PUEBLO de SAN ILDEFONSO

REQUEST FOR PROPOSALS (RFP)

CONSULTANT SERVICES (ARCHITECTS-ENGINEERS)

for the

SAN ILDEFONSO MUSEUM AND CULTURAL CENTER

RFP # SI-RFP-20-001

Release Date: April 12, 2020

Pre-Proposal Meeting: Tuesday, April 21, 2020 at 2:00 p.m.
via Zoom Videoconference

Send request for link to Zoom video conference to the
Project Manager, Lou Harrington at lharrington.pm@outlook.com

Proposal Due Date: Tuesday, May 19, 2020 no Later than 3:00 p.m.

It is the responsibility of prospective proposers to check Pueblo website
for RFP Addenda

Website Address: www.sanipueblo.org

RFP documents and subsequent addenda are available under the
‘News/Posts’ heading on the home page of the website.
REQUEST FOR PROPOSALS # SI-RFP-20-001

The Pueblo de San Ildefonso is issuing a Request for Proposals (RFP) # SI-RFP-20-001 for interested Consultants (Architects and/or Engineering Teams) for programming, site analysis/site selection, and schematic design, to be followed by final architectural design and exhibit area design, preparation of construction contract documents, and provision of construction phase services for the San Ildefonso Museum and Cultural Center (MCC) to be located on the Pueblo.

Applicants for this RFP should structure proposals to address all phases of development as described in the present RFP, from planning through final design and construction, although the initial scope of work to be awarded will be for the Planning Phase Services only, as defined in this RFP. If the Pueblo is satisfied with the results of this initial phase, the Contract may be amended to include Final Design Services and Construction Phase Services.

The Pueblo de San Ildefonso has received State of New Mexico funds of $2 million toward the MCC project. The Pueblo’s Infrastructure Capital Improvements Plan (ICIP) identifies the need for an additional $4.9 million to cover the cost of complete buildout of the MCC based on a preliminary total project cost estimate of $6.9 million. However, upon completion of Planning Phase Services, and establishment of a refined project budget, the Pueblo will formally apply for the needed funding to complete construction of the Museum and Cultural Center, including exhibits, and the final total project cost may be substantially different.

Sealed Proposals: Proposers will deliver one (1) reproducible unbound original, and four (4) original copies, and one digital copy of their Proposal to the following address:

Pueblo de San Ildefonso
Administration Building
C/O Tribal Administrator
02 Tunyo Po
Santa Fe, NM 87501

Proposals received after the cited time will be considered late and are not acceptable unless waived by the Tribal Administrator. Emailed proposals are not allowed.

The envelope must be clearly marked "SEALED RFP # SI-RFP-20-001, SAN ILDEFONSO MUSEUM AND CULTURAL CENTER"

Please direct any questions regarding this RFP to Lou Harrington, Project Manager at 505.366.3072, email: lharrington.pm@outlook.com.

The full Request for Proposals, and any subsequent addenda, can be downloaded by Proposers at the following website: www.sanipueblo.org, under the News/Posts heading of the home page. Proposers are responsible for monitoring the website referenced above for notifications of changes and addenda related to this project.

A Pre-Proposal Meeting will be held on Tuesday, April 21, 2020 at 2:00 p.m. via Zoom video conference due to the current COVID-19 pandemic. Send any request for a link to the Pre-Proposal Meeting to the Project Manager, Lou Harrington at lharrington.pm@outlook.com by 10:00 a.m. Monday, April 20, 2020. An email will be sent by noon on April 20, 2020, with the necessary link. Attendance at the Pre-Proposal Meeting is encouraged but not mandatory.
I. PROPOSAL DEFINITIONS

Definitions:
“Owner” means the Pueblo de San Ildefonso.
“Pueblo” means the Pueblo de San Ildefonso.
“Tribe” means the Pueblo de San Ildefonso.
“Proposer” means an individual or business submitting a proposal to the Pueblo.
“Consultant” means the selected company to perform the services as stated in this RFP.

II. PROPOSAL AND PROJECT PHASES AND SCHEDULE

Proposal and Project Schedule:
- RFP Release: April 12, 2020
- Pre-Proposal Meeting: April 21, 2020, 2:00 p.m.
- RFP Questions Due: April 27, 2020
- Response to Questions Issued: May 4, 2020
- Proposal Due Date and Time: May 19, 2020, 3:00 p.m.

Phases of Project Development (as further defined in Section V of the present RFP):
- Planning Phase
- Final Design Phase
- Construction Phase

III. PROPOSAL TERMS AND CONDITIONS

A. The Pueblo reserves the right to reject any and all proposals received as a result of this RFP. The contract shall be awarded to the most responsible firm whose qualifications, price and other factors as considered, are the most advantageous to the Pueblo. The Pueblo does not intend to award a contract fully on the basis of any response made in the proposal; the Pueblo reserves the right to consider proposals for modifications at any time before a contract would be awarded, and negotiations would be undertaken with that provider whose proposal is deemed to best meet the Pueblo’s specifications and needs.

B. The Pueblo reserves the right to waive or not waive informalities or irregularities in a proposal, and to accept or further negotiate cost, terms, or conditions of any proposal determined by the Pueblo to be in its best interests.
C. Proposals must be signed by an official authorized to bind the Proposer to its provisions for at least a period of 120 days. Failure of the successful Proposer to accept the obligation of the proposal may result in the cancellation of any award.

D. In the event it becomes necessary to revise any part of the RFP, addenda will be provided on the Pueblo website, under the News/Posts heading on the homepage. Deadline for submission of the proposal may be adjusted to allow for revisions. To be considered, original proposals must be received at the above address on or before the date and time specified, unless waived by the Tribal Administrator.

E. Proposals should be prepared simply and economically providing a straight-forward, concise description of the Proposer’s ability to meet the requirements of the RFP.

F. A Pueblo de San Ildefonso Professional Services Agreement will be executed between the Pueblo and the awarded Consultant. The Pueblo reserves the right to award the total proposal or a portion thereof, to reject any and all proposals in whole or in part, and to waive any informality or technical defects if, in the Pueblo’s sole judgment, the best interest of the Pueblo will be so served.

G. Preference will be given to qualified Native American Owned firms who submit a responsive proposal.

H. It is the responsibility of prospective proposers to check the Pueblo website for any addenda to this RFP (see item D above).

I. Any cost incurred by the potential Proposer in preparation, transmittal, and/or presentation of any proposal or material submitted in response to this RFP shall be borne solely by the Proposer.

J. The Consultant shall follow all applicable federal and tribal laws, including applicable tax laws.

K. Term of Proposal: The Proposal is for a specific project therefore valid for the duration of the awarded project and this project solely.

L. Proposers may or may not be interviewed for this project.

IV. PROJECT BACKGROUND AND REQUIREMENTS

A. Purpose and Project Description.

The intent of this document is to provide interested Proposers with sufficient information to enable them to prepare and submit proposals for consideration by the Pueblo for the planning and design of a Museum and Cultural Center. Based on the results of the initial programming, site selection and schematic design phase, the Pueblo may request the continued services of the Consultant for final design, and the subsequent bidding and construction phase of the project.
B. Information to be furnished by the Owner

- Cultural resource clearance documentation will be prepared by others under the direction of the Tribal Historic Preservation Office (THPO) after completion of the site selection and schematic design phase and is not included in the scope of this RFP.

V. SCOPE OF SERVICES

Anticipated Phases of Project Development:

- Planning Phase
  - Programming (scope, size, quality, location, cost, etc.)
  - Site Analysis and Site Selection
  - Schematic Design
- Final Design Phase
  - Design Development (including community meetings)
  - Construction Documents Phase
- Construction Phase
  - Bidding and Construction Administration
  - Construction Observation

General:
Decisions regarding size and quality of construction to be determined during the Planning Phase for the following minimum requirements, including but not limited to:

- Museum entry
- Museum area and exhibits
- Museum shop area
- Cultural area (area for displays, interactive workshops, archival space)
- Restrooms (size, number and areas served)
- Offices, preparatory spaces, storage, etc.
- Site parking areas (general parking, handicap, employee parking)
- Utilities
- Signage
- Exterior storage
- Possible exterior displays
- Outdoor areas (exterior dance and cultural ceremony areas)
- Consideration of future additions or development phasing over time
- Energy savings

The following instructions included here in Section V of the RFP are provided for consideration while the Proposer develops their Project Approach to Planning and Final Design Phase services, and reflect some of the expectations the Pueblo will have of the Consultant upon award of the Contract. These requirements will be spelled out in greater detail in the subsequent Agreement for Professional Services.
Consultant shall prepare a formal submittal upon conclusion of each of the following phases (scope of initial contract will be for the first three below):

- Programming
- Site Analysis and Site Selection
- Schematic Design
- Final Design Development (30%, 60%, 90% and final)
- Construction Documents (ready for bid)

Submittals shall include, but are not limited to, the following (detail of which will be commensurate with level of completion):

- One legible hard copy (11”x17” plans) and one electronic copy (Adobe Acrobat PDF format) of progress plans, specifications, and cost estimate
- Written responses to all comments (not required at the first submittal)
- Updated reports as completed by the Consultant
- Facility layout plans showing surface and subsurface improvements, access road, utilities, lighting, and site drainage
- If selected site lies within mapped FEMA flood zones, proposed construction must accommodate inundation where applicable
- Architectural floor plans showing the proposed layout of rooms and spaces, building elevations showing proposed finishes and materials, and code requirements
- Mechanical plans showing the proposed equipment layout
- Electrical plans showing the proposed electrical equipment layout
- Equipment list that includes catalog-cut sheets for all equipment valued at $10,000 or greater
- Estimated construction schedule and sequencing plan
- Estimated cost of construction and projected costs of operations and maintenance

Consultant shall provide an itemized estimate of the total project cost based on the expected period of construction. Include development and construction, architectural, engineering, legal, equipment, contingencies, refinancing, and other costs associated with the proposed project. Aside from upfront capital cost to construct the facility, Consultant shall also project realistic operations and maintenance costs for a period of 5 years. Include utilities, salaries of staff, taxes, legal fees, interest on any loans, insurance, annual repairs and maintenance, office equipment/supplies, and miscellaneous.

During final design development, Consultant shall prepare all design calculations and drawing layouts. Design work shall comply with all appropriate federal and tribal design standards, codes, and guidelines, including EPA, and building/plumbing codes. Complete all drawings and details, prepare technical specifications, special provisions, opinion of probable construction cost, and all other appropriate architectural and engineering services necessary to provide complete contract documents, ready for public bid.

Construction Documents deliverables for review shall be submitted at 30%, 60%, 90% and Final completion. Drawings shall be reduced to 50% of full-size. Ten (10) sets shall be submitted at the review stages to allow the Tribe and all other appropriate agencies to provide a thorough review of the project documents. Following review and incorporation of comments, the final construction drawings shall be delivered in the following formats:
• 24” x 36” bond, complete with final signatures, ready for reproduction;
• Portable Document Format (.PDF) file(s) of final plans complete with final signatures on PC-compatible USB flash drive; and
• AutoCAD drawing format files (.DWG, AutoCAD 2008 or later format) of final plans (signatures not required) on PC-compatible USB flash drive.

Specifications shall be prepared utilizing Construction Specifications Institute (CSI) Masterformat (latest edition), or a substitute format approved by the Pueblo. Deliverables for review shall be submitted at the 90% stage with specifications on 8 ½” x 11” reproducible paper. Ten (10) sets of prints shall be submitted at the 90% review stage to allow the Tribe and all other appropriate agencies to provide a thorough review of the project documents. Final specifications shall be delivered in the following formats:

• 8 ½“ x 11” hardcopy, complete with final signatures, ready for reproduction;
• Portable Document Format (.PDF) file(s) of final specifications complete with final signatures on PC-compatible USB flash drive; and
• Microsoft Word 2007 format (.DOCX) files of final specifications (signatures not required) on PC-compatible USB flash drive.

Estimated construction costs shall be submitted for review at all submittal review stages, with estimates on 8 ½” x 11” reproducible paper. Ten (10) sets shall be submitted at the review stages to allow the Tribe and all other appropriate agencies to provide a thorough review of the project documents. The final estimate shall be delivered in the following formats:

• 8 ½“ x 11” hardcopy;
• Portable Document Format (.PDF) file of final estimate on PC-compatible USB flash drive;
• Microsoft Excel format (.XLXS) file of final estimate on PC-compatible USB flash drive.

Formal deliverables (plans, specifications and estimates) shall occur at the progress and final completion points for Tribe and agency review. Submittal formats shall follow the guidelines stated herein. The Consultant shall respond to, and incorporate, if appropriate, any and all comments received from the Tribe or any other regulatory agency or utility. Final deliverables shall bear the professional seal(s) of the responsible architects and/or engineers.

Meetings:
Community involvement, especially in the Planning Phase, will be essential. Proposer should anticipate at least four public meetings during the Planning Phase (two related to programming and site selection, and two related to schematic design development). Incentives to encourage broad participation by Pueblo members at such public meetings, such as the provision of food, is encouraged and the cost thereof will be considered a reimbursable expense. Additional multiple topic-specific meetings will be held with Pueblo staff and/or Tribal Council throughout the Planning, Design and Construction Phases. Proposer shall identify the anticipated frequency of meetings while describing their proposed Project Approach and Timeline in Section VI of this RFP.

Project Control
1. The Consultants will meet with selected representatives on a regular basis or as determined necessary by the Tribal Administrator/Project Manager to review progress and provide necessary guidance to the Consultant which may arise.
2. Although there will be continuous liaison with the project team, the Tribal Administrator/Project Manager will meet as often as required with the Consultant’s project manager for the purpose of reviewing progress and providing necessary guidance.
3. The Consultant will, on a regular basis, submit brief written summaries of the work accomplished during the reporting period, work to be accomplished during the subsequent reporting period, real or anticipated problems and notification of any significant deviation from previously agreed upon work plans.

4. Within 10 working days of the award of a project and release of contract, the Consultant will submit to the Tribal Administrator/Project Manager for approval a detailed work plan which includes the following:
   a. The Consultant’s names and titles of personnel assigned to the project.
   b. Complete background checks for ALL personnel that will be performing services on the project at the facility.
   c. The project breakdown showing subprojects, costs, activities and tasks.
   d. The time-phased plan for completing the project.

5. Payments for the work will be subject to progress payments and five percent retainage held until final payment.

6. Selected Consultant will be responsible for the payment of all applicable taxes, including but not limited to applicable taxes under the Pueblo de San Ildefonso Tax Act of 2013. Consultant shall factor such obligations into their overall fee developed during Contract Negotiation phase.

7. Consultant will be responsible for obtaining any work permits and covering tax registration fees required by the Pueblo.

VI. PROPOSAL SUBMITTAL REQUIREMENTS

Proposals are sought from firms with recognized expertise and experience in the subject work.

It is not the intent of this RFP to solicit an overly long response, but it is important the Proposer’s experience/expertise and technical approach be adequately described. There is no page limit imposed, but Proposers are encouraged to present a concise yet compelling narrative description of their approach to the present project. It will, for example, be much more useful to address abilities and expertise related to the nature of this project than to include an exhaustive list of all projects completed by the Proposer. Pueblo staff will review the submitted proposals and may select Proposers to meet and discuss the proposal submitted and Proposer qualifications in greater detail.

The proposal shall include all of the following information. Failure to include all of the required information may result in disqualification of a Proposer.

All proposals must be submitted in the format as follows:
- Standard 8 ½ x 11 inch paper (larger paper is permissible for charts, spreadsheets, etc.)
- Organized with tabs delineating each section.
- Text shall be no smaller than 10 point font.

Proposals shall include the following sections:

Cover/Transmittal Letter: Letter is to be signed by a member of the organization having the authority to negotiate and execute contracts on behalf of the firm. Cover letter must acknowledge receipt of any and all RFP addenda, if any were issued.
Proposal Body and Evaluation Criteria:

1. **Include as Attachment A: Firm Description and Staff (10 Points).** Consultant’s name, address, and name of primary contact person. Include an Organizational Chart of the specific staff who will comprise the project team for all phases of development including Planning Phase, Final Design Phase, and Construction Phase. Include abbreviated resumes of staff shown in the Organizational Chart.

2. **Include as Attachment B: Relevant Past Experience (15 points):** Project descriptions of related/comparable past projects that would serve as examples of experience and expertise necessary for this project. Provide descriptions of three (3) recent projects/programs/efforts that included similar scope of work for the prime consultant and relevant subconsultant experience. The following information shall be included for each project:
   a. Project title
   b. Firm name
   c. Role of firm
   d. Firm team members involved
   e. Project description
   f. Client name
   g. Client contact (address, phone, e-mail)
   h. Year completed
   i. Total final design fee, including amendments (breakdown by major phase, i.e.: planning, design, construction phase services)
   j. Original schedule for completion of professional services (breakdown by major phase, i.e.: planning, design, construction phase services)
   k. Final actual schedule of completion of professional services (breakdown by major phase, i.e.: planning, design, construction phase services)
   l. Describe change orders/amendments
   m. Consultant’s estimate of construction cost at bid
   n. Bid award amount
   o. Construction cost at time of completion

3. **Include as Attachment C: Firm Qualifications (10 Points).** Statement of firm qualifications and experience with relevant private and/or public sector work. Along with statement, include:
   a. List of proposed subconsultants to be used on the MCC project. Identify those to be used for the Planning Phase, and those to be used during the Final Design Phase.
   b. List of client references (minimum of four).

4. **Include as Attachment D Contract Experience and Negotiations (10 Points):** Statement of experience related to contractual matters.
   a. Review sample contract provisions and insurance requirements included as Exhibit A of the present RFP. Note any limitations on meeting these requirements as outlined in the contract provisions, or any objections the Proposer has to the standard terms and conditions delineated therein.
   b. Describe any past or present contracts which have resulted in mediation, arbitration, and/or litigation regarding services of your firm.
5. **Include narrative as Attachment E: Project Approach and Timeline (30 points):**
   a. **Project Understanding:** The Proposal shall include a description of the Consultant’s understanding of the Project. Consultant to identify key issues to be addressed during the project and any insights or innovative ideas the Consultant can provide in addressing those issues. To demonstrate an understanding of the Scope of Services, the Consultant shall develop an outline description of project deliverables and include it as an attachment to the Proposal. At a minimum, this should include a description of proposed technical memoranda, report deliverables, and a preliminary list of drawings.
   
   b. **Project Approach:** The Proposal shall provide a detailed description of the proposed approach to all phases of the Project, from the Planning Phase through Final Design and the Construction Phase. The description shall include details to implement the tasks described in the Scope of Services. The Consultant is encouraged to provide comments and enhancements to the scope provided in the RFP. The Proposal shall include a discussion regarding the Project’s technical issues and the Consultant’s approach to handling these issues. The Consultant shall also explain how technical memos, workshops, and/or design review meetings will be used, working with the framework of the Scope of Services, to achieve consensus in design details. Emphasis should be placed on how the Consultant’s technical approach will promote the Project’s success.
   
   c. **Design Management:** The Proposal shall include a discussion regarding the Consultant’s management approach, including coordination and monitoring of project schedule, cost, risk, scope, communications, quality, resources, and other management issues that the Consultant feels should be addressed. Emphasis should be placed on how the Consultant’s management approach will promote the Project’s success. The Consultant approach to quality control in the preparation of construction documents shall be clearly described in this section as well.
   
   d. **Project Design Schedule:** The Proposal shall include a proposed schedule for completion of each element of the Planning Phase, i.e.: programming, site analysis/site selection, and schematic design. Provide time allowed for each element and any critical paths. Describe how the proposed staff will meet the resource requirements of the project per the schedule using the resources proposed by the Consultant, considering present and projected workload(s). Schedules for Final Design and Construction Phase Services will be requested upon completion of the Planning Phase.

6. **Include as Attachment F: Consultant Fee Schedule (20 points):** Compensation will be on a time and materials basis and shall be computed as direct labor, overhead, and profit, and include applicable taxes. Consultant shall identify any proposed mark-up on subconsultants or other direct costs. The proposal shall include Consultant’s fee schedule in a separate sealed envelope, identifying direct hourly rate listing for those staff to be billed to the project. While reviewing the Consultant’s fee schedule and experience on other projects of similar nature and scope, the Pueblo will consider design fees associated with the projects identified in Attachment B. The expectation is that a similar fee for such services, based on a percentage of construction cost, can be expected on the present project. If the Consultant believes that the result of such analysis will not be representative of the fees the Pueblo can expect for the present project, explain why.

7. **Include as Attachment G: Native American Preference (5 points):** Include documentation if the Consultant is Native American Owned and identify relevant experience working with Indian Tribes.
8. **Include as Attachment H: Insurance Certificates.** Include insurance certificates for the insurance types and amounts listed in the contract provisions.

**VII. CONTRACT PROVISIONS**

Attached as Exhibit A is a standard form of Agreement for Professional Services. The attached is a representative draft contract and is subject to further terms and amendments. Contractor shall be aware that the actual contract may include additional provisions.

End of RFP
VIII. SIGNATURE PAGE
To be included with Proposal submittal package.

______________________________
Signature of Contractor

______________________________
Printed Name of Contractor’s Signer    Title of Contractor’s Signer

______________________________
Company Name

______________________________
Company Address

______________________________
City, State, Zip Code

______________________________
Telephone # and Fax #

______________________________
Email Address

Verify if your company is 51% or greater Native American owned. If yes, include documentation in Attachment G.

_____Yes _____No

______________________________
Federal Tax ID #

The above individual is authorized to sign on behalf of company submitting proposal. Proposals must be signed by an official authorized to bind the provider to its provisions for at least a period of 120 days.

End of Signature Page
Exhibit A

Contract Provisions
Pueblo de San Ildefonso
Office of the Governor

CONTRACT

This Design and Construct Contract (“Contract”) is entered into by and between the Pueblo de San Ildefonso (“Owner”) by and through its authorized representative, Perry Martinez, Governor and ________________ (“Contractor”). The Owner and Contractor agree as follows:

ARTICLE 1: SCOPE OF WORK

The term “Scope of Work” is intended to include items necessary for the proper execution and completion of the Scope of Work and also to include all Work which may be reasonably inferred from the documents referenced in this Contract and the description of the Work as being necessary to produce the intended results. The Scope of Work is set forth in Exhibit A.

ARTICLE 2: COMMENCEMENT AND COMPLETION

The Work to be performed under this Contract shall commence on or before ______________ and completed within ___________________ from commencement date. Owner will issue a Notice to Proceed. The Contractor will first provide the design plans for written approval by the Owner, prior to any actual work beginning with the Pueblo. Once approved the project plan will become Exhibit “B” to this Agreement. Except as otherwise required for the safety or protection of persons, all Work shall be performed between the hours of 8 a.m. and 5 p.m., Monday through Friday unless otherwise agreed to in writing by the Owner. While performing the Work, Contractor will use all available means to limit and minimize the amount of disruption and or interference with business operations.

ARTICLE 3: CONTRACT AMOUNT AND PAYMENTS

The Owner shall pay the Contractor an amount not to exceed $________ for the satisfactory performance of Work in progress payments as described herein. The Work is subject to the Pueblo de San Ildefonso Gross Receipts Tax. Contractor shall be responsible for submitting the Gross Receipts Tax. Final payment shall be made only upon the full acceptance of Owner. The making of the final payment shall not release Contractor of any of the obligations of Contractor set forth in this Contract.
ARTICLE 4: CONTRACTOR

A. The Contractor shall perform the Work as an Independent Contractor pursuant to the terms of this Contract. Contractor is neither an employee nor agent of the Owner for any reason.

B. The Contractor shall supervise and direct all Work, using Contractor’s best attention and efforts. The Contractor shall be solely responsible for all means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under this Contract.

C. The Contractor shall be financially responsible for and shall pay for all labor, expertise, materials, and services necessary for the proper execution and completion of the Work.

D. The Contractor shall be responsible for the performance of its employees and shall not employ anyone not skilled in the task assigned to them. The Contractor shall be responsible for the acts and omissions of its employees and agents.

E. The Contractor shall be responsible for the payment of all applicable taxes including but not limited to taxes under the Pueblo de San Ildefonso Tax Act of 2013. Contractor shall not bill the Pueblo for such taxes as an amount over the contract price.

F. The Contractor shall comply with all laws, ordinances, rules, regulations, building codes and orders regarding the Work performed under this Contract.

G. Unless permission is granted in writing by Owner, Contractor shall not employ any subcontractor to perform the Work under this Contract. If permission of Owner is granted it will also provide any applicable terms and conditions related to Owner’s permission.

H. Contractor shall furnish Owner appropriate releases or waivers of lien for all work performed or materials provided.

I. Contractor represents that it has visited the site for the performance of the Work and is familiar with the local conditions under which the Work is to be performed.

J. Contractor shall be responsible solely for his own and his employees' and agent’s activities on the site. Contractor shall supervise and direct all work. Contractor shall comply with all applicable laws, ordinances and rules regarding the Work being performed. Contractor shall be responsible for initiating, maintaining and supervising all safety precautions in connection with the Work. Contractor shall take appropriate precautions to avoid injury, loss or damage to all employees and other persons associated with the Work being performed under this Agreement. The obligations in this section do not relieve any construction contractor from their responsibility for maintaining a safe jobsite.

K. Contractor will be responsible for obtaining any work permits or tax registration fees required by the Pueblo.

L. Contractor shall not hire any employee of Owner for any of the Work under this Contract without the Owner’s written approval.
M. Contractor agrees to retain and provide to Owner if requested, documentation of all expenditures for the Work.

ARTICLE 5: STANDARD OF CARE

A. The standard of care for all professional engineering and related services performed or furnished by Contractor under this Contract will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Contractor makes no warranties, express or implied, under this Contract or otherwise, in connection with any services performed or furnished by Contractor.

ARTICLE 6: INDEMNIFICATION AND INSURANCE

A. The Contractor shall indemnify and hold harmless the Owner, its Governor, Council, its agents and employees from and against any claims, suits, damages, liability, losses and expenses including but not limited to attorney’s fees arising out of or relating to the performance of the Work caused in whole or in part by the acts or omissions of Contractor or anyone working directly or indirectly for them or at their direction.

B. The Contractor shall purchase insurance from and maintain in a company lawfully authorized to do business in the jurisdiction where the Work is performed, such insurance as will protect the Contractor from the claims set forth below which may arise out of or result from the Contractor’s operations under this Contract and for which Contractor may be legally liable, whether such operations are by Contractor or anyone directly or indirectly employed by them or anyone acting at their direction.

1. Claims under workers’ or workmen’s compensation, disability benefits or other similar benefits, which are applicable to the Work, performed.

2. Commercial General Liability insurance with a minimum combined single limits of ONE MILLION DOLLARS ($1,000,000) each occurrence. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage, personal injury, blanket contractual, independent contractors, products and completed operations.

3. Comprehensive Automobile Liability insurance with minimum combined single limits for bodily injury and property damage at not less than ONE MILLION DOLLARS ($1,000,000) each occurrence with respect to each of Contractor’s owned, hired or non-owned vehicles assigned to or used in the performance of the services. If the Contractor has no owned automobiles, the requirements of the paragraph shall be met by each employee of the Contractor providing services under this Contract.

4. Professional/Contractor Liability insurance with minimum limits of ONE MILLION DOLLARS ($1,000,000) each occurrence.
C. The policy required in Sections 2 and 3 above shall be endorsed to include Owner, its agents and employees as additional insureds. The policies listed above shall be primary and any Owner insurance shall be excess and not contributory to that provided by Contractor. No additional insured endorsement shall contain any exclusion for bodily injury or property damage arising from completed operations. The Contractor shall be responsible for any deductible losses under the policies listed above.

D. Contractor shall provide evidence that the policies providing the required coverage is in full force and effect and shall be submitted to Owner prior to commencement of the Work. Such certificates shall be provided by Contractor’s insurance agent. The certificate shall identify this Contract and provided that the coverage under the policies will not be cancelled, terminated or materially changes until at least thirty (30) days prior notice has been given to Owner. Contractor shall still comply with the policy requirements even if they make changes to such policies. Failure to maintain such policies shall constitute a material breach and allow Owner to immediately terminate this Contract.

E. To the extent Contractor utilizes any Sub-Contractor with respect to the Work, Contractor agrees to ensure that such Sub-Contractor also complies with the insurance provisions of this Contract prior to initiating any of the Work.

**ARTICLE 7: ASSIGNMENT**

Contractor shall not assign or transfer any interest in this Contract, the Work to be performed under this Contract or assign any claims for money due or to become due under this Contract without the prior written consent of Owner.

**ARTICLE 8: DISPUTE RESOLUTION**

A. Mediation: If a dispute arises concerning a provision of the Contract, the parties agree to try in good faith to resolve the dispute. In the event that the dispute cannot be resolved by the parties, the party making the claim of non-compliance shall deliver to the other party written notice thereof, specifying the nature of action or failures to act that are alleged to be contrary to the Contract terms. If the matter remains unresolved after fifteen (15) days after receipt of the notice of claim, the parties shall submit the dispute to a mutually agreed upon mediator. The mediation shall be conducted under the voluntary Commercial Mediation Rules of the American Arbitration Association. The parties shall bear their own costs and shall share the costs charged by the mediator.

B. Arbitration: In the event that mediation does not result in resolution of the dispute, the party making the claim of noncompliance can, by written notice to the other party, invoke arbitration. Arbitration shall be conducted in New Mexico under the Arbitration Rules of the American Arbitration Association, excluding Rule 52(c), except that the arbitrator(s) shall be attorney(s) who are licensed in good standing of the State Bar of New Mexico and shall have experience in Indian Affairs and commercial law. The decision of the
arbitrator(s) shall be final. All parties shall bear their own costs of arbitration and attorney fees.

C. Sovereign Immunity: By entering this Agreement, the Pueblo does not waive, limit, or modify its sovereign immunity from suit.

ARTICLE 9: TERMINATION

If the Contractor defaults or neglects to carry out the Work or fails to perform any provision of this Contract, the Owner may upon seven (7) days written notice terminate the Contract. This option shall be without prejudice to any other remedy and in addition to any other remedies or rights to damages at law or in equity.

ARTICLE 10: EARLY TERMINATION

This Contract is funded in whole or in part by funds made available under an Indian Affairs Department Grant Agreement. Should the Indian Affairs Department early terminate the grant agreement, the Grantee may early terminate this contract by providing contractor written notice of such termination. In the event of termination pursuant to this paragraph, the Grantee’s only liability shall be to pay contractor or vendor for acceptable goods delivered and services rendered before the termination date.

ARTICLE 11: MISCELLANEOUS

A. No failure to enforce any provision of this Contract for any breach thereof shall be considered as a waiver of any right to enforce provisions of this Contract concerning any subsequent or continuing breach.

B. If any provision of this Contract is declared by a court of competent jurisdiction to be invalid for any reason, such shall not affect the remaining provisions. The remaining provisions shall be fully severable, and this Agreement shall be construed and enforced as if such invalid provision had never been included.

C. No amendment to this Contract shall be effective unless made by written instrument signed by both of the parties hereto.

D. This Contract contains the entire agreement between the parties, superseding in all respects all prior oral or written agreements or understandings pertaining to the matters covered under this Contract.

E. Notice for any matter involving or arising out of this Contract shall be given in writing as follows.

ARTICLE 12: NON-APPROPRIATION

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, the Grantee may
immediately terminate this Agreement by giving the Contractor written notice of such termination. The Grantee’s decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final.

ARTICLE 13: NOTICE TO PARTIES:

Notice for any matter involving or arising under this Agreement shall be given in writing as follows:

   i) **To the Contractor:**

   ii) **To the Pueblo:**

   Governor
   Pueblo de San Ildefonso
   02 Tunyo Po
   Santa Fe, New Mexico 87506
   (505) 455-2273

   Tribal Administrator
   Pueblo de San Ildefonso
   02 Tunyo Po
   Santa Fe, New Mexico 87506
   (505) 455-2273

ARTICLE 14: ENTIRE AGREEMENT AND AMENDMENT:

This Agreement constitutes the entire agreement of the parties and supersedes all proposals, prior agreements and other communications, whether oral or written. This agreement shall not be altered, changed or amended except in writing, signed by both parties.

THE UNDERSIGNED HEREBY AGREE TO THE TERMS CONTAINED IN THIS AGREEMENT:

For Contractor:

___________________________________________________              ____________________

For Pueblo de San Ildefonso:

___________________________________________________         ____________________

Perry Martinez, Governor        Date