Town of Silver City
Request for Proposals
RFP 11/12 -1P
General Engineering Support

Submission of Proposal Date and Time:

December 20, 2011 3:00pm

/ s /

Approval:
Alex C. Brown, Finance Director/Town Manager

/ s /

Anita Norero, Purchasing Agent

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

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SECTION I
INTRODUCTION

A. PURPOSE OF THIS REQUEST FOR PROPOSALS

The Town of Silver City desires to establish a long-term, variable quantity; engineering support contract with a New Mexico licensed engineering company. This request for proposals (RFP) describes the required submittals form interested companies, and the evaluation criteria that the Town appointed Professional Services Committee (PSC) will use to evaluate the proposals.

B. SCOPE OF WORK

1. The consultant shall provide miscellaneous professions engineering services pertaining to general/civil projects. Emphasis will be placed on, but not limited to, the following items:

a. Provide engineering services such as planning, program development, design, and construction management general/civil projects in the areas of:

1) Road and Transportation
2) Storm water
3) Solid Waste
4) Parks
5) Site work
6) Environmental Permitting
7) Traffic Analysis
8) Landscaping
9) Water/ Wastewater
10) Architecture and General Construction

2. The following projects are to be included in the proposal:

a. Project 1 – Roadway Construction

1) Conduct traffic analysis for determination of present and future design year volumes, intersection turning movements and capacity, signal phasing, signal interconnections, lane requirements, and traffic progressions.

2) Provide engineering services to establish economical roadway alignments and corridors based on existing properties, environmental impacts, hazardous waste contamination, and property donations.

3) Preparation of easement right-of-way maps and legal descriptions.

4) Provide engineering services during bidding and project construction phases, certify as to completion of construction in accordance with contract documents.

5) Prepare bridge plans if required in accordance with Grant County and New Mexico State Highway and Transportation Department standards.

6) Prepare maintenance of traffic and phasing plans to conduct the construction work.

7) Conduct storm water drainage designs in accordance with Town standards and meeting the requirements of Permitting agencies.

8) Provide field survey necessary to perform and accomplish the above items.

9) Certify that as-built drawings prepared by the contractor are in accordance with the engineering design.

b. Project 2- Well Field Improvement

1) Provide engineering design and services for expansion of existing water resources including permitting and procurement of water rights.

2) Provide plan preparation to represent the location of all existing utilities and the design of the relocation of the Town utilities to optimize resource availability.

c. Project 3 – New Construction

1) Review development plans as related to subdivision and commercial development.

2) Provide specialized services such as: geotechnical investigations, structural architecture and design, and landscaping for a municipal structure within the subdivision.

C. PROCUREMENT MANAGER

1. The Department has designated a Procurement Manager who is responsible for the conduct of this procurement whose name; address and telephone number are listed below.

Anita Norero, Purchasing Agent
Town of Silver City
101 W Broadway
Silver City, NM 88061

Telephone: (575) 538-3731 ext 6373
Fax: (575) 538-5123

2. All deliveries via express carrier should be addressed as follows:

Anita Norero, Purchasing Agent
Town of Silver City
101 W Broadway
Silver City, NM 88061

3. All deliveries via mail services should be addressed as follows:

Anita Norero, Purchasing Agent
Town of Silver City
P. O. Box 1188
Silver City, NM 88062

4. Any inquiries or request regarding this procurement should be submitted to the Procurement Agent in writing. Offerors may contact ONLY the Procurement Agent regarding the procurement. Inquiries and requests made to other Town employees or to members of a board or council will not be answered.

D. DEFINITION OF TERMINOLOGY

This paragraph contains definitions that are used throughout this procurement document, including appropriate abbreviation.

1. **Contract**: Means and agreement for the procurement of items of tangible personal property or services.

2. **Contractor**: Shall mean successful offeror.

3. **Department**: Means the issuing department.

4. **Desirable**: The terms "may", "can", "should", "preferable", or "prefers" identify a desirable or discretionary item or factor for the Department to determine.

5. **Determination**: Means the written documentation of a decision of a procurement manager including findings of fact required to support a decision. A determination becomes part of the procurement file to which it pertains.

6. **Professional Evaluation Committee (PEC)**: Means a body appointed by the

Department management or Town Council/ Mayor to perform the evaluation of offeror proposals. The Procurement Manager shall provide only technical assistance requested by the PEC.

7. **Evaluation Committee Report**: Means a report prepared by the Procurement Manager and/or the PEC for submission to the Council for contract award that contains all written determinations resulting from the conduct of a procurement requiring the evaluation of competitive sealed proposals.

8. **Finalist**: Defined as an Offeror who meets all the mandatory specifications of the RFP and whose score on evaluation factors is sufficiently high to qualify that offeror for further consideration by the Evaluation Committee.

9. **Mandatory**: The terms "must", "shall", "will", "is required", or "are required", identify a mandatory item or factor. Failure to meet a mandatory item or factor will result in the rejection of the offeror's proposal.

10. **Offeror**: Any person, corporation, or partnership who chooses to submit a proposal.

11. **Procurement Manager**: The person or designee authorized by the Town to manage or administer a procurement requiring the evaluation of competitive sealed proposals.

12. **Request for Proposals or RFP**: Means all documents, including those attached or incorporated by reference, used for soliciting proposals.

13. **Responsible Offeror**: An offeror who submits a responsive proposal and who has furnished, when required, information and data to prove that his financial resources, production or services facilities, personnel, service reputation and experience are adequate to make a satisfactory delivery of the services or items of tangible personal property described in the proposal.

14. **Responsive Offeror or Responsive Proposal**: An offeror or proposal, which conforms in all material respects to the requirements, set forth in the request for proposals. Material respects for proposals include, but are not limited to, price, quality, quantity or delivery requirements.

SECTION II
CONDITIONS GOVERNING THE PROCUREMENT

A. SEQUENCE OF EVENTS

The Procurement Manager will make every effort to adhere the following schedule:

	Action	Responsibility	Date
1.	Issue of RFP	Purchasing Agent	11/03/2011
2.	Distribution List Response Due	Potential Offeror	11/17/2011
3.	Deadline to Submit Additional Questions	Potential Offeror	11/30/2011
4.	Written Question Response to RFP Amendments	Purchasing Agent	12/07/2011
5.	Submission of Proposal	Offeror	12/20/2011
6.	Proposal Evaluation, Selection of Finalist, Best/Final Offers/Presentations and Negotiations	PEC	12/20/2011 thru 01/10/2012
7.	Shortlist Announcement	Procurement Manager	01/11/2012
8.	Oral Presentations	PEC, Offeror	TBD
9.	Award(s) Submission Recommendation To Procurement Manager	PEC	02/03/2012
10.	Contract Award	Procurement Manager Town Council	02/14/2012
11.	Protest Deadline	Proposers	02/29/2012

B. EXPLANATION OF EVENTS

The following paragraphs describe the activities listed in the sequence of events shown in Section II, Paragraph A.

1. Issue of RFP

This RFP is being issued by the Town of Silver City, Finance Department on **November 3, 2011.**

2. Distribution List Response Due

Potential offerors should hand deliver or return by facsimile or by registered or certified mail the "Acknowledgment of Receipt of Request For Proposals Form" that accompanies this document (See Appendix A) to have their organization placed on the procurement distribution list. The form should be signed by an authorized representative of the organization, dated and returned by close of business on **November 17, 2011.**

The procurement distribution list will be used for the distribution of written responses to questions and any RFP amendments.

Failure to return this form shall constitute a presumption of receipt and rejection of the RFP, and the potential offeror's organization name shall not appear on the distribution list.

3. Deadline to Submit Additional Written Questions

Potential offerors may submit additional written questions as to the intent or clarity of this RFP until close of business on **November 30, 2011**, written questions must be addressed to the Procurement Manager.

4. Response to Written Questions/Proposal Aments

Written responses to written questions and any Proposal amendments will be distributed on **December 7, 2011** to all potential offerors whose organization name appears on the procurement distribution list. An Acknowledgment of Receipt Form will accompany the distribution package. This form should be signed by the offeror's representative, dated and hand-delivered or returned by facsimile or by registered or certified mail by the date indicated thereon. Failure to return this form shall constitute a presumption of receipt and withdrawal form the procurement process. Therefore, the offeror's organization name shall be deleted from the procurement distribution list.

5. Submission of Proposals.

ALL OFFEROR PROPOSALS MUST BE RECEIVED FOR REVIEW AND EVALUATION BY THE PROCUREMENT MANAGER OR DESIGNEE NO LATER THAN 3:00 PM MOUNTAIN STANDARD TIME ON **December 20, 2011**. Proposals received after this deadline will not be accepted. The date and time will be recorded on each proposal. Proposals must be addressed and delivered to the Procurement Manager at the address listed. Proposals must be labeled on the outside of the package to clearly indicate that they are in response to **RFP 11/12-1P General Engineering Support Request for Proposals.** Proposals submitted by facsimile will not be accepted.

A public log will be kept of the names of all offeror organizations that submitted proposals. Pursuant to Section 13-1-116 NMSA 1978, the contents of any proposal shall not be disclosed to competing offerors during the evaluation and negotiation process.

6. Proposal Evaluation

The evaluation of proposals, selection of finalist, final offers, presentations and negotiation will be performed by the PEC. This process will take place from **December 20, 2011 and January 10, 2012.** During this time, the Procurement Manager or the PEC chairman may at their option 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.

7. Shortlist Announcement

If the PSC in its evaluation deems it necessary to require oral presentations from the offerors, it will provide a shortlist to the Procurement Manager who will announce the shortlist on **January 11, 2012.**

8. Oral Presentations

Oral presentations will be scheduled by the Procurement Manager to be provided to the PEC. Any requirements for the oral presentations should be coordinated with the Procurement Manager. The presentation shall be no longer than one hour with an additional hour and a half for questions and answers with the PEC.

9. Submission of Recommendation of Award(s) to Procurement Manager

The Advisory Board will submit all recommendations for the award to the Procurement Manager by close of business on **February 3, 2012**

10. Contract Award

The PEC will prepare a recommendation for award. The Governing Body of the Town of Silver City will consider the recommendation at a public meeting scheduled to be held at 7:00pm on **February 14, 2012** at the Grant County Administration Center, 1400 Highway 180 E, Silver City, NM 88061. This date is subject to change at the discretion of the Finance Director of the Town of Silver City.

The contract award shall be made to the offeror or offerors whose proposal is most advantageous, taking into consideration the evaluation factors set forth in the RFP. The most advantageous proposal(s) may or may not have received the most points.

11. Protest Deadline

Any protest by an offeror must be in conformance with protest procedures set out in the Town Procurement Procedures. The fifteen (15) day protest period shall begin on the day following the contract award and will end as of close of business on **February 29, 2012**. 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 Purchasing Agent. The protest must be addressed and delivered as follows:

Anita Norero
Town of Silver City
P.O. Box 1188
Silver City, NM 88062

Protests received after the deadline will not be accepted.

C. OTHER GENERAL REQUIREMENTS

This procurement will be conducted in accordance with the Procurement Procedures of the Town of Silver City and the ordinances of the Town of Silver City.

1. Acceptance of Conditions Governing the Procurement

Offerors must indicate their acceptance of the Conditions Governing the Procurement section in the letter of transmittal. Submission of a proposal constitutes acceptance of the Evaluation Factors contained of this RFP.

2. Incurring Cost

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

3. Prime Contractor Responsibility

Any contract that may result from this RFP shall specify that the prime

contractor is solely responsible for fulfillment of the contract with the Agency. The Agency will make contract payments to only the prime contractor.

4. Amended Proposals

An offeror may submit an amended proposal before the deadline for receipt of proposals. Such amended proposals must be complete replacements for a previously submitted proposal and must be clearly identified as such in the transmittal letter. The Town of Silver City personnel will not merge, collate, or assemble proposal materials.

5. Termination

This proposal solicitation may be canceled at any time and any and all proposals may be rejected in whole or in part when the Agency determines such actions to be in the best interest of the Town of Silver City.

6. Number of Responses

Proposers shall submit only one proposal.

7. Offerors' Rights to Withdraw Proposal

Offerors will be allowed to withdraw their proposals at any time prior to the deadline for receipt of proposals. The offeror must submit a written withdrawal request signed by the offeror's duly authorized representative addressed to the Procurement Manager.

The approval or denial of withdrawal requests received after the deadline for receipt of the proposals is governed by the applicable procurement regulations.

8. Disclosure of Proposal Contents

The proposals will be kept confidential until the Town of Silver City Council awards a contract. At that time, all proposals and documents pertaining to the proposal will be open to the public, except for the material, which is proprietary or confidential. The Procurement Manager or the Advisory Board will not disclose or make public any page of proposal on which the offeror has stamped or imprinted "proprietary" or "confidential" subject to the following requirements:

a. Proprietary or confidential data shall be readily separable from the proposal in order to facilitate eventual public inspection of the nonconfidential portion of the proposal. Confidential date is normally restricted to confidential financial information concerning the offeror's organization and data that qualifies a trade secret in accordance with the Uniform Secrets Act, 57-3A-a to 57-3A-7 NMSA, 1978.

b. The price of products offered or the cost of services proposed shall not be designated as proprietary or confidential information.

c. If a request is received for disclosure of data for which an offeror has made a written request for confidentiality, the Procurement Manager shall examine the offeror's request and make a written determination that specifies which portions of the proposal should be disclosed.

The proposal shall be open to public inspection subject to any continuing prohibition on the disclosure of confidential data.

9. No Obligation

This procurement in no manner obligates the Town of Silver City or any of its agencies to the eventual rental, lease, purchase, etc., of any equipment, software, or services offered until a valid written contract is approved by the Town of Silver City and other appropriate authorities.

10. Termination

This RFP may be canceled at any time and any and all proposals may be rejected in whole or in part when the Agency determines such action to be in the best interest of the Town of Silver City.

11. Sufficient Appropriation

Any contract awarded as a result of this RFP process may be terminated if sufficient appropriations or authorizations do not exist. Sending written notice to the contractor will effect such termination. The Agency's decision as to whether sufficient appropriations and authorizations are available will be accepted the contractor as final.

12. Legal Review

The Agency requires that offerors agree to be bound by the General Requirements contained in this RFP. Any offeror must be promptly brought to the attention of the Procurement Manager.

13. Governing Law

Ordinances of the Town of Silver City and the laws of the State of New Mexico shall govern this procurement and any agreement with offerors that may result.

14. Basis for Proposal

Only information supplied by the Agency in writing through the Procurement Manager or this RFP should be used as the basis for the preparation of offeror proposals.

15. Proposal Offer Firm

Responses to this RFP, including proposal prices, will be considered firm for ninety (90) days after the due date for receipt of proposals or sixty (60) days after receipt of a best and final offer if one is submitted.

16. Contract Terms and Conditions

The contract between the Agency and a contractor will follow the format specified by the Agency and contain the terms and conditions set forth in Appendix B, "Contract Terms and Conditions". However, the Agency reserves the right to negotiate with a successful offeror provisions in addition to those contained in this RFP. The contents of this RFP, as revised and/or supplemented, and the successful offeror's proposal will be incorporated into the contract.

Should an offeror object to any of the Town's terms and conditions, as contained in this Section or in Appendix B, that offeror must propose specific alternative language that would be acceptable to the Town. General references to the offeror's terms and conditions or attempts at complete substitutions are not acceptable to the Agency and will result in disqualification of the offeror's proposal.

Offerors must provide a brief discussion of the purpose and impact, if any, of each proposed change followed by the specific proposed alternate wording.

17. Offeror's Terms and Conditions

Offerors must submit with the proposal a complete set of any additional terms and conditions, which they expect to have included in a contract negotiated with the Town of Silver City.

18. Contract Deviations

Any additional terms and conditions, which may be the subject of negotiation, will be discussed only between the Town and the selected offeror and shall not be deemed an opportunity to amend the offeror's proposal.

19. 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 RFP. The Procurement Manager will reject the proposal of any offeror who is not a responsible offeror or fails to submit a responsive offer.

20. 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 same mandatory requirements and the failure to do so does not otherwise materially affect the procurement. This right is at the sole discretion of the Evaluation Committee.

21. Change in Contractor Representatives
The Town reserves the right to [request/require] a change in contractor representatives if the assigned representatives are not, in the opinion of the Town, meeting its needs adequately.

22. Notice
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.

23. Agency Rights
The Agency reserves the right to accept all or a portion of an offeror's proposal.

24. Right to Publish
Throughout the duration of this procurement process and contract term, potential offerors and contractors must secure from the Town's 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 a disqualification of the offeror's proposal or termination of the contract.

25. Project Reporting
The contractor will prepare a monthly written status report for submittal to the Town Executive Administrative Assistant. Written status reports will include as a minimum a discussion of claims progressed, problems

encountered and recommended solutions, identification of policy or management questions, and requested project plan adjustments.

26. Ownership of Documents
All materials, work papers, meeting notes, design documents, or other documents produced by the contractor shall be the property of the Town of Silver City. The original and one copy of all such documents shall be indexed and placed in appropriately labeled binders and delivered to the Town Executive Administrative Assistant at the conclusion or termination of the contract.

27. Ownership of Proposals
All documents submitted in response to this Request for Proposals shall become the property of the Town of Silver City.

SECTION III
INSTRUCTIONS FOR RESPONSES

A. ELIGIBILITY FOR CONSIDERATION

1. Compliance with Certification Requirements

   a. Certification for this project is required in engineering, only firms certified by the State of New Mexico in this discipline will be recommended for selection for this project.

   b. All certification information is to be submitted to the contact person specified on the cover sheet of this RFP.

   c. Responses from firms not currently certified will be forwarded to the Professional Evaluation Committee (PEC) for evaluation. However, if the certification is not completed either within two weeks after the submission deadline or by the announcement of the shortlist, whichever is later, the firm will not receive any further consideration for selection.

   d. When certification information is submitted with the responder and the information is insufficient for certification, supplemental information may be requested.

   e. Each firm shall submit its responses in the name in which is certified.

2. Compliance with Submission Deadline

   a. The response for this project must be submitted in its entirety by the deadline specified on the front cover.

   b. No response, or portion thereof, will be accepted for consideration after the specified deadline.

3. Compliance with RFP Requirements

   a. Each response that is forwarded for evaluation must meet the requirements specified in this RFP.

   b. Failure to submit all required items in the manner specified may result in your submittal being found non-responsive

   c. Any submittal found non-responsive will not be considered for selection for this project.

d. The Table of Contents for Professional Consultant Response is to be completed by the submitting firm and included in the bound copies of the firm's response.

1) Response material shall be arranged in the order indicated on the Table of Contents for Professional Consultant Response form provided in this RFP.

2) The submitting firm is to include the appropriate page numbers to indicate the location for each of the provided forms.

e. The response information should be included on either the forms provided in this RFP, or a reasonable facsimile of the provided forms.

f. Firms choosing to use reasonable facsimiles of required forms should maintain the content of the provided forms.

g. Four (4) bound copies of the firm's response must be submitted and each of the bound copies must contain the following:

1) The Firm Data Sheet for the prime firm only.

2) Responses to the evaluation criteria.

- Each of the criteria in Section III-E must be specifically addressed.
- Responses should include, but not necessarily be limited to, the information included with each of the criteria.
- Responses shall not exceed the established page limits.

h. One unbound copy of the completed RFP Checklist is to be submitted with the firm's response.

i. A cover letter, one page maximum, shall be included, signed by the firm's chief operations officer.

j. The cover letter shall only serve as a transmittal document and shall not include any information to be considered for evaluation by the PEC.

B. INITIAL RANKING FOR THE PROJECT

1. The initial ranking for this project will be made on the basis of scoring on the following items for each firm submitting a response that has been determined responsive to the requirements of this RFP.

a. Responses to the six weighted evaluation criteria specified in Section III-E of the RFP, ***(Maximum points – 90)***
b. Volume of Work Reports, ***(Maximum points – 5)***
c. Past Performance Rating, ***(Maximum points – 5)***

C. VOLUME OF WORK

1. A volume of work score will be applied to the evaluation score for each firm submitting a response to the RFP.

2. The volume of work not 75% completed 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.

3. The Firm should indicate the volume of work they currently have underway with the Contracting Agency that is less than 75 percent complete.

4. The range or points will be:

Value	Points
None	5
$1 to $25,000	4
$25,001 to 50,000	3
$50,001 to 75,000	2
$75,001 to 100,000	1

D. RATING OF PAST PERFORMANCE WITH THE TOWN

1. A past performance score will be applied to the evaluation score for each firm submitting an acceptable response to the RFP.

2. The applicable time period shall be the two previously completed fiscal years.

3. The range of points will be maximum (5) and a minimum of (-5).

E. CRITERIA FOR EVALUATION

1. **Approach to project and ability to provide required services (technical Proposal)** ***(Maximum points – 20)***. Responses limited to two pages for each project defined in the Scope of Work.

a. Indicate if services will be provided by applicant or by sub consultant firm. When services are to be provided by sub consultant firm, include sub consultant firm's name and specify what services will be provided.

b. Relative to the scope of services for the project, describe the specific abilities of the firms.

c. Describe how you plan for the services and how those plans are to be executed.

d. Include any innovative approaches to providing the services or to implementing the project.

e. Briefly describe your quality assurance/quality control program.

2. **Ability of Professional Personnel *(Maximum points – 15).*** Responses limited to two pages, plus organizational charts, plus resumes for key personnel.

a. Attach resumes only for key personnel of the project team, which includes any sub consultants or surveyors, detailing past experience as it relates to similar type of projects.

b. Submit separate organizational charts delineating personnel assigned to both construction and design services.

c. Describe proximity to, or familiarity with, the area in which the project is located.

3. **Successful Experience with Similar Projects *(Maximum point – 20).*** Responses limited to one page per project.

a. List a maximum of five (5) recent projects, preferably during the past 5 years, to indicate proficiency in similar work.

b. Indicate the past record of performance on contracts with government agencies or private industry with respect to such factors as control of costs, quality of work, and ability to meet schedules.

4. **Ability to Define Milestones and Budget Requirements – Cost Proposal *(Maximum points- 10).*** Response limited to two pages per project.

a. Provide a short narrative outlining how you propose to manage the project in order to meet schedule and budget requirements.

b. Provide detailed costs to be incurred relative to the project. Indicate the expected man-hours by labor category required. Provide a separate, current labor rate page (not included in the town page limit) for each labor category. For indeterminate areas indicate unit rates (e.g. 0.5 staff engineer hours per linear foot of sewer line designed).

c. Define milestones or check points for the evolution of the project through completion or construction.

d. Indicate the controls to be utilized to maintain both schedule and budget for this project.

e. Describe how personnel will be assigned, and tasks effectively handled, in order to provide the most efficient service on the project during both the design and the construction phases of the project.

5. **Recent, Current, and Proposed Workloads** ***(Maximum points- 10)***. Response limited to two pages plus graphic representation.

a. Describe the current workload and your daily ability to handle the scope of services.

b. Provide a graphic representation, one page maximum of your current commitment over the next one-year period for key members of the project team, including any sub consultants.

6. **Effect of project team location on project responses** ***(Maximum points – 15).*** Response is limited to two pages.

a. Define where elements of the work will be performed (city/state), whether performed by prime or sub consultant firms.

b. Specify who in the proposer's organizational chart will oversee performance of the elements of the work.

c. Specify the members of the project team and office location for each.

F. ORAL PRESENTATION

1. Oral presentations by the short listed firms may be required on this project for short listed firms.

2. Oral presentations will be made to, and rated by, the PSC.

3. The final ranking of the shortlist will be based solely on the firm's scoring for the oral presentations.

4. Should the PSC elect to hear oral presentations, all respondents who have scored within 10% of the score of the top ranked respondent will be interviewed. If there are less than three respondents in the top 10%, then the top three

respondents regardless of the relative scores will be interviewed. The point of contact will notify each respondent on the list of the place, time and date of the presentation.

G. RIGHT TO REJECT PROPOSALS

1. Subsequent to the issuance of this RFP, the Town reserves the right to reject any and all proposals received in response to this RFP.

2. In exercising this right, the Town accepts no liability for any cost incurred by any firm or firms preparing responses to this RFP.

H. CONFLICT OF INTEREST

1. No firm shall be eligible for selection on any project and no work shall be assigned to a firm which conflicts with or is duplicative of any work by the firm or any affiliated business entity, including, but not limited to, partnerships, joint ventures, and subsidiaries of the same parent corporation or firm.

I. CONTACT WITH MEMBERS OF THE PROFESSIONAL EVALUATION COMMITTEE

1. Members of the PEC are prohibited form discussing a submittal on any project with any firm whose proposal they are reviewing until such time as a selection has been made.

2. Firms are requested not to contact PEC members regarding this award. Firms failing to comply with this request may be deemed ineligible for consideration for selection.

3. Professional Evaluation Committee Members:
   a. Peter Pena, Director of Public Works
   b. Peter Russell, Director of Community Development
   c. Edwin "Ves" Grimes, Water Foreman

J. REQUESTS FOR INFORMATION/ CLARIFICATION

1. Any firm requesting additional information and/or clarifications relating to this project shall direct such requests to the individual specified as contact person on the cover sheet.

2. Requests should be made, in writing, per the attached schedule. Requests may be transmitted by facsimile machine (FAX) or email. No questions will be answered by telephone.

K. REUSE OF PLANS

1. The plans, drawings and specifications on any project started or completed under this contract are subject to reuse in accordance with applicable New Mexico Statutes.

L. CHANGES IN PROJECT TEAM FOR SHORTLISTED FIRMS PLEASE NOTE

1. Any change in the Project team of short listed firm after the submission of the response to this RFP could result in reconsideration of the scoring of applicable evaluations criteria.

2. Any changes in the project team of a short listed firm should be brought to the attention of the Town as soon as possible after the change is made. The changes, the reasons for the changes, and resumes for the individuals being substituted for an original project team member, must be submitted, prior to oral presentation, to the individual specified as contact person on the cover sheet of this RFP.

3. Decreases in scoring may result from the reconsideration of changes in the project team of a short listed firm.

4. No increases in scoring will result from the reconsideration of changes in the project team short listed firm.

M. CHANGES IN RFP REQUIREMENTS

1. No interpretation, explanations or clarifications of requirements of this RFP will be made, or can be relied upon, unless issued in the form of an RFP addendum.

2. Any addenda issued on this RFP shall become a part of the RFP and shall supersede previous requirements, conditions and time frames specified in the RFP and/or previous addenda.

3. If an addendum is received after the proposal has been submitted, mark as received and return. If the late addendum changes your proposal in any way, send a revised proposal. That proposal must be clearly marked as a revised proposal.

N. ACCEPTANCE OF APPLICABLE POLICIES AND PROCEDURES

1. Firms responding to this RFP agree by submission of such response to accept and comply with the Town policies and procedures that apply to the selection process for this project.

2. Any concerns, or issues, relating to current policies and procedures may be addressed with Town staff, but separate from this selection process.

O. INSURANCE REQUIRMENTS

The following insurance coverage is required for the award of this contract:

1. Worker's Compensation and Employer's Liability Insurance:

Employer's Liability:	
Limit Each Accident	$100,000
Limit Disease Aggregate	$500,000
Limit Disease Each Employee	$100,000

2. Commercial General Liability Insurance

General Aggregate	$300,000
Products- Completed Operations Aggregate	$300,000
Personal and Advertising Limits	$300,000
Each Occurrence	$300,000
Fire Damage (Any One Fire)	$50,000
Specific Contract Aggregate Limits	$50,000

3. Business Injury & Property Damage Liability:

Combined Single Limit Each Accident	$300,000

4. Professional Liability:

Each Claim and Aggregate	$300,000

APPENDIX A

Acknowledgement of Receipt Form

RFP 11/12-1P
General Engineering Support

In acknowledgment of receipt of this Request for Proposal, the undersigned agrees that he/she has received a complete copy, beginning with the title page and table of contents, and ending with APPENDIX D.

The acknowledgement of receipt should be signed and returned to the Procurement Manager no later than **November 17, 2011**. This will also ensure that you will receive copies of all Offeror written questions and the Town's written responses to those questions as well as RFP amendments, if any are issued.

The company listed below does/does not (circle one) intend to respond to the Request for Proposals.

COMPANY:_____

REPRESENTED BY:_____ TITLE:_____

EMAIL ADDRESS: _____

PHONE NO.: _____ FAX NO.:_____

ADDRESS:_____

CITY:_____ STATE:____ ZIP CODE:_____

SIGNATURE:_____ DATE:_____

This name and address will be used for all correspondence related to the Request for Proposals.

Please return to: Anita Norero, Purchasing Agent
101 W. Broadway St.
P. O. Box 1188
Silver City, NM 88062

Phone: (575) 534-6373
Fax: (575) 534-6377
Email: purchasingagent@qwestoffice.net

APPENDIX B

FORMS, ATTACHMENTS AND EXHIBITS

Cover sheet for response

RFP Checklist

Table of Contents for Professional Consultant Response

Firm Data Sheet

Professional Consultant Response Forms

Section III E.1	Approach to project and ability to furnish required services
Section III E.2	Ability of Professional Personnel
Section III E.3	Successful Experience with similar projects
Section III E.4	Ability to Define Milestones and Budget Requirements
Section III E.5	Recent, current and projected workload
Section III E.6	Effect of project team location on project response

PROFESSIONAL CONSULTANT SELECTION

Project Title: Miscellaneous Professional Engineering Services – General/Civil

Applicant Firm:

Name:

Address:

Telephone Number:

Fax Number:

Contact Person/Title:

Alternative Contact Person/Title:

RFP CHECKLIST

Firm: _____

Yes	No	
____	____	1. Is your firm currently certified in the State of New Mexico?
____	____	2. If not currently certified in the State of New Mexico provide documents requesting certification in a separate packet.
____	____	3. Six (6) copies of your responses are provided.
____	____	4. Each of the six copies contains the completed Firm Data Sheets for the prime firm.
____	____	5. Each of the six copies contains a response to each of the six evaluation criteria.
____	____	6. The responses are provided either on the response forms in the RFP or on reasonable facsimiles of the required forms.
____	____	7. The response to each of the criteria is within the specified page limits? Project 1/Project 2/ Project 3

____/ /_____ Criteria E.1 ____/ /_____ Criteria E.4

____/ /_____ Criteria E.2 ____/ /_____ Criteria E.5

____/ /_____ Criteria E.3 ____/ /_____ Criteria E.6

____	____	8. The value of the Work Not 75% complete for the Firm is:

$_____.

ONE COPY TO BE COMPLETED AND SUBMITTED WITH RESPONSE TO RFP

TABLE OF CONTENTS
FOR
PROFESSIONAL CONSULTANT RESPONSE

Firm: _____

Project Title: Miscellaneous Professional Engineering Services – General/Civil

ITEM		PAGE NO.
Coversheet- Exhibit I		
Cover Letter (Optional)		
Firm Data Sheet		
Evaluation Criteria		
Section III E.1	Approach to the Project and Ability to Furnish Required Services	
Section III E.2	Ability of Professional Personnel	
	Narrative	
	Organization Chart	
	Resumes- for key personnel only.	
Section III E.3	Successful Experience with Similar Projects	
Section III E.4	Willingness to meet Schedule and Budget Requirements	
Section III E.5	Recent, Current, and Projected Workloads	
	Narrative	
	Graphic Representation	
Section III E.6	Effect of Project Team Location of Project Response	

FIRM DATA SHEET
(Sheet 1 of 2)

Firm Name: _____

Address: _____

Telephone Number: _____ Fax: _____

Contact Person/ Title: _____

Type Ownership: _____

Submittal for:
_____Parent Company
_____Branch or
_____Subsidiary

Parent Company, if any: _____

Former Parent Company/Companies: _____

Name/Title/Phone Number of two Principals in the firm: _____

_____

Present Offices: City/State/Number of Personnel for each: _____

_____

_____

FIRM DATA SHEET
(Sheet 2 of 2)

Personnel by Discipline: (For submitting office)
List each person only once, by primary function:

_____Administrative	_____Engineers	_____Geologists
_____Architects	_____Chemical	_____Hydrologists
_____CADD Operators	_____Civil	_____Interior Designers
_____Construction Inspectors	_____Electrical	_____Landscape Architects
_____Draftsmen	_____Mechanical	_____Land Surveyors
_____Ecologists	_____Mining	_____Ocean-Ographers
_____Economists	_____Sanitary	_____Planners
	_____Soils	_____Specification Writers
	_____Structural	_____Other
	_____Transportation	

Sub consultant Firms:

Firm Name	Services to be provided
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____
6. _____	_____

PROFESSIONAL CONSULTANT RESPONSE FORM

Section III E.1 Approach to project and ability to furnish the required services.

PROFESSIONAL CONSULTANT RESPONSE FORM

Section III E.2 Ability of professional personnel.

PROFESSIONAL CONSULTANT RESPONSE FORM

Section III E.3 Successful experience with similar projects.

1. Project Title:

2. Project Location:

3. Project Description:

4. Owner's Name and Address:

Contact Person/phone #:

5. Project costs as project completion: Design Construction

6. Were the Design Services completed within budget?
   If not, what were the original design fees?

7. Were the Construction Services completed within budget?

8. Project Duration (Dates):
   a. Design: Start Date: Completion Date:
   b. Construction: Start Date: Completion Date:

9. Were the Design Services completed within schedule?
   If not, what was the original design completion date?

10. Were the Construction Services completed within schedule?
    If not, what was the original construction schedule?

11. Location of office performing work:

12. Was applicant the prime firm? Or sub consultant firm?

13. Was work performed in-house?

14. Type/Scope of services provides:

15. Names of key team personnel for this project:

16. Which members of your proposed team worked on this project?

PROFESSIONAL CONSULTANT RESPONSE FORM

Section III E.4 Ability to Define Milestones and Budget Requirements.

PROFESSIONAL CONSULTANT RESPONSE FORM

Section III E.5 Recent, Current and Projected Workloads.

PROFESSIONAL CONSULTANT RESPONSE FORM

Section III E.6 Effect of Project Team Location on Project Responses.

APPENDIX C

INFORMATION RELATED TO THIS RFP

NM STATUTES ANNOTATED 1978 COMPILATION

1. SECTION 3-38-20. ORDINANCE REQUIREMENTS
2. SECTION 3-38-21. ELIGIBLE USES OF TAX PROCEEDS
3. SECTION 3-38-21.1. CONTRACTING FOR SERVICES
4. SECTION 3-38-33. ADVISORY BOARDS CREATED; DUTIES

ATTORNEY GENERAL OPINION NO. 87-49

TOWN OF SILVER CITY ORDINANCE 850

AGREEMENT

**Note: This Agreement will be negotiated in accordance with Section II C.14.

The Town of Silver City, New Mexico political subdivision, hereinafter called the "Town" and _____, the principal, being a registered professional engineer of the State of New Mexico, holding license number _____, being in good standing, and further representing that he is experienced in the types of work proposed to the Town, hereinafter called the "Engineer", agree this ____day of _____2012, as follows:

I. TERM OF AGREEMENT

A. This agreement shall commence on the ____day of _____2012, and shall continue for a period of one year at which time the Town may option to extend the Agreement. The Town may continue to extend the contract to a total contract length of four years from date of this contract.

II. DUTIES OF PARTIES

A. Engineer agrees to provide engineering services to the Town on an "as needed" basis. The Town anticipates that such needs may include without being limited to, general consulting engineering and planning services.

B. Upon the request of the Town Manager, the Engineer shall perform those professional services specified by the Town. By this Agreement, the Town does not imply, promise, or guarantee any minimum amount of work will be needed, or that Town will call upon Engineer to perform all such needed work.

C. Work to be performed. The Town Manager may make such requests as deemed necessary from time to time. The Town Manager will issue a Request for Engineer's Technical Proposal and Cost Proposal including project specifications or Scope of Work. The Engineer will respond with an Engineer's Technical Proposal and Cost Proposal. When the Engineer's Technical Proposal and Cost Proposal are deemed acceptable, the Town will furnish a Purchase Order for that project including by reference the specifications, scope of work, Engineer's Technical Proposal and Cost Proposal.

D. The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of Engineer's profession practicing under similar conditions at the same time and in the same locality.

E. The Town will make available for the use of the Engineer all of its plans, maps, records, or other data pertinent to the work to be performed by the Engineer pursuant to the Agreement and also any other records, or other materials available to the Town upon the Town's request to any other public agency of body.

F. The Engineer agrees to make available to the Town and its projects, a professional

engineer, registered in the State of New Mexico, able to sign and seal, and empowered to make commitments on behalf of the Engineer. The availability required same day but not less than two hours. The purpose of this availability is to attend bi-weekly progress reviews, meet with Town Councils or groups, or respond to the exigencies of permitting or construction projects.

III. PERFORMANCE

A. When the Town calls upon Engineer to perform services under this Agreement, Engineer shall promptly begin performance of the duties prescribed, and shall apply such resources as necessary to complete the work on time, subject to delays beyond the control of the Engineer. The Engineer shall adhere to all City Ordinances and State or Federal Provisions.

B. The time given for completion of each project shall be stated in the Cost Proposal for that project. In the event any of the engineering services contracted under this Agreement are not completed on or before the completion date or any extension of the completion date for that project, it is agreed that the Town shall have the option to terminate this Agreement or to reduce the compensation due the Engineer. Said reduction shall be one percent (1%) of the total engineering cost for that project for each calendar day or part thereof by which such services are past due, with a maximum reduction of ten percent (10%) of the total cost.

C. The Engineer shall endorse by his professional seal all plans, special provision, permit submittals, letters of transmittal, and engineering and surveying data furnished by the Engineer.

D. Should any project be funded in whole or in part by State or Federal grants and/or loans, all State or Federal provisions shall apply, notwithstanding any provisions contained herein to the contrary. The Engineer represents that he is familiar with all requirements of such programs and his obligations under those provisions.

IV. ENGINEER'S FEE

A. The Town shall pay Engineer on a per/hour basis at a rate of 2.60 times the hourly rate of employee's and principals of the Engineer who perform the work. The pay rate schedule for employee's and principals of the Engineer will be provided to the Town Purchasing Agent and updated as changes are made. The cost of providing the Engineer's Technical Proposal and Cost Proposal shall be indicated as a separate line item in the Cost Proposal.

B. On certain projects, as mutually agreed, the Engineer may perform work on a lump sum basis. The Engineer's Technical Proposal and Cost Proposal will indicate lump sum costs for each phase specified in the scope of work or project specification and will provide a statement explaining the lump sum.

C. The Town shall pay for said services at the rates specified in the Cost Proposal. Payment will not be made by the Town until the services for that project have been received and accepted by the Town as being in compliance with the instructions and specifications, except that for long term projects (sixty days or

longer) monthly billing based on percent of work completed will be acceptable and negotiated per each specific long term project. Such payment shall include reimbursement for all expenses incurred in rendering such services unless otherwise specifically provided hereinafter.

D. Each month, Engineer shall provide to the Town a detailed, itemized statement of all work performed by Engineer for which the Engineer is charging the Town. Upon receipt and review of said statement, the Town shall pay the Engineer the amount due **net 30** from the date of receipt of the invoice.

V. REIMBURSABLE EXPENSES

A. In addition to the Engineer's fee, Engineer shall also be entitled to reimbursement of approved expenses actually incurred by Engineer in providing services to the Town under this Agreement. All equipment, materials, supplies, and software for which Town reimburses Engineer shall become property of the Town.

B. All such expenses shall be approved, by the City Manager. Expenses incurred by Engineer without prior approval by the Town may be retroactively approved by the City Manager.

C. The Engineer may use the services of sub consultants when it is appropriate and customary to do so; such persons and entities include, but are not limited to, surveyors, specialized consultants and testing laboratories. The sub consultants shall be identified in the Technical Proposal and Cost Proposal and shall qualify as reimbursable expense in accordance with paragraph V. A. above.

D. If the Engineer is required by the Town to hire a sub consultant to perform work under this contract then the Town shall pay the Engineer the actual invoice cost plus 10%.

E. Costs of travel and per diem where Engineer is required to travel outside of the Town shall be charged at the prevailing rates for the State of New Mexico Employees.

F. Each month, along with its fee statement, Engineer shall provide to the Town a detailed, itemized statement of all expenses claimed by Engineer. Upon the request of the Town, Engineer shall also provide receipts or other evidence of the expenses claimed by Engineer. Upon receipt and review of said statement, Town shall reimburse Engineer for all approved expenses, as promptly as possible.

VI. OWNERSHIP OF PLAN, DOCUMENTS AND RECORDS

A. The Town acknowledges the Engineer's construction documents as instruments of professional service. Nevertheless, the original plans and specifications prepared under this Agreement shall become property of the Town upon completion of the work and payment in full of all monies due to the Engineer for the subject project. The Town agrees, to the fullest extent permitted by law, to indemnify and hold the Engineer harmless from any claim, liability or cost (including reasonable attorney's fees and defense costs) arising or allegedly arising out of any unauthorized reuse or modification of the construction documents by the Town or

any person entity that acquires or obtains the plans and specifications from or through the Town without the written authorization of the Engineer.

B. Documents, plans, computer models, drawings and electronic files submitted by the Engineer to the Town are submitted for an acceptance period of 30 days. Any defects the Town discovers during this period will be reported to the Engineer and will be corrected as part of the Engineer's Basic Scope of Services. Corrections of defects detected and reported after the acceptance period will be compensated for as Additional Services.

C. The Town acknowledges the Engineer's plans and specifications, including all documents on electronic media, as instruments of professional services. Nevertheless, the plans and specifications prepared under this Agreement shall become the property of the Town upon completion of services and payment in full of all monies due to the Engineer. The Town agrees to waive any claim against the Engineer arising from any unauthorized reuse of modification of the plans and specifications.

D. In addition, the Town agrees, to the fullest extent permitted by law, to indemnify and hold the Engineer harmless from any damage, liability or cost, including reasonable attorney's fees and costs of defense, arising from any reuse or modification of the plans and specifications by the Town or any person or entity which acquire or obtains the plans and specifications from or through the Town without the prior written authorization of the Engineer.

E. The Town shall make available for the use of the Engineer all of its maps, records, laboratory tests, or other data pertinent to the work to be performed by the Engineer under this Agreement, and also any other maps, records, or other materials available to the Town upon the Town's request to any other public agency or body. The material required from the Town for various engineering projects is and shall remain the property of the Town.

VII. HOLD HARMLESS

A. The Engineer aggress to defend, indemnify and hold harmless the Town and its officers and employees from and against all suits, actions, or claims, and all other liabilities and expenses of any character from any source, brought because of any injury or damage received or sustained by any person, or property arising out of or resulting from the acts of omission of the Engineer or negligent performance of the work.

B. In consideration of the substantial risks to the Engineer posed by the presence or suspected presence of asbestos or hazardous or toxic materials on or about any project site, the Town agrees, to indemnify and hold harmless the Engineer, his officers, directors, employees, agents and independent consultants of them from all claims and losses, including reasonable attorney's fees and defense costs, arising out of any work performed by Engineer wherein asbestos or hazardous or toxic materials are involved and the claims and losses are not caused by Engineer but are caused by Town.

C. Inasmuch as the remodeling and/or rehabilitation of existing infrastructure required that certain assumptions be made regarding existing conditions of Town infrastructure, and because some of these assumptions may not be verifiable without expending additional sums of money of destroying otherwise adequate or serviceable portions of the infrastructure, the Town agrees, to indemnify and hold the Engineer harmless for any claim, liability or cost (including reasonable attorney's fees and costs of defense) including economic loss arising or allegedly arising out of those assumptions regarding existing conditions of Town infrastructure made by Engineer and not corrected by the Town which where incorrect and are basis of the claims, provided however, that this indemnity clause does not pertain to claims, damages, and attorney fees attributable to the negligence or willful misconduct of the Engineer.

D. The Town shall provide for the Engineer's right to enter the property owned by the Town and/or others in order for the Engineer to fulfill the Scope of Services included hereunder.

E. Neither the Engineer, the Engineer's Consultants, nor their agents or employees shall be jointly, severally, or individually liable to the Town in excess of Five Hundred Thousand Dollars ($500,000) by reason of any act or omission, including breach of contract or negligence not amounting to a willful or intentional wrong.

VIII. DISPUTE RESOLUTION

A. In an effort to resolve any conflicts that arise during the design or construction of the project or following the completions of the project, the Town and the Engineer agree that all disputes between them arising out of or relating to this Agreement shall be submitted to nonbonding mediation unless the parties mutually agree otherwise.

B. The Town and the Engineer further agree to include a similar mediations provision in all agreements with independent contractors and consultants retained for the project and to require all independent contractors and consultants also to include a similar mediation provision in all agreements with subcontractors, sub consultants, suppliers or fabricators so retained, thereby providing for mediation as the primary method for dispute resolution between the parties to those agreements.

IX. OPINIONS OF COST

A. Engineer's opinions of probable Construction Cost provided for herein are to be made on the basis of Engineer's experience and qualifications and represent Engineer's best judgment as an experienced and qualified professional engineer generally familiar with the construction industry. However, since Engineer has no control over the cost of labor, materials, equipment or services furnished by others, or over the Contractor's methods of determining prices, or over

competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids or actual Construction Costs will not vary from opinions of probable Construction Cost prepared by Engineer.

X. CONSTRUCTION OBSERVATION

A. General Administration of Construction- Contract. When hired by the Town the Engineer shall consult with and advise Town and act as Town's representative. The extent and limitations of the duties, responsibilities, and authority of Engineer may be modified by supplemental agreement. The Town's instructions to Contractor will be issued through Engineer who shall have authority to act on behalf of Town in dealings with Contractor to the extent provided in this Agreement and in supplemental agreements.

B. Visits to Site and Observations of Construction. In connection with observations of the work of Contractor while it is in progress:

1. Engineer shall make visits to the site at intervals appropriate to the various stages of construction as Engineer deems necessary in order to observe as an experienced and qualified design professional the progress and quality of the various aspects of Contractor's work. In addition, as authorized by the Town, the Engineer shall provide the services of a Resident Project Representative at the site to assist Engineer and to provide more continuous observations of such work. The furnishing of such Resident Project Representative services will not extend Engineer's responsibilities or authority beyond the specified limits set forth elsewhere in this paragraph X. Such visits and observations by Engineer and the Resident Project Representative are not intended to be exhaustive, but rather are to be limited to spot checking, selective sampling and similar methods of general observation of the work based on Engineer's exercise of professional judgment as assisted by the Resident Project Representative. Based on information obtained during such visits and such observations, Engineer shall endeavor to determine if such work is proceeding in accordance with Contract Documents and Engineer shall keep Town informed of the progress of the work. The responsibilities of Engineer contained in this paragraph are expressly subject to the limitation set forth in paragraph X.B.2 and other express or general limitations in this Agreement and elsewhere.

2. The purpose of Engineer's visits to and representations by the Resident Project Representative at the site will be to enable Engineer to better carry out the duties and responsibilities assigned to and undertaken by Engineer during the Construction Phase, and in addition, by the exercise of Engineer's efforts as an experienced and qualified design professional, to provide for Town a greater degree of confidence that the completed work of Contractor will conform to the Contract Documents and that the integrity of the design concept of the completed project as functioning whole as indicated in the Contract Documents has been implemented and

preserved by Contractor. On the other hand, Engineer shall not, during such visits or as a result of such observations of Contractor's work in progress, supervise, direct or have control over Contractor's work nor shall Engineer have authority over of responsibility for the means, methods, techniques, sequences or procedures of construction selected by Contractor, for safety precautions and programs incident to the work of Contractor or for any failure of Contractor to comply with laws, rules, regulations, ordinance, codes or orders applicable to Contractor's furnishing and performing the work. Accordingly, Engineering neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform its work in accordance with the Contract Documents.

C. Defective Work. During such visits and on the basis of such observations, Engineer shall have authority to disapprove of or reject Contractor's work while it is in progress if Engineer believes that such work will not produce a completed Project that conforms to the Contract Documents or that it will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents.

D. Shop Drawings. Engineering shall review and approve (or take other appropriate action in respect of) Shop Drawings and Samples and other data which Contractor is required to submit, but only for conformance with the information given in the Contract Documents and compatibility with the design concept of the completed Project as functioning whole as indicated in the Contract Documents. Such reviews and approvals or other actions will not extend to means, methods, techniques, sequences or procedures of construction to safety precautions and programs incident thereto.

E. Application for Payment. Based on Engineer's on-site observations as an experienced and qualified design professional and on review Applications for Payment and the accompanying data and schedules:

1. Engineer shall determine the amounts that Engineer recommends Contractor to be paid. Such recommendations of payment will be in writing and will constitute Engineer's representation to Town, based on such observations and review, that, to the best of the Engineer's knowledge, information and belief, the work has progressed to the point indicated, the quality of such work is generally in accordance with the Contract Documents (subject to an evaluation of such work as functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents and to any other qualifications stated in the recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the work. In the case of unit price work, Engineer's recommendations of quantities and classifications of such work (subject to any subsequent adjustments allowed by the Contract Documents) are the basis for Contractor's entitlement to payment. The responsibilities of Engineer contained in

paragraph X.E.1 are expressly subject to the limitations set forth in paragraph X.E.2 and other express or general limitations in this Agreement and elsewhere.

2. By recommending any payment Engineer shall not thereby be deemed to have represented that on-site observations made by Engineer to check the quality or quantity of Contractor's work as it is performed and furnished have been exhaustive, extended to every aspect of the work in progress, or involved detailed inspections of the work beyond the responsibilities specifically assigned to Engineer in this Agreement and the Contract Documents. Neither Engineer's review of Contractor's work for the purposes of recommending payments nor Engineer's recommendation of any payment (including final payment) will impose on Engineer responsibility to supervise, direct or control such work. It will also not impose responsibility on Engineer to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or to determine that title to any of the work, materials or equipment has passed to Owner free and clear of any liens, claims, security interests or encumbrance, or that there may not be other matters at issue between Town and Contractor that might affect the amount that should be paid.

F. Preparation of Record Drawings. When authorized by Town, Engineer will prepare a set of reproducible record drawings showing record information which Engineer considers significant based on the Drawings, Shop Drawings, and other record documents furnished by Contractor to Engineer which were annotated by Contractor to show all changes made during construction. Engineer will not be responsible for any errors in or omissions in the information provided by Contractor that is incorporated in the drawings or other record documents.

XII. BURIED UTILITIES

A. The Engineer and/or his authorized sub consultant will conduct the research that in his professional opinion is necessary and will prepare a plan indicating the locations intended for subsurface penetrations with respect to assumed location of underground improvements. Such services by the Engineer or his sub consultant will be performed in a manner consistent with the ordinary standard of care. The Town recognizes that the research may not identify all underground improvements resulting form subsurface penetration locations established by the Engineer.

B. The Town further agrees, to the fullest extent permitted by law, to indemnify and hold the Engineer and/or his sub consultants harmless from any and all damage, liability or cost, including reasonable attorney's fees and defense costs, for any property damage, injury or economic loss arising or allegedly arising from errors or inaccuracy of information contained in plans prepared by the Engineer and/or his sub consultants, except for damages caused by the sole negligence of the willful misconduct of the Engineer.

XIII. ENTIRE AGREEMENT

A. This Agreement supersedes all agreement previously made between the parties relating to the subject matter of this Agreement. This Agreement incorporates all of the terms, conditions and understanding of the parties, and unless specifically incorporated by reference herein, no other documents, statements or agreements shall constitute any part of this Agreement.

B. This Agreement may be terminated by either party upon written notice delivered at least thirty (30) days before the intended date of termination. By such termination neither party may nullify obligations already incurred for performance or failure to perform before the date of termination.

C. Any renewal of this Agreement may be the subject of further negotiations between the parties, if this Agreement is not renewed or is not renewed or is terminated, the Engineer shall be required to complete any projects still in progress at the rates specified herein.

D. The Engineer, its agents and employees are independent contractors performing services for the Town, and are not employees of the Town. The Engineer, its agents and employees shall not, as a result of this Agreement accrue any leave, retirement, insurance, bonding, use Town vehicles, or any other benefit afforded to employees of the Town.

E. The Engineer shall not assign or transfer any interest in this Agreement of assign any claims for money due or to become due under this Agreement, except at the prior written consent of the Town. If assigned, the Agreement shall extend to and be binding upon the successors and assigns of the parties to the Agreement.

F. The Engineer warrants that he will not undertake any engineering services under the Agreement with regard to any other client as to which he will or might have an interest, direct or indirect, which would conflict in any manner or degree with the performance of services under this Agreement.

G. This Agreement shall not be altered, changed, or amended except by written instrument executed by both parties.

H. The Engineer shall not subcontract any portion of the services to be performed under this Agreement without the Town's prior written consent.

XIV. CRIMINAL LAWS

A. This Agreement and all transactions relating thereto are subject to the criminal laws of the State of New Mexico prohibiting bribes, gratuities and kickbacks.

B. The Engineer agrees to comply with all Federal, State, and local laws and ordinances applicable to the work, including the Civil Rights Act of 1964.

XX. ADMINISTRATION OF AGREEMENT

A. The Town Manager or the Town Manger's authorized representative shall administer this Agreement for the Town. In witness whereof, the parties hereto have executed this Agreement, as of the day and year first written.

Engineer	Town of Silver City
_____	_____
President	Town Manager
Date:_____	Date:_____