

**PUEBLO de SAN ILDEFONSO**  
**REQUEST FOR PROPOSALS (RFP)**  
**ENGINEERING CONSULTANT SERVICES**  
  
**for the**  
  
**PUEBLO DE SAN ILDEFONSO**  
**WASTEWATER TREATMENT/DISPOSAL PROJECT - PHASE 3**



**RFP # SI-RFP-24-005**

**Release Date: Sunday, February 18, 2024**

**Proposal Due Date: Tuesday, March 12, 2024, no later than 3:00 p.m.**

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

**Website Address: [www.sanipueblo.org](http://www.sanipueblo.org)**

**RFP documents and subsequent addenda are available via the JOBS/RFPS tab at the top of the home page of the website.**

## **REQUEST FOR PROPOSALS # SI-RFP-24-005**

The Pueblo de San Ildefonso is issuing a Request for Proposals (RFP) # SI-RFP-24-005 for interested Engineering Consultants for design and construction administration services related to Phase 3 of the Pueblo's Wastewater System Improvements Project, specifically dealing with Wastewater Treatment and Disposal.

Applicants for this RFP should structure proposals to address all phases of development as described in the RFP, including design and construction phase services, although the initial scope of work to be awarded will be for the Design Phase Services only. If the Pueblo is satisfied with the results of the Design Phase, the Contract may be amended to include Bidding and Negotiations, and Construction Administration Phase Services.

**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 87506

**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-24-005, SAN ILDEFONSO WASTEWATER TREATMENT DESIGN & CONSTRUCTION PHASE SERVICES**"

Please direct any questions regarding this RFP to the Pueblo's Project Manager, Ms. Lou Baker, at email: [pm@sanipueblo.org](mailto:pm@sanipueblo.org), telephone: 505.220-0800

The full Request for Proposals, and any subsequent addenda, are accessible via the Pueblo's website: [www.sanipueblo.org](http://www.sanipueblo.org) using the JOBS/RFPS tab at the top of the home page. Bidders are responsible for monitoring the website referenced above for notifications of changes and addenda related to this project.

A Pre-Proposal Meeting will not be held, but interested parties are encouraged to direct any and all questions related to the RFP to the Pueblo's Project Manager by close-of-business, Monday, March 4, 2024.

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**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: February 18, 2024
- RFP Questions Due: March 4, 2024
- Response to Questions Issued: March 7, 2024
- **Proposal Due Date and Time:** March 12, 2024, 3:00 p.m.

**Phases of Project Development** (as further defined in Section V of the present RFP):

- Preliminary Design Phase
- Final Design Phase
- Bidding and Negotiations Phase
- Construction Administration 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 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: [www.sanipueblo.org](http://www.sanipueblo.org) via the JOBS/RFPs tab at the top of the home page. 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 design of the Pueblo's Wastewater Treatment and Disposal System, Phase 3 of the Pueblo de San Ildefonso Wastewater Improvements Project.

##### **B. Information to be furnished by the Owner upon request:**

- A Technical Memorandum, dated April 2021, was prepared by Souder, Miller & Associates, which entailed a preliminary evaluation of potential solutions regarding what to do with the Pueblo's wastewater.

- A Preliminary Engineering Report, dated November, 2023, was prepared by Vigil Enterprises, Inc. per USDA RUS Bulletin 1780-2 RD-GD-2013-70, which concluded that an Orenco Advantex system is the Pueblo's best option.
- A copy of each document is available to firms interested in responding to the present RFP by contacting the Pueblo's Project Manager, Ms. Lou Baker, at [pm@sanipueblo.org](mailto:pm@sanipueblo.org), or (505) 220-0800.

## **V. SCOPE OF SERVICES**

The work associated with the present Project will include the provision of design and construction phase services associated with the proposed Orenco Advantex wastewater treatment system. The Consultant will be responsible for the preparation of the final design drawings, specifications and contract documents, including any required surveying and permitting. Each phase of project development will include an updated analysis of the Consultant's Opinion of Probable Construction Cost (OPCC). Once the Construction Documents are complete, the Consultant will provide bidding and construction phase services, including full time Construction Observation.

### **Anticipated Phases of Project Development:**

- Preliminary Design Phase
- Final Design Phase
- Bidding and Negotiations Phase
- Construction Administration Phase (including Construction Observation)

### **Project Control**

1. The Consultant 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 (at least monthly), 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 negotiations.

7. Consultant will be responsible for obtaining any work permits and covering business 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/attachment.
- 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: Capacity and Capability (20 Points).**

Include consultant's name, address, and name of primary contact person. Include an Organizational Chart of the specific staff who will comprise the project team, including proposed subconsultants, for all phases of development including the Preliminary and Final Design Phase, Bidding and Negotiations Phase, and Construction Administration Phase. Include a narrative description of the capacity and capability of the business, including any subconsultants, their representatives, qualifications, and locations, to perform the work, including any specialized services. Include abbreviated resumes of staff shown in the Organizational Chart.

#### **2. Include as Attachment B: Specialized Design and Technical Competence (25 points):**

Provide a narrative description of the project team's specialized design and technical competence to perform the work associated with the proposed project. Include a description of the following:

- a. Project Understanding: The Proposal shall include a description of the Consultant's understanding of the Project and nature of the work associated with wastewater conveyance, treatment, and disposal. 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, specifications, and related documents.

- b. **Project Approach:** The Proposal shall provide a detailed description of the proposed approach to all phases of the Project: Preliminary Design Phase, Final Design Phase, Bidding and Construction Phase, and Construction Administration Phase. The description shall include details to implement the tasks described in the Scope of Services. 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 within 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's 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 Phase of project development. 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).

### **3. Include as Attachment C: Past Record of Performance (20 points):**

Project descriptions of related/comparable past projects that would serve as examples of experience and expertise necessary for the present Project, ideally pertaining to design and construction of an Orenco Advantex system for communities similar in size to the Pueblo. Provide descriptions of three (3) recent projects that included similar scope of work for the prime consultant and relevant subconsultant experience. The following information shall be included for each project. All information requested below must be provided.

- a. Project title
- b. Role of firm
- c. Firm team members involved
- d. Project description
- e. Client name
- f. Client contact (address, phone, e-mail)
- g. Year completed
- h. Total engineering fee, including amendments (breakdown by major phase, i.e.: planning, design, construction phase services)
- i. Original schedule for completion of professional services (breakdown by major phase, i.e.: planning, design, construction phase services)
- j. Final actual schedule of completion of professional services (breakdown by major phase, i.e.: planning, design, construction phase services)
- k. Describe change orders/amendments
- l. Consultant's estimate of construction cost at bid
- m. Bid award amount
- n. Construction cost at time of completion

**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 as Attachment E: Preliminary Cost Proposal for Professional Services (20 points):**

Include a Preliminary Cost Proposal for providing the design and construction phase services described in Section V above. Provide a breakdown by major task category. This will be used as a basis for negotiations regarding the subsequent professional services contract with the selected Consultant, pending any final adjustments for previously unidentified or refined Scope of Work. Note that, per the points assigned to this requirement, the Cost Proposal will simply be one of several factors considered while evaluating Proposals received.

**6. Include as Attachment F: Native American Preference (5 points):**

Include documentation if the Consultant is Native American Owned and identify relevant experience working with Indian Tribes.

**7. Include as Attachment G: Insurance Certificates.**

Include insurance certificates for the insurance types and amounts listed in the contract provisions.

**VII. CONTRACT PROVISIONS**

**Attached as Exhibit A is the Pueblo's standard form of Agreement for Professional Services.**

The attached is a representative draft contract and is subject to further terms and amendments. Consultant is hereby made aware that the actual contract may include additional provisions, and in fact may take the form of the EJCDC E-500 Agreement between Owner and Engineer for Professional Services, but with Pueblo-specific laws incorporated. Also, the Agreement ultimately executed between the Pueblo and the Consultant may contain a liquidated damages clause to ensure timely completion of the Work.

End of RFP



**VIII. SIGNATURE PAGE**

To be included with Proposal submittal package.

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Signature of Contractor

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Printed Name of Contractor's Signer

Title of Contractor's Signer

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Company Name

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Company Address

---

City, State, Zip Code

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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

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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, Christopher A Moquino, 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 work plan 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 any applicable taxes as a result of receipt of funds under this Agreement, including but not limited to the Pueblo's gross receipts tax under the Pueblo Tax Act for all work performed while within the Pueblo's exterior boundaries. All receipts for work performed by Contractor or the Contractor's subcontractors within the Pueblo's exterior boundaries are considered as Class 1 Gross Receipts and must be reported using the New Mexico Taxation and Revenue Department (NMTRD) Combined Reporting System in accordance with the Pueblo de San Ildefonso-State of New Mexico Gross Receipts Tax Cooperative Agreement and using Location Code 01-975 as shown the NMTRD Gross Receipts Tax Rate Schedule. The 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 und 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 is 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:**

\_\_\_\_\_

\_\_\_\_\_  
Date

**For Pueblo de San Ildefonso:**

\_\_\_\_\_

\_\_\_\_\_  
Date