations being made for performance of this Agreement by the Governing Body of the Town of Taos and/or, if state funds are involved, the Legislature of the State of New Mexico. If sufficient appropriations and authorizations are not made in this or future fiscal years, this Agreement shall terminate upon written notice by the Town of Taos to the Engineer. Such termination shall be without penalty to the Town of Taos, and the Town of Taos shall have no duty to reimburse the Engineer for expenditures made in the performance of this Agreement. The Town of Taos is expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered, and approved for expenditure by the Town of Taos. The Town's decision as to whether sufficient appropriations and authorizations have been made for the fulfillment of this Agreement shall be final and not subject to challenge by the Engineer in any way or forum, including a lawsuit.

## **6. INDEPENDENT CONTRACTOR, SUBCONTRACTING AND PERSONNEL**

- A. Independent Contractor. The Engineer and its agents and employees are independent contractors and are not employees or agents of the Town. Accordingly, the Engineer and its agents and employees shall not accrue leave, participate in retirement plans, insurance plans, or liability bonding, use the Town of Taos' vehicles, or participate in any other benefits afforded to employees of the Town of Taos. Except as may be expressly authorized elsewhere in this Agreement, the Engineer has no authority to bind, represent, or otherwise act on behalf of the Town of Taos and agrees not to purport to do so.
- B. Subcontracting. The Engineer shall not subcontract or delegate any portion of the services to be performed under this Agreement without the advance written approval of the Town of Taos. Any attempted subcontracting or delegating without the Town of Taos' advance written approval shall be null and void and without any legal effect.
- C. Personnel.
  - 5) All work performed under this Agreement shall be performed by the Engineer or under its supervision.

- 6) The Engineer represents that it has, or will secure at its own expense, all personnel required to discharge its obligations under this Agreement. Such personnel (i) shall not be employees of or have any contractual relationships with the Town of Taos and (ii) shall be fully qualified and licensed or otherwise authorized or permitted under federal, state, and local law to perform such work.

## **7. ASSIGNMENT**

The Engineer shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the advance written approval of the Town of Taos. Any attempted assignment or transfer without the Town of Taos' advance written approval shall be null and void and without any legal effect.

## **8. RELEASE**

Upon its receipt of all payments due under this Agreement, Engineer releases Town of Taos, its Elected Officials, officers, agents and employees from all liabilities, claims, and obligations whatsoever arising from or under or relating to this Agreement.

## **9. CONFIDENTIALITY**

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

## **10. PUBLICATION, REPRODUCTION, AND USE OF MATERIAL; COPYRIGHT**

The Town of Taos has the unrestricted right to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data, or other material prepared under or pursuant to this Agreement. To the extent any material is copyrightable, the Town of Taos shall own such copy right.

## **11. CONFLICT OF INTEREST**

Engineer represents that it has no and shall not require any interest, direct or indirect, that would conflict in any manner or degree with the performance of its obligations under the Agreement.

## **12. NO ORAL MODIFICATIONS; WRITTEN AMENDMENTS REQUIRED**

The Agreement may not be modified, altered, changed, or amended orally but, rather, only by an instrument in writing executed by the parties hereto. Engineer specifically acknowledges and agrees that Town of Taos shall not be responsible for any changes to Section 1 (Scope of Work), Part A of the Agreement unless such changes are set forth in a duly executed written amendment to the Agreement.

## **13. ENTIRE AGREEMENT; INTEGRATION**

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

#### **14. EXHIBITS AND ATTACHMENTS: INCORPORATION BY REFERENCE**

All exhibits, attachments, riders, and addenda referred to in the Agreement, including but not limited to the Exhibits referred to in this Agreement, as listed in Paragraph 7 (Exhibits List) in Part A of this Agreement, are hereby incorporated into this Agreement by reference and made a part hereof as though set forth in full in this Agreement to the extent they are consistent with its conditions and terms.

#### **15. NOTICE OF PENALTIES**

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

#### **16. EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE**

- A. Engineer agrees to abide by all Federal, State, and local laws, ordinances, and rules and regulations pertaining to equal opportunity and unlawful discrimination. Without in any way limiting the foregoing general obligation, Engineer specifically agrees not to discriminate against any person with regard to employment with Engineer or participation in any program or activity offered pursuant to this Agreement on the grounds of race, age, religion, color, national origin, ancestry, sex, physical or mental handicap, serious medical condition, spousal affiliation, sexual orientation, or gender identity.
- B. Engineer acknowledges and agrees that failure to comply with this Section shall constitute a material breach of the Agreement.

#### **17. COMPLIANCE WITH APPLICABLE LAW; CHOICE OF LAW**

- A. In performing its obligations hereunder, Engineer shall comply with all applicable laws, ordinances, and regulations.
- B. This Agreement shall be construed in accordance with the substantive laws of the State of New Mexico, without regard to its choice of law rules.

#### **18. RECORDS AND INSPECTIONS**

- A. To the extent their books and records relate to (i) their performance of the Agreement or any subcontract entered into pursuant to it or (ii) cost or pricing data (if any) set forth in the Agreement or that was required to be submitted to the Town of Taos as part of the procurement process, Engineer agrees to (i) maintain such books and records during the term of the Agreement for a period of six (6) years from the date of final payment under the Agreement; (ii) allow the Town of Taos or its designee to audit such books and records at reasonable times and upon reasonable notice; and (iii) to keep such books and records in accordance with generally accepted accounting principles (“GAAP”).
- B. To the extent their books and records relate to (i) their performance of the Agreement or any subcontract entered into pursuant to it or (ii) cost or pricing data (if any) set forth in the Agreement or that was required to be submitted to the Town of Taos as part of the procurement process, Engineer also agrees to require any subcontractor it may hire to perform its obligations under this Agreement to (i) maintain such books and records during the term of the Agreement and for a period of six (6) years from the date of final payment under the subcontract:(ii) to allow



- B. This Agreement has been duly authorized by the Engineer, the person executing this Agreement has authority to do so, and once executed by the Engineer, this Agreement shall constitute a binding obligation of the Engineer.
- C. This Agreement and Engineer's obligations hereunder do not conflict with Engineer's articles of incorporation or by-laws or any corporate resolution adopted by Engineer for filed with the NM Secretary of State.

### **23. LIMITATION OF LIABILITY**

The Town of Taos liability to Engineer for any breach of this Agreement by the Town of Taos shall be limited to direct damages and shall not exceed the maximum amount of compensation specified in Section 3 (Compensation and Invoicing) Part A, of the Agreement. In no event shall the Town of Taos be liable to Engineer for special or consequential damages, even if the Town of Taos was advised of the possibility of such damages prior to entering into the Agreement.

### **24. NO THIRD-PARTY BENEFICIARIES**

This Agreement was not intended to and does not create any rights in any persons not a party to the Agreement.

### **25. INSURANCE**

- A. General Conditions. Engineer shall submit evidence of insurance as is required herein. Policies of insurance shall be written by companies authorized to write such insurance in New Mexico.
- B. General Liability Insurance, Including Automobile. Engineer shall procure and maintain during the life of this Agreement a comprehensive general liability and automobile insurance policy and liability limits in amounts not less than \$1,050,000 combined single limits of bodily injury, including death, and property damage for any one occurrence. Said policies of insurance shall include coverage for all operations performed for the Town of Taos by Engineer; coverage for the use of all owned, non-owned, hired automobiles, vehicles and other equipment both on and off work; and contractual liability coverage under which this Agreement is an insured contract. The Town of Taos shall be named additional insured on the policy.
- C. Workers' Compensation Insurance. Engineer shall comply with the provisions of the Workers' Compensation Act.
- D. Malpractice/Errors and Omissions Insurance. Engineer shall procure and maintain during the life of this Agreement professional liability (errors and omissions) insurance with policy limits of not less than \$5,000,000.00 per occurrence, \$5,000,000.00 in the aggregate.
- E. Increased Limits. If, during the life of this Agreement, the Legislature of the State of New Mexico increases the maximum limits of liability under the Tort Claims Act (NMSA 1978, Sections 41-4-1 through 41-4-29, as amended), Engineer shall increase the maximum limits of any insurance required herein.

### **26. PERMITS, FEES, AND LICENSES**

Engineer shall procure all permits and licenses, pay all charges, fees and royalties, and give all notices necessary and incidental to the due and lawful performance of its obligations hereunder.

## **27. FACSIMILE SIGNATURES**

The parties hereto agree that a facsimile signature has the same force and effect as an original for all purposes.

## **28. NEW MEXICO TORT CLAIMS ACT**

No provision of the Agreement modifies or waives any sovereign immunity or limitation of liability enjoyed by the Town of Taos or its “public employees: at common law or under the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, et seq.

## **29. CAMPAIGN CONTRIBUTION DISCLOSURE FORM**

The Engineer agrees to compute and submit simultaneous and execution of this Agreement a Campaign Contribution Disclosure Form approved by the Town.

## **30. SURVIVAL**

The provisions of following paragraphs shall survive termination of the Agreement:  
INDEMNIFICATION; RECORDS AND INSPECTION; RELEASE, CONFIDENTIALITY,  
PUBLICATION, REPRODUCTION, AND USE OF MATERIAL; COPYRIGHT; COMPLIANCE  
WITH APPLICABLE LAW; CHOICE OF LAW; NO THIRD-PARTY BENEFICIARIES;  
SURVIVAL.

## EXHIBIT G - Professional Services FAA Federal Solicitation and/or Contract Provisions

The following additional Federal requirements are included in the Solicitation and/or Contract to the extent the Solicitation and/or Contract and the terms of this Exhibit conflict, this exhibit shall control.

### ACCESS TO RECORDS AND REPORTS

The Consultant must maintain an acceptable cost accounting system. The Consultant agrees to provide the Owner, the Federal Aviation Administration and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers and records of the Consultant which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Consultant agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

### AFFIRMATIVE ACTION REQUIREMENTS

The contract to be issued to the successful bidder is subject to the provisions of Executive Order 11246, Affirmative Action to Ensure Equal Employment Opportunity and Department of Transportation Regulation, Title 49 CFR Part 26, Disadvantaged Business Enterprise Participation (DBE). DBE firms are encouraged to participate.

### BREACH OF CONTRACT TERMS

Any violation or breach of terms of this contract on the part of the Consultant or its subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement.

Owner will provide Consultant written notice that describes the nature of the breach and corrective actions the Consultant must undertake in order to avoid termination of the contract. Owner reserves the right to withhold payments to Consultant until such time the Consultant corrects the breach or the Owner elects to terminate the contract. The Owner's notice will identify a specific date by which the Consultant must correct the breach. Owner may proceed with termination of the contract if the Consultant fails to correct the breach by the deadline indicated in the Owner's notice.

The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

### GENERAL CIVIL RIGHTS PROVISIONS

The Consultant agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the Consultant and subcontractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

### COMPLIANCE WITH NONDISCRIMINATION REQUIREMENTS

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor"), agrees as follows:

1. **Compliance with Regulations:** The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of

subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

3. **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor's obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.
4. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
  - a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or
  - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

## **TITLE VI LIST OF PERTINENT NONDISCRIMINATION ACTS AND AUTHORITIES**

During the performance of this contract, the Consultant, for itself, its assignees, and successors in interest (hereinafter referred to as the "Consultant") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);

- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 – 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 *et seq.*).

#### **CLEAN AIR AND WATER POLLUTION CONTROL**

Consultant agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 USC § 740-7671q) and the Federal Water Pollution Control Act as amended (33 USC § 1251-1387). The Consultant agrees to report any violation to the Owner immediately upon discovery. The Owner assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration.

Consultant must include this requirement in all subcontracts that exceeds \$150,000.

#### **CERTIFICATION OF OFFERER/BIDDER REGARDING DEBARMENT**

By submitting a bid/proposal under this solicitation, the bidder or offeror certifies that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

## **CERTIFICATION OF LOWER TIER CONTRACTORS REGARDING DEBARMENT**

The successful bidder, by administering each lower tier subcontract that exceeds \$25,000 as a “covered transaction”, must verify each lower tier participant of a “covered transaction” under the project is not presently debarred or otherwise disqualified from participation in this federally assisted project. The successful bidder will accomplish this by:

1. Checking the System for Award Management at website: <http://www.sam.gov>.
2. Collecting a certification statement similar to the Certification of Offeror /Bidder Regarding Debarment, above.
3. Inserting a clause or condition in the covered transaction with the lower tier contract.

If the Federal Aviation Administration later determines that a lower tier participant failed to disclose to a higher tier participant that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedies, including suspension and debarment of the non-compliant participant.

## **DISADVANTAGED BUSINESS ENTERPRISES**

### **Contract Assurance (§ 26.13) –**

The Consultant or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Consultant shall carry out applicable requirements of 49 CFR part 26 in the award and administration of Department of Transportation-assisted contracts. Failure by the Consultant to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Owner deems appropriate, which may include, but is not limited to:

1. Withholding monthly progress payments;
2. Assessing sanctions;
3. Liquidated damages; and/or
4. Disqualifying the Contractor from future bidding as non-responsible.

**Prompt Payment (§26.29) –** The Consultant agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 15 calendar days from the receipt of each payment the Consultant receives from the Town. The Consultant agrees further to return retainage payments to each subcontractor within 15 calendar days after the subcontractor’s work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Town. This clause applies to both DBE and non-DBE subcontractors.

## **TEXTING WHEN DRIVING**

In accordance with Executive Order 13513, “Federal Leadership on Reducing Text Messaging While Driving”, (10/1/2009) and DOT Order 3902.10, “Text Messaging While Driving”, (12/30/2009), the Federal Aviation Administration encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or subgrant.

In support of this initiative, the Owner encourages the Consultant to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The Consultant must include the substance of this clause in all sub-tier contracts exceeding \$3,500 that involve driving a motor vehicle in performance of work activities associated with the project.

## **ENERGY CONSERVATION REQUIREMENTS**

Contractor and Subcontractor agree to comply with mandatory standards and policies relating to energy efficiency as contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 USC 6201*et seq*).

### **FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)**

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part-time workers.

The [Contractor | Consultant] has full responsibility to monitor compliance to the referenced statute or regulation. The [Contractor | Consultant] must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

### **CERTIFICATION REGARDING LOBBYING**

The Bidder or Offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Bidder or Offeror, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

### **OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 REQUIREMENTS**

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. The employer must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The employer retains full responsibility to monitor its compliance and their subcontractor’s compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). The employer must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

### **SEISMIC SAFETY**

In the performance of design services, the Consultant agrees to furnish a building design and associated construction specification that conform to a building code standard that provides a level of seismic safety

substantially equivalent to standards as established by the National Earthquake Hazards Reduction Program (NEHRP). Local building codes that model their building code after the current version of the International Building Code (IBC) meet the NEHRP equivalency level for seismic safety. At the conclusion of the design services, the Consultant agrees to furnish the Owner a “certification of compliance” that attests conformance of the building design and the construction specifications with the seismic standards of NEHRP or an equivalent building code.

## **CERTIFICATION OF OFFERER/BIDDER REGARDING TAX DELINQUENCY AND FELONY CONVICTIONS**

The applicant must complete the following two certification statements. The applicant must indicate its current status as it relates to tax delinquency and felony conviction by inserting a checkmark (✓) in the space following the applicable response. The applicant agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification in all lower tier subcontracts.

### **Certifications**

- 1) The applicant represents that it is ( ) is not ( ) a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.
- 2) The applicant represents that it is ( ) is not ( ) is not a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months.

### **Note**

If an applicant responds in the affirmative to either of the above representations, the applicant is ineligible to receive an award unless the sponsor has received notification from the agency suspension and debarment official (SDO) that the SDO has considered suspension or debarment and determined that further action is not required to protect the Government’s interests. The applicant therefore must provide information to the owner about its tax liability or conviction to the Owner, who will then notify the FAA Airports District Office, which will then notify the agency’s SDO to facilitate completion of the required considerations before award decisions are made.

### **Term Definitions**

**Felony conviction:** Felony conviction means a conviction within the preceding twenty four (24) months of a felony criminal violation under any Federal law and includes conviction of an offense defined in a section of the U.S. code that specifically classifies the offense as a felony and conviction of an offense that is classified as a felony under 18 U.S.C. § 3559.

**Tax Delinquency:** A tax delinquency is any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

## **TERMINATION FOR CONVENIENCE (PROFESSIONAL SERVICES)**

The Owner may, by written notice to the Consultant, terminate this Agreement for its convenience and without cause or default on the part of Consultant. Upon receipt of the notice of termination, except as explicitly directed by the Owner, the Contractor must immediately discontinue all services affected.

Upon termination of the Agreement, the Consultant must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

Owner agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

Owner further agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

### **TERMINATION FOR DEFAULT (PROFESSIONAL SERVICES)**

Either party may terminate this Agreement for cause if the other party fails to fulfill its obligations that are essential to the completion of the work per the terms and conditions of the Agreement. The party initiating the termination action must allow the breaching party an opportunity to dispute or cure the breach.

The terminating party must provide the breaching party [7] days advance written notice of its intent to terminate the Agreement. The notice must specify the nature and extent of the breach, the conditions necessary to cure the breach, and the effective date of the termination action. The rights and remedies in this clause are in addition to any other rights and remedies provided by law or under this agreement.

a) **Termination by Owner:** The Owner may terminate this Agreement in whole or in part, for the failure of the Consultant to:

1. Perform the services within the time specified in this contract or by Owner approved extension;
2. Make adequate progress so as to endanger satisfactory performance of the Project; or
3. Fulfill the obligations of the Agreement that are essential to the completion of the Project.

Upon receipt of the notice of termination, the Consultant must immediately discontinue all services affected unless the notice directs otherwise. Upon termination of the Agreement, the Consultant must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

Owner agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

Owner further agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

If, after finalization of the termination action, the Owner determines the Consultant was not in default of the Agreement, the rights and obligations of the parties shall be the same as if the Owner issued the termination for the convenience of the Owner.

b) **Termination by Consultant:** The Consultant may terminate this Agreement in whole or in part, if the Owner:

1. Defaults on its obligations under this Agreement;
2. Fails to make payment to the Consultant in accordance with the terms of this Agreement;
3. Suspends the Project for more than [180] days due to reasons beyond the control of the Consultant.

Upon receipt of a notice of termination from the Consultant, Owner agrees to cooperate with Consultant for the purpose of terminating the agreement or portion thereof, by mutual consent. If Owner and Consultant cannot reach mutual agreement on the termination settlement, the Consultant may, without prejudice to any rights and remedies it may have, proceed with terminating all or parts of this Agreement based upon the Owner's breach of the contract.

In the event of termination due to Owner breach, the Engineer is entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all justified reimbursable expenses incurred by the Consultant through the effective date of termination action. Owner agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

#### **VETERAN'S PREFERENCE**

In the employment of labor (excluding executive, administrative, and supervisory positions), the Contractor and all sub-tier contractors must give preference to covered veterans as defined within Title 49 United States Code Section 47112. Covered veterans include Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined by 15 USC 632) owned and controlled by disabled veterans. This preference only applies when there are covered veterans readily available and qualified to perform the work to which the employment relates.

## SECTION 5 – REQUIRED FORMS

### FORMS INCLUDED IN THIS SOLICITATION DOCUMENT:

- (1) Response Form (blank form attached)
- (2) Campaign Disclosure (blank form attached)
- (3) Federal Forms (blank form attached)

***Failure to complete and submit these forms with your Response may result in it being deemed non-responsive and rejected without further evaluation***

\*Download solicitations, addenda and forms at <http://www.taosgov.com/finance/solicitations>

# RESPONSE FORM

**Failure to complete this form shall result in your Response being deemed non-responsive and rejected without further evaluation.**

**TO: Town of Taos:**

The Undersigned hereby offers and agrees to furnish the goods and/or services in compliance with all terms, scope of work, conditions, specifications, and addenda in the Request for Proposals.

**ADDENDA:**

The undersigned has read, understands and is fully cognizant of the Information to Offerors, Offer and Form of Contract, all Exhibits thereto, together with any written addendum issued in connection with any of the above. The undersigned hereby acknowledges receipt of the following addendum(s): \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ (write "none" if none). In addition, the undersigned has completely and appropriately filled out all required forms.

**OBLIGATION:**

The undersigned, by submission of this Offer, hereby agrees to be obligated, if selected as the Contractor, to provide the stated goods and/or services to the Town, for the term as stated herein, and to enter into a Contract with the Town, in accordance with the Conditions, Scope and Terms, as well as the Form of Contract, together with any written addendum as specified above.

**COMPLIANCE:**

The undersigned hereby accepts all administrative requirements of the RFQ and will be in compliance with such requirements. By submitting this Response Form, the Offeror represents that: 1) the Offeror is in compliance with any applicable ethics or anti-kickback provisions of the Town's Procurement Ordinance, and 2) if awarded a contract to operate the Concession or provide the Services required in the RFQ, the Offeror will comply with the ethics and anti-kickback provisions of the Procurement Ordinance.

**NONCOLLUSION:**

The undersigned, by submission of this Response Form, hereby declares that this Response is made without collusion with any other business making any other Response, or which otherwise would make a Response.

**PERFORMANCE GUARANTEE:**

The undersigned further agrees that if awarded the Agreement, it will submit to the Town any required performance guarantee (i.e. performance and payment bond).

**SUBMITTAL REQUIREMENTS:**

The undersigned certifies it has attached a complete response to each of the submittal requirements listed in the Evaluation Criteria and Submittal Requirements section of this RFQ.

**No Response shall be accepted which has not been manually signed in ink in the appropriate space below:**

**I certify, under penalty of perjury, that I have the legal authorization to bind the firm hereunder:**

**For clarification of this offer, contact:**

\_\_\_\_\_  
Company Name

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

\_\_\_\_\_  
Address

Title: \_\_\_\_\_

\_\_\_\_\_  
Town State Zip

Phone: \_\_\_\_\_

\_\_\_\_\_  
Signature of Person Authorized to Sign

Fax: \_\_\_\_\_

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

Email: \_\_\_\_\_

\_\_\_\_\_  
Title

\_\_\_\_\_  
Federal Tax ID

Acknowledged before me by \_\_\_\_\_ (name) as \_\_\_\_\_ (title)  
of \_\_\_\_\_ (company) this \_\_\_\_ (day) of \_\_\_\_\_, 200\_\_.

Notary Signature: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

Affix Seal

## CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Pursuant to NMSA 1978, § 13-1-191.1 (2006), any person seeking to enter into a contract with any state agency or local public body for professional services, a design and build project delivery system, or the design and installation of measures the primary purpose of which is to conserve natural resources must file this form with that state agency or local public body. This form must be filed even if the contract qualifies as a small purchase or a sole source contract.

The prospective contractor must disclose whether they, a family member or a representative of the prospective contractor has made a campaign contribution to an applicable public official of the state or a local public body during the two years prior to the date on which the contractor submits a proposal or, in the case of a sole source or small purchase contract, the two years prior to the date the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor, a family member or a representative of the prospective contractor to the public official exceeds two hundred and fifty dollars (\$250) over the two year period.

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

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

The following definitions apply:

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

“Campaign Contribution” means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made to or received by an applicable public official or any person authorized to raise, collect or expend contributions on that official's behalf for the purpose of electing the official to either statewide or local office.

“Campaign Contribution” includes the payment of a debt incurred in an election campaign, but does not include the value of services provided without compensation or Page 2 of 3 DFA Disclosure form/April, 2006 unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate or political committee, nor does it include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee.

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

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

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

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

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

DISCLOSURE OF CONTRIBUTIONS

MAYOR:

*DANIEL R. BARRONE*

COUNCIL MEMBERS:

*PASCUALITO M. MAESTAS*

*DARIEN D. FERNANDEZ*

*NATHANIEL EVANS*

*GEORGE "FRITZ" HAHN*

Contribution made by: \_\_\_\_\_

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

Name of Applicable Public Official: \_\_\_\_\_

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

Amount(s) of Contributions(s) \_\_\_\_\_

Nature of Contributions (s) \_\_\_\_\_

Purpose of Contributions(s) \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title (position)

OR

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title (position)

## **CERTIFICATION OF OFFERER/BIDDER REGARDING DEBARMENT**

By submitting a proposal under this solicitation, the bidder or offeror certifies that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

## **CERTIFICATION REGARDING LOBBYING**

The Bidder or Offeror certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Bidder or Offeror, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

## **CERTIFICATION OF OFFERER/BIDDER REGARDING TAX DELINQUENCY AND FELONY CONVICTIONS**

The applicant must complete the following two certification statements. The applicant must indicate its current status as it relates to tax delinquency and felony conviction by inserting a checkmark (✓) in the space following the applicable response. The applicant agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification in all lower tier subcontracts.

### **Certifications**

1. The applicant represents that it is ( ) is not ( ) a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.
2. The applicant represents that it is ( ) is not ( ) is not a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months.

## Note

If an applicant responds in the affirmative to either of the above representations, the applicant is ineligible to receive an award unless the sponsor has received notification from the agency suspension and debarment official (SDO) that the SDO has considered suspension or debarment and determined that further action is not required to protect the Government's interests. The applicant therefore must provide information to the owner about its tax liability or conviction to the Owner, who will then notify the FAA Airports District Office, which will then notify the agency's SDO to facilitate completion of the required considerations before award decisions are made.

## Term Definitions

**Felony conviction:** Felony conviction means a conviction within the preceding twenty-four (24) months of a felony criminal violation under any Federal law and includes conviction of an offense defined in a section of the U.S. code that specifically classifies the offense as a felony and conviction of an offense that is classified as a felony under 18 U.S.C. § 3559.

**Tax Delinquency:** A tax delinquency is any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

## TRADE RESTRICTION CERTIFICATION

By submission of an offer, the Offeror certifies that with respect to this solicitation and any resultant contract, the Offeror –

1. is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (USTR);
2. has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the USTR; and
3. has not entered into any subcontract for any product to be used on the Federal project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18 USC Section 1001.

The Offeror/Contractor must provide immediate written notice to the Owner if the Offeror/Contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The Contractor must require subcontractors provide immediate written notice to the Contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract shall be awarded to an Offeror or subcontractor:

1. who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR or
2. whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such USTR list or
3. who incorporates in the public works project any product of a foreign country on such USTR list.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

The Offeror agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in all lower tier subcontracts. The Contractor may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by USTR, unless the Offeror has knowledge that the certification is erroneous.

This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that the Contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration (FAA) may direct through the Owner cancellation of the contract or subcontract for default at no cost to the Owner or the FAA.

Company Name: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_