

City of Albuquerque

Request for Proposals

Solicitation Number: RFP2006-015-SB

"Financial and Other Consulting Services: Albuquerque Airport System"



Proposals Due Date: Tuesday, May 30, 2006 - NLT 4:00 PM (MDT)

The date and time proposals are due shall be strictly observed.

City of Albuquerque
Department of Finance and Administrative Services
Purchasing Division

TABLE OF CONTENTS

Introduction

- Part 1** Instructions to Offerors
- Part 2** Proposal Format
- Part 3** Scope of Services
- Part 4** Evaluation of Offers
- Part 5** Local Preference Certification Form Instructions
Local Preference Certification Form
- Part 6** Proposed Professional Services Agreement

INTRODUCTION

The City of Albuquerque Aviation Department (“City”) is requesting proposals from all interested and qualified Offerors to provide Financial and Other Consulting Services for the Albuquerque Airport System. The Airport System consists of the Albuquerque International Sunport and the Double Eagle II Reliever Airport.

The purpose of this Request for Proposals (“RFP”) is to provide a format for the evaluation of proposals from consultants meeting the minimum qualifications and experience as described in Part 2, Proposal Format of this RFP in order to provide the required financial and airport consulting services for the Airports.

A Professional Services Agreement (“Agreement”) will be awarded to the Offeror that submits a proposal that best meets all of the qualifications required by the City as set forth herein and offers the greatest overall benefit to the City.

The documents contained in this Request for Proposals use the terms “proposal” and “offer,” and “Proposer” and “Offeror” interchangeably.

General Information Regarding the City’s Airport System –

Albuquerque International Sunport: The Albuquerque International Sunport (“Sunport”) is a leading center for worldwide transportation that advances local, regional and international commerce and creates an authentic southwestern travel experience. Its mission is to plan and deliver premier aviation services that contribute positively to Albuquerque and the State of New Mexico by ensuring a safe, pleasurable airport experience for the traveling public.

The Sunport is the principal air carrier airport serving the Albuquerque Metropolitan Area and the State of New Mexico. Owned by the City of Albuquerque and operated by the City’s Aviation Department, the Sunport is 5 miles southeast of downtown Albuquerque.

The passenger facilities of the Sunport include a terminal complex with more than 500,000 square feet of interior space, including twenty-three (23) air carrier aircraft gates as well as one (1) regional/commuter gate area. The twenty-three air carrier gates are situated in a linear east-west concourse alignment, parallel to the terminal complex and connected to it via a terminal-concourse connector. The eastern portion of the concourse is referred to as Concourse A and the western portion is referred to as Concourse B. An International gate is located at the west end of the terminal complex and is used for International arrivals only. The surrounding terminal area includes a two-level terminal loop roadway system, a 3,400 space automobile parking structure, and a 480 space surface parking lot.

The Sunport has three (3) principal runways for air carrier use: Runway 8-26 (reconstructed in 1997), the primary air carrier/military runway, is 13,775 feet long and 300 feet wide; Runway 3-21, reconstructed in 1995 as an air carrier runway, is 10,000 feet long and 150 feet wide; and Runway 17-35, a crosswind runway, is 10,000 feet long and 150 feet wide. In 1999, Runway 12-30 was reconstructed in concrete to extend and expand the runway to 6,000 feet in length and 150 feet in width and is used primarily as a general aviation aircraft runway. In addition to the reconstruction of Runways 3-21 and 8-26, recent improvements to the airfield at the Sunport include the expansion of an air cargo apron, and reconstruction of various Taxiways.

On March 17, 2001, the City opened a new Consolidated Rental Car Facility, which is located on approximately 76 acres of airport property southwest of the terminal complex. The new facility is comprised of a customer service building, ready/return parking area and service center facilities. The Consolidated Rental Car Facility is currently utilized by eight (8) rental car companies including Avis, Budget, Dollar, Hertz, Advantage, Thrifty, Enterprise, and Vanguard.

Statistical Information: The Sunport is classified as a medium hub airport by the Federal Aviation Administration (“FAA”). In 2005, approximately 6.4 million passengers used the Sunport. According to Airports Council International-North America records, Albuquerque ranked as the 57th busiest passenger airport in the United States in 2004. The Sunport primarily serves an origination-destination (O&D) air traffic market, with approximately 90% of the passengers using the Sunport to begin or end their trips in the Albuquerque area and other parts of the State.

Historical Passenger Activity

Calendar Year	Enplanements	Deplanements
1996	3,308,048	3,310,703
1997	3,138,663	3,151,355
1998	3,069,629	3,079,568
1999	3,131,951	3,131,853
2000	3,146,208	3,146,250
2001	3,089,703	3,093,903
2002	3,063,036	3,054,610
2003	3,033,839	3,018,040
2004	3,174,051	3,150,098
2005	3,244,646	3,221,789

The Sunport is centrally located in the State of New Mexico and is the only airport in the State that provides scheduled major national airline service. As of January 2006, eight (8) major national commercial passenger airlines (America West, American, Continental, Delta, Frontier, Northwest, Southwest, and United), and two (2)

commuter airlines (Mesa Airlines and Great Lakes Airlines) provided scheduled airline service at the Sunport. Today, the airlines offer nonstop flights to 36 cities from Albuquerque.

Southwest Airlines uses the Sunport as a connecting point for its service between cities in Texas to the east and cities in Arizona, California, Nevada, Oregon, Utah, and Washington to the west. Southwest Airlines continues to be the Sunport's major carrier with just over half of the market share in 2005. Since 1987, Southwest has more than doubled its share of enplaned passengers at the Sunport, from 21.3% to 53.6%.

In addition to the commercial passenger airlines, three (3) major air cargo airlines (DHL USA, FedEx, and United Parcel Service) provide service at the Sunport.

Double Eagle II Reliever Airport: Double Eagle II Reliever Airport ("DEII") is comprised of 4,400 acres and sits at an elevation of 5,834 feet above sea level. DEII is located fifteen (15) miles northwest of downtown Albuquerque, approximately eight (8) miles north of Interstate 40.

DEII is the City's primary general aviation airport providing private aircraft owners a viable alternative to operating at the Sunport. DEII is home to approximately 240 based private and corporate aircraft, and accommodates more than 120,000 annual operations, which include training flights, military flights, air ambulance, and charter air service.

DEII has two active runways: Runway 4-22 is 7,398 feet in length by 100 feet wide, with full ILS and MALSR; and Runway 17-35 is 5,999 feet in length by 100 feet wide, and has REIL on each end.

Additional Information: For more information regarding the Sunport or DEII, please visit our website, <http://www.cabq.gov/airport>.

PART 1 INSTRUCTIONS TO OFFERORS

1.1 RFP2006-015-SB, "Financial and Other Consulting Services: Albuquerque Airport System."

1.2 Proposal Due Date: Tuesday, May 30, 2006, NLT 4:00 PM (MDT) The time and date of Proposal submittal closing will be strictly observed.

1.3 City Purchasing Office. This Request for Proposals ("RFP") is issued on behalf of the City of Albuquerque Aviation Department by the City Purchasing Office, which is the sole point of contact during the procurement process. All communications regarding this RFP shall be directed in writing to the Purchasing Office to the attention of Suzanne Boehland as stated herein. Written communication may be made via email, facsimile, U.S. mail, or delivery service.

1.4 Authority. Chapter 5, Article 5 of the Revised Ordinances of the City of Albuquerque, 1994, ("Public Purchases Ordinance"). The City Council, pursuant to Article 1 of the Charter of the City of Albuquerque and Article X, Section 6 of the Constitution of New Mexico, enacted this Ordinance to provide maximum local self-government. To that end, it is intended that this Ordinance govern all purchasing transactions of the City and serves to exempt the City from all provisions of the New Mexico Procurement Code, as provided in Section 13-1-98.K, NMSA 1978.

1.5 Acceptance of Offer. Acceptance of Offer is contingent upon Offeror's certification and agreement by submittal of its offer, to comply and act in accordance with all provisions of the following:

1.5.1 City Public Purchases Ordinance.

1.5.2 City Purchasing Rules and Regulations. These Rules and Regulations ("Regulations") are written to clarify and implement the provisions of the Public Purchases Ordinance. These Regulations establish policies, procedures, and guidelines relating to the procurement, management, control, and disposal of goods, services, and construction, as applicable, under the authority of the Ordinance.

1.5.3 Civil Rights Compliance. Acceptance of Offer is contingent upon the Offeror's certification and agreement by submittal of its offer, to comply and act in accordance with all provisions of the Albuquerque Human Rights Ordinance, the New Mexico Human Rights Act, Title VII of the U.S. Civil Rights Act of 1964, as amended, and all federal statutes and executive orders, New Mexico statutes and City of Albuquerque ordinances relating to the enforcement of civil rights. Offeror additionally certifies to abide by and cooperate in the implementation of the policies and practices set forth in the City Affirmative Action Plan. Questions regarding civil

rights or affirmative action compliance requirements should be directed to the City of Albuquerque Human Rights Division, Community Services Department.

1.5.4 Americans with Disabilities Act Compliance. Offeror certifies and agrees, by submittal of its Offer, to comply and act in accordance with all applicable provisions of the Americans with Disabilities Act of 1990 and Federal regulations promulgated thereunder.

1.5.5 Ethics.

1.5.5.1 Fair Dealing. The Offeror warrants that its Proposal is submitted and entered into without collusion on the part of the Offeror with any person or firm, without fraud and in good faith. Offeror also warrants that no gratuities, in the form of entertainment, gifts or otherwise, were, or will be offered or given by the Offeror, or any agent or representative of the Offeror to any officer or employee of the City with a view toward securing a recommendation of award or subsequent Professional Services Agreement or for securing more favorable treatment with respect to making a recommendation of award.

1.5.5.2 Conflict of Interest. The Offeror warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under the Professional Services Agreement resulting from this RFP. The Offeror also warrants that, to the best of its knowledge, no officer, agent or employee of the City who shall participate in any decision relating to this RFP and the resulting Professional Services Agreement, currently has, or will have in the future, a personal or pecuniary interest in the Offeror's business.

1.5.6 Participation/Offeror Preparation. Offeror may not use the consultation or assistance of any person, firm, or company who has participated in whole or in part in the writing of these Specifications or Scope of Services, for the preparation of its offer or in the management of business if awarded this Professional Services Agreement.

1.5.7 Debarment or Ineligibility Compliance. By submitting its offer in response to this RFP, the Offeror certifies that a) it has not been debarred or otherwise found ineligible to receive funds by any agency of the federal government, the State of New Mexico, any local public body of the State, or any state of the United States; and b) should any notice of debarment, suspension, ineligibility, or exclusion be received by the Offeror, the Offeror will notify the City immediately.

1.5.8 Goods Produced Under Decent Working Conditions. It is the policy of the City not to purchase, lease, or rent goods for use or for resale at the City owned enterprises that were produced under sweatshop conditions. The Offeror certifies, by submittal of its offer in response to this solicitation, that the goods offered to the City were produced under decent working conditions. The City

defines under decent working conditions as production in a factory in which child labor and forced labor are not employed; in which adequate wages and benefits are paid to workers; in which workers are not required to work more than forty-eight (48) hours per week (or less if a shorter workweek applies); in which employees are free from physical, sexual or verbal harassment; and in which employees can speak freely about working conditions and can participate in and form unions. [*Council Bill No. M-8, Enactment No. 9-1998*]

1.6 City Contact. Suzanne Boehland, Senior Buyer, City of Albuquerque, Department of Finance and Administrative Services, Purchasing Division, PO Box 1293, Albuquerque, New Mexico 87103. FAX: (505) 768-3355 or email: sboehland@cabq.gov. All questions must be submitted in writing throughout the procurement process, within the timeframe provided below.

1.7 Contracting Agency. The Professional Services Agreement resulting from this RFP will be administered by the City of Albuquerque Aviation Department.

1.8 Clarification. Any explanation requested by an Offeror regarding the meaning or interpretation of this Request for Proposals must be submitted to the City Contact in writing not less than fifteen (15) working days prior to the hour and date specified for the receipt of offers to allow sufficient time for a reply to reach Offerors before the submission of their offers. Oral explanations or instructions given before the submission of offers will not be binding. Any information given to a prospective Offeror concerning this RFP will be furnished to all prospective Offerors as an addendum of this RFP if such information is necessary to Offerors in submitting offers on this RFP or if the lack of such information would be prejudicial to uninformed Offerors.

1.9 Submission of Offers. The Offeror's sealed Proposal must be in the format outlined in Part 2 of this RFP and mailed or delivered pursuant to the following requirements:

1.9.1 Envelope Preparation. Offers and modifications thereof shall be enclosed in sealed envelopes and have the following identifying information on the outside:

- 1.9.1.1 Name and Address of Offeror
- 1.9.1.2 Closing Date and Time of RFP
- 1.9.1.3 RFP Number
- 1.9.1.4 RFP Title

1.9.2 Ship, Deliver, or Hand-Carry Sealed Proposals to: Office of the City Clerk, City /County Government Center, 11th Floor, One Civic Plaza, Albuquerque, New Mexico 87102. **Mark all packages as stated above.** Use this address for packages sent via non United States Postal Service carriers.

1.9.3 Mail Sealed Proposals to: Office of the City Clerk, Post Office Box 1293, Albuquerque, New Mexico 87103. **Certified Mail is recommended.** The City shall not be responsible for the failure of mailed offers to actually be received by the Office of the City Clerk by 4:00 PM (MDT) of the day of closing.

ALL SEALED PROPOSALS MUST BE RECEIVED BY THE OFFICE OF THE CITY CLERK AS SPECIFIED HEREIN.

1.9.4 No other methods of Proposal delivery. Neither telephone, facsimile, electronic, nor telegraphic offers shall be accepted.

1.9.5 Submit one (1) original and nine (9) copies of your Proposal.

1.9.6 Modification. Offers may be modified or withdrawn only by written notice, provided such notice is received prior to the Proposal Due Date.

1.9.7 Failure to Submit Proposal. If no Proposal is to be submitted, the recipient shall not return the Request for Proposals.

1.10 Receipt of Proposals. The only acceptable evidence to establish the time of receipt of Proposals at the City Clerk's Office is the time-date stamp of that Office on the Proposal wrapper or other documentary evidence of receipt maintained by that Office.

1.11 Acknowledgment of Addenda to the Request for Proposals. Receipt of Addenda to this RFP by an Offeror must be acknowledged a) by signing and returning the Addenda, or b) by letter. Such acknowledgment may be submitted with the offer. Such acknowledgment must be received prior to the hour and date specified for receipt of offers.

1.12 Modifications to Scope of Services. In the event that sufficient funds do not become available to complete each task in the scope of services, the scope of services may be amended, based upon the cost breakdown required in the Fee Schedule.

1.13 Proposed Professional Services Agreement. An example of the proposed Professional Services Agreement to be entered into is provided in Part 6 of this RFP.

1.14 Evaluation Period. The City reserves the right to analyze, examine and interpret any Proposal for a period of ninety (90) days after the hour and date specified for the receipt of Proposals.

1.15 Evaluation Assistance. The City of Albuquerque, in evaluating Proposals, reserves the right to use any assistance deemed advisable, including City contractors and consultants.

1.16 Rejection and Waiver. The City reserves the right to reject any or all offers and to waive informalities and minor irregularities in offers received.

1.17 Debarment of Offeror. Any Proposal received from an Offeror that is, at the time of submitting its Proposal or prior to receipt of award of a Professional Services Agreement, debarred by or otherwise ineligible to receive funds from any agency of the State of New Mexico, any local public body of the State, or any state of the United States, shall be rejected.

1.18 Award of Contract.

1.18.1 When Award Occurs. Award of contract occurs when evidence of acceptance by the City is provided to the Offeror. **A Recommendation of Award does not constitute award of the contract.**

1.18.2 Award. If a contract is awarded, it shall be awarded to the responsive and responsible Offeror whose offer conforming to this RFP will be most advantageous to the City as set forth in the Evaluation Criteria.

1.18.3 Approval of Insurance. Even though the Offeror may have been given notice to proceed, it shall not begin any work under the Professional Services Agreement until the required insurance has been obtained and the proper certificates (or policies) filed with the City. The insurance requirements are in Part 6 of this RFP. Neither approval nor failure to disapprove the insurance by the City shall relieve the Offeror of full responsibility to maintain the required insurance in full force and effect.

1.18.4 Contract Term. The initial contract term shall be for a period of four (4) years, commencing upon the effective date of the contract. The City, at its sole discretion, shall retain an option to extend the term for two (2) additional two (2) year periods.

1.18.5 Type of Contract. Professional Services Agreement.

1.18.6 Debarment/Cancellation of the Contract. Upon receipt of notice of debarment of an Offeror awarded a contract as a result of this RFP or other ineligibility of the Offeror, the City shall have the right to cancel the contract with the Offeror for cause as provided in accordance with the terms of the contract.

1.18.7 Graffiti Free. When required, the Consultant shall furnish equipment, facilities, or other items required to complete these services that are "graffiti free." Failure of Consultant to comply with this requirement may result in cancellation of the contract resulting from this RFP.

1.19 Cancellation. This RFP may be canceled and any and all Proposals may be rejected in whole or in part when it is in the best interest of the City.

1.20 Negotiations. Negotiations may be conducted with the Offeror recommended for award of the contract.

1.21 City-Furnished Property. No material, labor, or facilities will be furnished by City unless provided for in this RFP.

1.22 Proprietary Data. This RFP shall be open to public inspection after award of the contract, except to the extent the Offeror designates trade secrets or other proprietary data to be confidential. Material so designated shall accompany the Proposal and each page shall be clearly marked and readily separable from the Proposal in order to facilitate public inspection of the non-confidential portion of the Proposal. The City of Albuquerque will endeavor to restrict distribution of the material designated as confidential or proprietary to only those individuals involved in the review and analysis of the Proposals. Offerors are cautioned that materials designated as confidential may nevertheless be subject to disclosure under the New Mexico Inspection of Public Records Act (Sections 14-2-1 et seq, NMSA 1978).

1.23 Local and Resident Preferences. A preference for local and state businesses is available under the City of Albuquerque Public Purchases Ordinance for this RFP. The **"Local Preference Certification Form"** and instructions are in Part 5 of this RFP. If a completed Local Preference Certification Form, or a current and correct Resident Preference Number, or evidence to indicate that a company is a manufacturer (if applicable) is not received with the Offeror's response, a preference will not be applied for that offer. The Form, the Number or other evidence will not be acceptable after the Proposals Due Date. For those offerors qualifying for the preference, a 1.05 multiplier will be applied to the total raw score. Only one preference will apply for this procurement. Local Preference supersedes all other preferences.

1.24 REQUEST FOR PROPOSALS ("RFP") PROTEST PROCESS.

1.24.1 When. If the protest concerns the RFP components or other matters pertaining to the RFP documents, it must be received by the City Purchasing Officer no later than ten (10) working days prior to the Proposal Due Date.

1.24.2 Recommendation of Award. If the protest concerns other matters relating to this RFP, the protest must be filed within ten (10) working days after the receipt of notice of the Recommendation of Award.

1.24.3 Timely Protests. Protests must be received by the City Purchasing Officer prior to the appropriate deadline as set out herein, or they will not be considered valid. The City Purchasing Officer may waive the deadline for good cause, including a delay caused by the fault of the City. Late delivery by the U.S. Postal Service or other carrier shall not be considered good cause.

1.24.4 How to File. Protests shall be addressed to the City Purchasing Officer, must be submitted in written form and must be legible. Protests may be hand-delivered or mailed. Facsimile, telephonic, telegraphic, or electronic protests will not be accepted.

1.24.5 Required Information. Protests shall contain at a minimum the following:

- The name and address of the protesting party;
- The number and title of the RFP;
- A clear statement of the reason(s) for the protest;
- Details concerning the facts, which support the protest;
- Attachments of any written evidence available to substantiate the claims of the protest; and
- A statement specifying the ruling requested.

Address letters as follows:

- John Vigil
- Acting Purchasing Officer
- City of Albuquerque
- DFAS, Purchasing Division
- P.O. Box 1293
- Albuquerque, New Mexico 87103

Envelopes should clearly indicate:

**RFP Number and Title
PROTEST**

1.24.6 All protests will be responded to by the City Purchasing Officer upon evaluation. The City Purchasing Officer will, after evaluation of a protest, issue a response. Only the issues outlined in the written protest will be considered by the City Purchasing Officer.

1.24.7 Protest Hearing. If a hearing is requested, the request must be included in the Protest and received within the time limit to be allowed. A filing fee of Twenty and 00/100 Dollars (\$20.00) must accompany the request for hearing. Only the issues outlined in the protest will be considered by the City Purchasing Officer, or may be raised at a protest hearing. The granting of a hearing shall be at the discretion of the City Purchasing Officer following review of the request.

PART 2 PROPOSAL FORMAT

2.1 Proposal Format. Offerors *must* complete and submit all documentation as required, and *must* adhere to all instructions contained in this RFP. Proposals are to be prepared in such a way as to provide a straightforward, concise delineation of capabilities to satisfy the requirements of this RFP. Emphasis should be concentrated on conformance to the RFP instructions, responsiveness to the RFP requirements, and on completeness and clarity of content. The information contained in the subsections of this Part 2 is intended to assist in the completion of the required documentation.

The materials and information requested below must be completed in full as a condition of this RFP and Offeror must submit one (1) original and nine (9) copies of its Proposal. The original Proposal shall be clearly marked as "Original" on the cover of the Proposal.

2.2 Offeror Identification. State name and address of the organization and structure of the organization, i.e. sole proprietorship, partnership, corporation, joint venture, limited liability company (LLC), or other. Subcontractors, if any, must be identified in a similar manner to provide full disclosure. Provide contact information for person(s) authorized to respond to questions relating to Offeror's Proposal. Provide name, address, and telephone number of Offeror exactly as it should appear in the proposed Professional Services Agreement ("Agreement"), and provide complete information for the person(s) authorized to execute the proposed Agreement.

2.3 Qualifications and Experience. Offeror's Proposal shall clearly state Offeror's qualifications and experience on which it relies to provide the services anticipated in this RFP as further described below.

2.3.1 The Offeror shall document that it has been in continuous existence for the six (6) year period ending on the date Proposals are due pursuant to this RFP and has conducted as its primary business those services listed in Part 3, Scope of Services of this RFP. In addition, the Offeror shall document that it has, within the three (3) years immediately preceding the date Proposals are due, prepared no less than ten (10) feasibility reports for airport Bond sales, and that it has participated in bond rating agency presentations. Offeror shall document that it has prepared benefit-cost analyses for airport eligible projects consistent with FAA guidelines for medium and large-hub airports.

2.3.1.1 In the instance where Offeror is a partnership or joint venture, the Proposal shall clearly state, as to each partner or joint venturer, the areas of service it proposes to provide and document as to each area of service listed that such partner or joint venturer has regularly conducted business in that area of service

for the six (6) year period described above. In addition, the partner(s) or joint venturer(s) who are identified in the Proposal as performing feasibility studies shall demonstrate that they have the required qualifications in the preparation of feasibility reports for airport Bond sales and have performed such studies within the three (3) years immediately preceding the date Proposals are due.

2.3.2 Offerors shall specify in their Proposals the names and experience of each person who will provide the required services listed in Part 3, Scope of Services of this RFP. A person may be listed in more than one category of service, provided that such person's experience for each category of service shall be documented. Offeror shall provide specific examples and documentation for all airports for which such services have been performed, and must provide the name of a contact person, phone number, and the dates of service for each service provided. Each person listed above shall have primary responsibility for the provision of one or more of the services listed in Part 3, Scope of Services of this RFP. It is not required that Offeror include a listing of support staff, i.e. clerical, draftsmen, and technical staff, to be used in the performance of the required services. **A spreadsheet is the preferred format.**

2.3.2.1 Each person listed in subsection 2.3.2 above, should have at least five (5) years experience in each category of service under which their name is listed. Such experience shall consist only of those services provided directly to airports. Other experience shall not be considered by the City in determining whether or not the requirements of subsection 2.3.2 above, have been met by Offeror.

2.3.2.2 Include brief resumes for each person listed in subsection 2.3.2 above.

2.3.3 Offerors shall specify in their Proposals the names of those individuals that will have primary responsibility and authority to interface with the City of Albuquerque Aviation Department.

2.4 Proposed Approach to Scope of Services. Discuss fully your proposed approach for the provision of each of the services described in Part 3, Scope of Services of this RFP or any other services you propose to provide to City. Use charts to illustrate the total number of hours anticipated to be dedicated to each task and the individual, as identified in subsection 2.3.2 above, which will be performing each service.

2.5 Fee Schedule. Offerors must include with their Proposals, a comprehensive Fee Schedule, which at a minimum, must list each service required in Part 3, Scope of Services of this RFP, an itemized description of each service, a detailed listing and description of the resources needed in order to complete each service, the anticipated timeline for each service, a listing of personnel responsible for the provision of each

service and their hourly rate(s), and an estimated total cost for each service. When estimating the total cost for each service, Offerors must include hourly rates, applicable taxes, travel expenses, or any other expenses anticipated to be incurred. **A spreadsheet is the preferred format.**

2.6 Local Preference Certification (Part 5 of this RFP). If applicable, the Local Preference Certification Form must be completed in its entirety per the instructions in Part 5.

2.7 Additional Information. Include all additional information, which Offeror considers to be relevant to its Proposal, but may not be required in Section 2.3 above.

2.8 Acceptance of Proposed Agreement and Insurance Requirements. Submit a statement of acceptance, or a statement of exception, of the terms and conditions of the proposed Agreement. Show receipt of Addenda if applicable. Offeror must provide a statement affirming its ability to provide the insurance specified in Part 6 of this RFP.

PART 3

SCOPE OF SERVICES

3.1 Objectives: The purpose of this RFP is to solicit Proposals to provide the services specified below for a term of four (4) years, with two (2) two (2) year options to extend, subject to cancellation of such services as specified in Part 6, Proposed Professional Services Agreement of this RFP. The length of the term is required in order to ensure continuity and consistency of services provided to the Aviation Department throughout a period of development of the Albuquerque Airport System.

Financial and other consulting services shall include, but not be limited to, those specified below and as further outlined in Section 3.2:

- Financial Services as they relate to airport rates and charges.
- Financial Services as they relate to the Aviation Department's capital program.
- Feasibility studies, business and marketing planning, and analysis of existing and future concession programs.
- Financial Services as they relate to airport Bond sales including feasibility studies and reports for the Aviation Department capital program.
- Services related to the development of leases and agreements, as well as requests for proposal and requests for bid for various programs.
- Feasibility studies and reports, financial planning, in-depth analysis, and negotiation strategies required for the preparation and execution of airline leases and lease modifications.
- Participation in the following:
 - Planning and development of capital projects with other Aviation Department consultants.
 - Presentations to various entities concerning financial planning, concession programs, and capital projects.
 - Selection and/or negotiation process related to contract development.
- Preparation of the following:
 - Benefit/cost analyses for FAA grants-in-aid.
 - Feasibility studies and reports, business and marketing planning, and in-depth analyses for expansion of commercial air service.
 - Feasibility studies and reports, business and marketing planning, and in-depth analyses for air cargo facilities and services.
 - Non-aeronautical commercial real estate development programs.
 - Passenger Facility Charge ("PFC") programs.
- Related services as required.

3.2 Scope of Services.

3.2.1 Provide financial services related to rates and charges for Airport tenants, operators, and other users of the Airport, including but not limited to airlines and concessionaires. Proposal must demonstrate Offeror's ability and experience in developing and training Aviation Department staff in the use of consultant-prepared rates and charges models.

3.2.2 Provide financial services related to the Aviation Department's capital program, including but not limited to analyzing, planning, establishing, and implementing the capital projects.

3.2.3 Provide feasibility studies and reports, business and marketing planning, and in-depth analysis of existing and future concession programs for the Aviation Department. Offeror should participate in the development and establishment of these concession programs. This service shall include but not be limited to financial studies of facility needs, financial negotiations, and marketing forecasts.

3.2.4 Provide financial services, feasibility studies and reports, in-depth analysis, and participation in rating agency meetings as they relate to airport Bond sales for the Aviation Department capital projects.

3.2.5 Provide services related to the development of leases and agreements, requests for proposal, and requests for bid related to subjects for which financial services are required, including but not limited to, the current and future rental car concession program and retail concession program.

3.2.6 Prepare feasibility studies and reports, financial planning, in-depth analysis, and negotiation strategies required for the preparation and execution of airline leases and lease modifications. In addition, this service shall include, but not be limited to, the financial study of facility needs, financial negotiations, and marketing forecasts.

3.2.7 Participate in the selection and/or negotiation process related to leases and agreements developed for which financial services were rendered or analysis of concession activities and programs was provided.

3.2.8 Participate in planning and development of capital projects with other Aviation Department consultants, including but not limited to consultants providing master plan, engineering, architectural, and environmental services.

3.2.9 Participate in presentations concerning financial planning, concession programs, and capital projects to airlines, City officials, and others as needed, at private and public hearings and meetings.

3.2.10 Prepare benefit/cost analyses to secure FAA grants-in-aid for eligible project costs.

3.2.11 Prepare feasibility studies and reports, business and marketing planning, and in-depth analyses for expansion of commercial air service.

3.2.12 Prepare business/marketing planning, analyses, and studies for air cargo facilities and service.

3.2.13 Prepare non-aeronautical commercial real estate development programs for the Aviation Department's Foreign Trade Zone, Aerospace Technology Park, and other revenue generating opportunities, taking into account future airport plans and needs.

3.2.14 Prepare Passenger Facility Charge ("PFC") applications for eligible project cost.

3.2.15 Related services as may be required by the Aviation Department during the term of the Agreement, provided that such related services are performed within the context and intent of the Agreement.

PART 4 EVALUATION OF OFFERS

4.1 Selection Process. The Mayor of the City of Albuquerque shall name, for the purpose of evaluating the Proposals, an Ad Hoc Evaluation Committee ("Committee"). On the basis of the Evaluation Factors established in subsection 4.2.1 below, the Committee shall submit to the Mayor a list of qualified firms in the order in which they are recommended. Proposal documentation requirements set forth in this RFP are designed to provide guidance to the Offeror concerning the type of documentation that will be used by the Committee. Offerors may be asked to respond to requests by the Purchasing Office on behalf of the Committee for oral presentations, or other information deemed necessary to assist in the evaluation process. Offerors are advised that the City, at its option, may award a contract on the basis of the initial written Proposals submitted to the City with no further information or oral presentations required.

4.2 Evaluation Criteria. The following general criteria, not listed in order or significance, will be used by the Committee to make a Recommendation of Award for the contract to the Mayor. The Proposals will be rated in the following categories and will be based on the requirements of Part 2 of this RFP. The Proposal factors will be rated on a scale of **0 - 1000** with numeric relationships as stated below:

4.2.1 Evaluation Factors.

0 – 150 Points: Qualifications and experience of Offeror to include business entity history and background; number of years in business; type of experience related specifically to the services required in this RFP; professional references as they relate to Offeror's capabilities to provide such services; organization and clarity of Proposal and adherence to RFP instructions

0 – 150 Points: Adequacy of proposed resources to be used by Offeror in performing the scope of services anticipated in this RFP; responsibilities and decision-making authority of Offeror's key personnel as illustrated in its organizational chart; resumes of key management personnel; availability to the City of Offeror's key personnel having overall responsibility for the services provided.

0 – 100 Points: Experience of Offeror's team members in providing financial services including feasibility studies and reports and in-depth analysis as they relate to airport Bond sales for the Aviation Department capital program; participation in rating agency presentations.

0 – 100 Points: Experience of Offeror's team members in providing financial services to include in-depth analysis related to the establishment and implementation of rates and charges for applicable airport operators.

0 – 100 Points: Experience of Offeror's team members in providing financial services related to capital programs of airports, including analysis, planning, establishment and implementation of capital projects.

0 – 100 Points: Experience of Offeror's team members in providing financial services including feasibility studies and reports and in-depth analysis as they relate to the development non-aeronautical commercial real estate programs pertaining to foreign trade zones, light industry and manufacturing, and commercial retail development.

0 – 50 Points: Experience of Offeror's team members in providing feasibility studies and reports and in-depth analysis as they relate to establishing or expanding commercial air service and air cargo service at airports.

0 – 50 Points: Experience of Offeror's team members in the preparation of benefit/cost analyses to secure FAA grants-in-aid for eligible project costs; preparation of Passenger Facility Charge ("PFC") applications for eligible project cost.

0 – 50 Points: Experience of Offeror's team members in providing services related to the preparation of financial plans, in-depth analysis, and negotiation strategies required for the preparation and execution of airline leases and lease modifications; presentation of airport financial strategies to airlines; financial study of facility needs, financial negotiations, and marketing forecasts.

0 – 50 Points: Experience of Offeror's team members in providing financial services for the development and establishment of airport concession programs, including the preparation of feasibility studies, business and marketing planning, analysis of existing and future concession programs.

0 – 50 Points: Experience of Offeror's team members in providing services related to the development of Requests for Proposals ("RFPs") and Requests for Bids ("RFBs"), which provide the basis for new revenue generating opportunities.

0 – 50 Points: A comprehensive Fee Schedule relative to the services required in Part 3, Scope of Services of this RFP to determine which Proposal represents the best value to the City. When estimating the total cost for each service, Offerors must include hourly rates, applicable taxes, travel expenses, or any other expenses anticipated to be incurred.

NOTE: Offerors are cautioned not to minimize the importance of adequate response in any area because of the number of evaluation points assigned to that area.

4.2.2 A preference for local and state businesses is available under the City of Albuquerque Public Purchases Ordinance, for this procurement. The "Local Preference Certification Form," Part 5, of this RFP must be completed and signed by Offeror in order to be considered for a five percent (5%) total score enhancement. If a completed Local Preference Certification Form, or a current and correct Resident Business Preference Number ("Number") is not received with the Offeror's response, a preference will not be applied for that offer. The Form or the Number will not be accepted after the deadline for receipt of proposals. For those Offerors qualifying for the preference, a 1.05 multiplier will be applied to the total raw score. Only one preference will apply for this procurement. Local Preference supersedes all other preferences.

4.3 Additional Points for Community Involvement. The City has implemented a program to assist Albuquerque's young adults in finding summer employment with local businesses. The object is to benefit the community by providing meaningful work experiences for young people and assisting businesses to locate summer staffing. This program is called the City's Summer Youth JOBS Initiative. To encourage participation in this program, an additional fifty (50) points will be added to the total composite score of any Offeror who volunteers to do **one or more** of the following:

4.3.1 To hire one or more youth(s) (ages 16 - 21) for a minimum of eight (8) weeks for at least forty (40) hours per week of employment placement during the period of May 15 to September 1 of each year during the term of its contract Agreement with the City, to pay at least a minimum wage to the youth hired, to provide a meaningful work experience for the youth and an understanding of basic employment rules and requirements, to hire the youth through the New Mexico Department of Labor Dial-A-Teen Office, and to follow all applicable laws and regulations regarding the hiring of young adults; or

4.3.2 To contribute at least Two Thousand and 00/100 Dollars (\$2,000.00) to the City's Summer Youth JOBS Initiative Fund for each one (1) year period during the term of its contract with the City. The funds will be used to provide employment for youth with other employers.

4.3.3 An Offeror must certify in a written statement submitted **with** its Proposal its willingness to participate in this program and to meet the selected requirements outlined above in order to be eligible for these additional points.

**PART 5
LOCAL PREFERENCE CERTIFICATION FORM INSTRUCTIONS
LOCAL PREFERENCE CERTIFICATION FORM**

INSTRUCTIONS FOR LOCAL PREFERENCE CERTIFICATION FORM

1. **ALL INFORMATION MUST BE PROVIDED.** A 5% local preference is available for this procurement. To qualify for this preference, an Offeror **MUST** complete and submit this Form with its offer. If an offer is received without the Form attached, completed, signed and certified, or if the Form is received without the required information, the preference will not be applied. The form or a corrected form will not be accepted after the deadline for receipt of bids or proposals.
2. **LOCAL PREFERENCE PRECEDENCE OVER STATE PREFERENCE.** The local preference takes precedence over the State Resident Business Preference and only one of the two preferences will be applied to any one offer. If it is determined that the local preference applies to one or more Offerors in any solicitation, the State Resident Business Preference will not be applied to any offers.
3. **PHYSICAL LOCATION MUST BE STATED.** To qualify for the local preference, a business must have a location in the Albuquerque Metropolitan Area (Abq. Metro Area). The business location inserted on the form must be a physical location, street address or such. Do not use a post office box or other postal address.
4. **ADDITIONAL REQUIREMENT.** To qualify for this preference, the principal Offeror (i.e. the business, not the individual signing the form) if it is a corporation, must be a New Mexico corporation with its articles of incorporation filed with the New Mexico Public Regulation Commission.
5. **DEFINITIONS.** The following definitions apply to this preference:
 - The Abq. Metro Area includes all locations within the City of Albuquerque and Bernalillo County, and within any municipality (i.e. incorporated city, town or village) contiguous to the City of Albuquerque and Bernalillo County.
 - A resident of the Abq. Metro Area is a person who occupies a dwelling in the Area and who manifests an intent to maintain that dwelling on a permanent basis.
 - A principal Offeror is a single Offeror, a business which is the prime contractor or one of the prime contractors and not a subcontractor, or a partner or joint venturer submitting an offer in conjunction with other businesses.
6. **ADDITIONAL DOCUMENTATION.** If requested, a business will be required to provide, within ten (10) working days of the request, documentation to substantiate the information provided on the form.

9/24/02

Local Preference Certification Form

RFP NO: 2006-015-SB

Business Name: _____

Business Location (in Abq. Metro Area): _____

Business Type: SELECT ONE

- Corporation – Indicate state of corporation ☞ _____
- Partnership – Indicate “general” or “limited” ☞ _____
- Sole Proprietorship (Single Owner with employees)
- Individual (Single Owner/No employees) ☞ _____
- Other – Indicate status ☞ _____

Additional Information: (PROVIDE IF BUSINESS IS A CORPORATION)

Date of incorporation in the State of New Mexico ☞ _____

Certification:

I hereby certify that the business set out above is the principal Offeror submitting this offer or is one of the principal Offerors jointly submitting this offer (e.g. as a partnership, joint venture). I hereby certify that the information which I have provided on this form is true and correct, that I am authorized to sign on behalf of the business set out above and, if requested by the City, will provide, within 10 days of notice, the necessary documents to substantiate the information provided on this form.

Signature of Authorized Individual: _____ ☞

Printed Name: _____

Title: _____

Date: _____

YOU MUST RETURN THIS FORM WITH YOUR OFFER

**PART 6
PROPOSED PROFESSIONAL SERVICES AGREEMENT**

**Albuquerque Airport System
Financial and Other Consulting Services
Professional Services Agreement**

Table of Contents

Section 1.	Recitals	3
Section 2.	Scope of Services and Fee Schedule	3
Section 3	Modifications to Scope of Services	4
Section 4	Time of Performance	4
Section 5.	Compensation.....	4
	5.1 Compensation Adjustment	4
	5.2 Method of Payment	4
	5.3 Appropriations	4
Section 6.	Independent Consultant	5
Section 7.	Personnel	5
Section 8.	Insurance	5
	8.1 Approval of Insurance	6
	8.2 Commercial General Liability Including Automobile.....	6
	8.3 Increased Limits.....	7
	8.4 Additional Insured	7
	8.5 Workers' Compensation Insurance.....	7
	8.6 Self-Insurance Retention/Deductibles.....	7
	8.7 Contents Insurance	7
	8.8 Professional Liability Insurance.....	7
Section 9.	Reports and Information.....	7
Section 10.	Establishment and Maintenance of Records	8
Section 11.	Audits and Inspections	8
Section 12.	Publication, Reproduction, and Use of Material	8
Section 13.	Termination	8
	13.1 Termination by City: 15-Day Notice	8
	13.2 Termination by Consultant: 15-Day Notice	9
	13.3 Termination by Either Party Without Cause	9
	13.4 Parties Obligations Following Termination	9
Section 14.	General Conditions	9
	14.1 Indemnification Agreement	9
	14.2 Compliance with Law	11

	14.3	Applicable Law	11
	14.4	Forum Selection	11
	14.5	Discrimination Prohibited	11
	14.6	Non-Liability of Agents and Employees.....	12
	14.7	No Partnership or Agency	13
	14.8	Subordination	13
	14.9	Ethics.....	13
	14.10	Approvals, Consents, and Notices	14
	14.11	Force Majeure.....	15
	14.12	Contract Interpretation.....	15
	14.13	Assignment of Agreement	17
	14.14	Patents and Trademarks	17
	14.15	Savings	17
	14.16	Administration of Agreement.....	18
	14.17	Approval of Agreement.....	18
Exhibit A		Request for Proposal ("RFP")	
Exhibit B		Proposal.....	
Exhibit C		Scope of Services.....	
Exhibit D		Certificate(s) of Insurance	

**Albuquerque Airport System
Financial and Other Consulting Services
Professional Services Agreement**

This Albuquerque Airport System Financial and Other Consulting Services Professional Services Agreement ("Agreement") is made and entered into between the **City of Albuquerque**, a New Mexico municipal corporation ("City") and _____, a corporation organized and existing under the laws of the State of _____ ("Consultant").

In consideration of the rights, privileges, and mutual obligations contained in this Agreement, City and Consultant agree as follows:

Section 1. Recitals.

1.1 City owns and operates through its Aviation Department the Albuquerque Airport System consisting of Albuquerque International Sunport and Double Eagle II Reliever Airport, located in Bernalillo County, New Mexico ("Airport System"); and

1.2 Consultant is licensed or otherwise authorized to conduct the business activities described in this Agreement by all governmental agencies having jurisdiction over Consultant, and Consultant has the experience and expertise to perform the work or services required in this Agreement; and

1.3 City issued a Request for Proposals, Solicitation Number: RFP2006-015-SB, "Financial and Other Consulting Services: Albuquerque Airport System ("RFP")," dated _____, which is attached hereto as **Exhibit A**; and

1.4 Consultant submitted its Proposal, dated _____, attached hereto as **Exhibit B**, in response to the RFP; and

1.5 Consultant was selected by City via EC No. _____ dated _____, to enter into this Agreement to provide financial and other consulting services; and

1.6 City and Consultant have the right and power to enter into this Agreement.

Section 2. Scope of Services and Fee Schedule. Consultant shall perform the financial and other consulting services ("Services") pursuant to **Exhibit C**, "Scope of Services," attached hereto and incorporated herein. All such Services shall be provided in

strict compliance with the Fee Schedule submitted with Consultant's Proposal, attached hereto as **Exhibit B**, or as negotiated with City as part of a comprehensive programming and planning effort as determined and requested by City.

Section 3. Modifications to Scope of Services. City may, from time to time, request modifications to the Services to be performed hereunder. Modifications that are mutually agreed upon by and between City and Consultant, shall be incorporated as written amendments to this Agreement, and such modifications may result in an increase or decrease in the amount of Consultant's compensation.

Section 4. Time of Performance. Services described in **Exhibit C** shall commence on the date of City's signature and shall be for an initial period of four (4) years, unless sooner terminated pursuant to any provision of this Agreement. City shall retain an option to extend the time of performance for two (2) additional two (2) year periods, at its sole discretion.

Section 5. Compensation. For performing the Services specified in **Exhibit C**, City agrees to pay Consultant an amount not to exceed _____ and 00/100 (\$_____.00) including all applicable New Mexico Gross Receipts Tax ("NMGRT") for the initial four (4) year period based on the Fee Schedule as outlined in **Exhibit B** of this Agreement. At one (1) year intervals during the initial period or an extended period pursuant to Section 4 above, Consultant may request a reasonable increase in Consultant's Fee Schedule and such increase shall be negotiated between Consultant and City.

5.1 Compensation Adjustment. If City requests modifications to the Scope of Services pursuant to Section 3 above, for each such modification Consultant will provide City a compensation adjustment proposal based on Consultant's current Fee Schedule at the time of such request, provided however, that no compensation adjustment proposal shall be approved if the cost for such proposal is more than five percent (5%) of the total compensation to be paid to Consultant for the initial four (4) year period, not including compensation for prior modifications.

The payment of compensation as described in this Section shall be in strict compliance with subsection 5.2 below.

5.2 Method of Payment. Amounts due Consultant shall be paid to Consultant upon receipt by City of properly documented requisitions for payment, and upon the condition that Consultant has accomplished the Services described in such requisition to the sole satisfaction of City.

5.3 Appropriations. Notwithstanding any other provisions in this Agreement, the terms and conditions of this Agreement are contingent upon the City Council of the City of Albuquerque appropriating the necessary funding for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the City Council for each subsequent fiscal year, then this Agreement may be terminated at the end of City's current fiscal year upon written notice by City to Consultant. Such event shall not constitute an event of default. All payment obligations of City, and all other interests in this Agreement will cease upon the date of termination. City's decision as to whether sufficient appropriations are available shall be accepted by Consultant and shall be final.

Section 6. Independent Contractor. Neither Consultant nor its employees are considered to be employees of the City of Albuquerque for any purpose whatsoever. Consultant is considered as an independent contractor at all times in the performance of the Services. Consultant further agrees that neither it nor its employees are entitled to any benefits from City under the provisions of the Workers' Compensation Act of the State of New Mexico, or to any of the benefits granted to employees of City under the provisions of the City's Merit System Ordinance.

Section 7. Personnel. Consultant represents that it has, or will secure at its own expense, all personnel required in performing the Services required under this Agreement. Such personnel shall not be employees of, nor have any contractual relationship with, City.

All the Services required hereunder will be performed by Consultant, or by subcontractors under strict supervision of Consultant, and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state and local law to perform such Services.

None of the Services shall be subcontracted without the prior written approval of City. Any such subcontracted work hereunder shall be specified by written contract or agreement and shall be subject to each provision of this Agreement.

Section 8. Insurance. Consultant shall, at its own cost and expense, procure and maintain in full force and effect during the term of this Agreement, such insurance as is required in this Agreement. Policies of insurance shall be written by companies authorized to write such insurance in New Mexico. Policies of insurance shall be on forms properly filed and approved by the Superintendent of Insurance, State of New Mexico. When requested by City, Consultant shall provide to City copies of any or all policies of insurance for the insurance coverage required in this Section. Policies of insurance shall be procured that provide coverage limits as stated in this Agreement.

If Consultant sublets, or assigns or otherwise transfers any interest in any part of this Agreement, Consultant shall include as additional insured all transferees in Consultant's

insurance policies or require such transferees to secure insurance to cover all hazards enumerated in this Agreement that are not covered by Consultant's insurance policies. Consultant shall not violate the terms or prohibitions of insurance policies required to be furnished by Consultant. Consultant shall promptly notify City of any claim or loss exceeding the amount of the deductible under such insurance policies, and certify that proper notice has been given the appropriate insurance carrier.

Consultant shall furnish City with certificates of insurance and shall deliver said certificates to the Director of Aviation, Albuquerque International Sunport, PO Box 9948, Albuquerque, New Mexico 87119-1048. All insurance certificates shall provide that thirty (30) days written notice be given to the Director of Aviation before a policy is canceled, materially changed, or not renewed. Various types of required insurance may be written in one or more policies. A certificate or policy, which states that the failure to give City notice imposes no liability or obligation on the insurer shall not be in compliance with this Section. For instance, certificates or policies stating that the insurance company shall "endeavor to notify" and that "failure to give such notice imposes no obligation" on the insurance company are unacceptable to City. The form of certificates of insurance shall be substantially the same as **Exhibit D** attached hereto. Documents establishing the continuation or replacement of insurance shall be received by the Aviation Department no less than thirty (30) days prior to the expiration of the insurance coverage.

8.1 Approval of Insurance. Even though a "notice to proceed" may have been given, neither Consultant nor any Consultants, assignees or other transferees of the Consultant shall begin any operations pursuant to this Agreement until the required insurance has been obtained and proper certificates of insurance delivered to Director. Neither approval nor failure to disapprove insurance certificates of insurance by City shall relieve Consultant or any transferees of full responsibility to maintain the required insurance in full force and effect.

8.2 Commercial General Liability Including Automobile. Consultant shall procure and maintain policies of insurance for commercial general liability insurance and vehicle liability insurance for all vehicles used in its operation at the Airport, as further described below. All such policies of insurance shall have liability limits in amounts not less than One Million Dollars (\$1,000,000.00) single limit liability for bodily injury, including death, and property damage in any one occurrence. Said policies of insurance shall include coverage for premises (if applicable), operations, Consultant's contractual liability to City hereunder, and claims arising out of or from Consultant's performance of this Agreement. Contractual liability coverage shall specifically insure the indemnification provision of this Agreement. The insurance policies shall contain "products" and "completed operations" coverage (if applicable) and shall not be written on a "claims made" form. The insurance policies shall include coverage for all use of, activities on, or operations with respect to Airport premises, coverage for the use of all owned, non-owned,

hired automobiles, vehicles, and other equipment, both on and off work. City reserves the right to review and modify the limits stated above at one-year intervals to give effect to the changing risk management environment and inflationary trends. The amount of insurance required in this paragraph is based on Consultant having no airfield access in its own vehicles. Should Consultant require airfield access in its own vehicles, Consultant shall increase the above amounts of insurance coverage to Five Million and 00/100 Dollars (\$5,000,000.00), and meet all airfield security requirements and training required by City.

8.3 Increased Limits. If, during the term of this Agreement, the legislature of the State of New Mexico increases the maximum limits of liability under the Tort Claims Act (Sections 41-4-1 through 41-4-27, NMSA 1978) to an amount greater than that required for commercial general liability including auto above, City may require Consultant to increase the limits of any insurance required herein to an amount equal to such increased Tort Claim Act maximum limits of liability.

8.4 Additional Insured. The City of Albuquerque shall be named as an additional insured on each insurance policy required for commercial general liability including auto above.

8.5 Workers' Compensation Insurance. If Consultant employs workers in New Mexico, Consultant shall comply with the provisions of the New Mexico Workers' Compensation Act, the Subsequent Injury Act, and the New Mexico Occupational Disease Disablement Law.

8.6 Self-Insurance Retention/Deductibles. In the event any of the insurance policies required in this Section (except as allowed by New Mexico law regarding Workers' Compensation) contain a self-insurance retention provision (whether or not in the form of a deductible), for each such amount, Consultant shall post a bond or an irrevocable letter of credit made exclusively for the benefit of City and held by a bank authorized to do business in New Mexico which is acceptable to the Aviation Department.

8.7 Contents Insurance. Consultant shall be solely responsible for obtaining insurance policies that provide coverage for losses of Consultant-owned property. City shall not be required to provide such insurance coverage or be responsible for payment of Consultant's cost for such insurance.

8.8 Professional Liability Insurance. Consultant shall, at its own cost and expense, procure and maintain in full force and effect during the term of this Agreement, Professional Liability (errors and omissions) insurance in an amount not less than One Million Dollars (\$1,000,000.00) combined single limit of liability per occurrence with a general aggregate of (\$1,000,000.00).

Section 9. Reports and Information. At such times and in such forms as City may require, there shall be furnished to City such statements, records, reports, data and information as City may request pertaining to matters covered by this Agreement. Unless authorized by City, Consultant will not release any information concerning the work product including any reports or other documents prepared pursuant to this Agreement until the final product is submitted to City.

Section 10. Establishment and Maintenance of Records. Records shall be maintained by Consultant in accordance with applicable law and requirements prescribed by City with respect to all matters covered by this Agreement. Except as otherwise authorized by City, such records shall be maintained for a period of three (3) years after receipt of final payment under this Agreement.

Section 11. Audits and Inspections. At any time during normal business hours and as often as City may deem necessary, there shall be made available to City for examination all of Consultant's records with respect to all matters covered by this Agreement. Consultant shall permit City to audit, examine, and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement. Consultant shall maintain such records at its corporate office and provide them to City in Albuquerque, New Mexico, within fifteen days after receiving a written request by City.

Section 12. Publication, Reproduction, and Use of Material. No material produced in whole or in part under this Agreement shall be subject to copyright in the United States or in any other country. City shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data or other materials prepared under this Agreement.

Section 13. Termination.

13.1 Termination by City: 15-Day Notice. In the event Consultant fails to comply with any of the covenants, agreements, or stipulations of this Agreement, or if Consultant shall fail to perform in a timely and proper manner its obligations under this Agreement for a period of fifteen (15) days following receipt of City's written notice of an event of non-performance, City shall have the right to terminate this Agreement for Consultant's failure to perform. City shall then send Consultant a written notice of termination, provided however, that no notice of termination shall be effective if Consultant has fully cured all events of non-performance identified in the fifteen (15) day notice prior to Consultant's receipt of the notice of termination. Termination shall take effect immediately upon Consultant's receipt of the notice of termination unless stated otherwise in the notice of termination.

13.2 Termination by Consultant: 15-Day Notice. In the event City fails to comply with any of the covenants, agreements, or stipulations of this Agreement, or if City shall fail to perform in a timely and proper manner its obligations under this Agreement for a period of fifteen (15) days following receipt of Consultant's written notice of an event of non-performance, Consultant shall have the right to terminate this Agreement for City's failure to perform. Consultant shall send City a written notice of termination, provided however, that no notice of termination shall be effective if City has fully cured all events of non-performance identified in the fifteen (15) day notice prior to City's receipt of the notice of termination. Termination shall take effect immediately upon City's receipt of the notice of termination unless stated otherwise in the notice of termination.

13.3 Termination by Either Party Without Cause. Either party shall be entitled to terminate this Agreement without cause by providing the other party with thirty (30) days advance written notice of termination specifying the date of such termination.

13.4 Parties Obligations Following Termination. In the event of termination pursuant to subsection 13.1, 13.2, or 13.3 above, each party shall have certain obligations to the other. Consultant hereby agrees that all finished or unfinished documents, data, maps, studies, surveys, drawings, models, photographs, and reports prepared by Consultant under this Agreement shall, at the option of City, become City's property, and Consultant further agrees to deliver all such items to City. City hereby agrees that Consultant shall be entitled to receive just and equitable compensation for any work satisfactorily completed at the time of such termination. Notwithstanding the above, Consultant shall not be relieved of liability to City for damages sustained by City by virtue of any breach of this Agreement by Consultant, and City may withhold any further payment to Consultant until the exact amount of damages due City from Consultant is determined.

Section 14. General Conditions.

14.1 Indemnification Agreement. Consultant agrees to defend, indemnify and hold City and its officers and employees harmless from and against all suits, actions, proceedings, claims, demands, fines, liabilities, settlements, costs, damages, and expenses (including but not limited to consultant's fees, attorney's fees court costs and litigation expenses) of whatever kind or nature, known or unknown, contingent or otherwise, brought against City because of any injury, including death, at any time resulting from bodily injury, damages for care and loss of services, or damages received or sustained by any person, persons, or property from any source that may arise out of Consultant's use or occupancy of any portion of the Airport, or on account of any matter arising from the Services performed by Consultant under this Agreement, if caused by an act or omission of Consultant, its officers, employees, servants or agents.

14.1.1 Insurance. The indemnity required herein shall not be limited by the specification of insurance coverages in this Agreement.

14.1.2 Survive the Term. This indemnification agreement shall survive the time of performance of this Agreement.

14.1.3 Scope of Indemnification. With respect to any claims, actions, suits, damages or judgments caused by or resulting from acts, omissions, or operations of Consultant, its agents, servants, or employees, Consultant shall: (a) investigate or cause the investigation of such claims, actions, or suits, (b) negotiate or cause to be negotiated all claims made, even when Consultant considers such claims to be groundless, false or fraudulent in the name of City and on behalf of City, (c) and satisfy judgments finally establishing the liability of City in all actions defendant by Consultant pursuant to this Section, and (d) pay, or cause to be paid: (1) all costs taxed against City in any legal proceeding defended or caused to be defended by Consultant as required above, (2) any interest accruing up to the date of payment by Consultant, (3) all premiums charged upon appeal bonds required in such proceedings, and (4) all expenses incurred by City for investigation, negotiation, and defense, including but not limited to expert witnesses' and attorneys' fees incurred, should Consultant fail to provide the defense and indemnification required herein.

14.1.4 Miscellaneous. City shall, promptly upon receipt, give Consultant every demand, notice, summons, or other process received in any claim or legal proceeding for which Consultant is required to indemnify and defend City. In the event City fails to give Consultant notice of any such demand, notice, summons, or other process received by City, and such failure to give said notice shall result in prejudice to Consultant in its defense of any action or legal proceeding in which Consultant is required to indemnify and defend City, then such failure or delay shall release Consultant of its liability as set forth in this Indemnification Agreement, but only insofar as the particular claim or legal proceeding is concerned, and only to the extent of such prejudice. Nothing in this subsection shall be deemed a change or modification in any manner whatsoever of the method or conditions of preserving, asserting, or enforcing any claim or legal liability against City. This Section shall not be construed as a waiver of City's immunity. The provisions of this Section shall not be construed to prohibit Consultant from seeking contribution or indemnity from any third party which may have caused or contributed to the event for which Consultant indemnifies City.

14.2 Compliance with Law. Consultant shall comply with all applicable laws, ordinances, regulations and procedures of Federal, State, and local governments in Consultant's use of the facilities and the Airport, including, but not limited to Aviation Department rules. Consultant shall comply with all applicable provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101) and federal regulations promulgated thereunder (28 C.F.R. Parts 35, 36, and 37).

14.3 Applicable Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of New Mexico, and the laws, rules and regulations of the City of Albuquerque.

14.4 Forum Selection. Any cause of action, claim, suit, demand, or other case or controversy arising from or related to this Agreement shall only be brought in a state district court located in Bernalillo County, New Mexico or in a federal district court located in New Mexico. The parties irrevocably admit themselves to, and consent to, the jurisdiction of either or both of said courts. The provisions of this Section shall survive the termination of this Agreement.

14.5 Discrimination Prohibited.

14.5.1 General. In the use and occupation of the Airport premises, Consultant shall not discriminate against any person or class of persons by reason of race, color, religion, gender, sexual preference, sexual orientation, national origin or ancestry, age, or physical or mental handicap.

14.5.2 Civil/Human Rights Laws. In the operation and use of the Airport Premises, Consultant shall not on the grounds of race, color, religion, sex, national origin or ancestry, age, or physical or mental handicap, discriminate or permit discrimination against any person or group of persons in any manner prohibited by Title 49 CFR Parts 21, 23 and 26, the Civil Rights Act of 1964, as amended, the Equal Pay Act of 1963, the Rehabilitation Act of 1973, the New Mexico Human Rights Act, and the Albuquerque Human Rights Ordinance. Without limiting the generality of the foregoing, Consultant agrees to not discriminate against any employee or applicant for employment because of race, color, religion, gender, sexual preference, sexual orientation, national origin or ancestry, age, or physical or mental handicap. Consultant agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, gender, sexual preference, sexual orientation, national origin or ancestry, age, or physical or mental handicap. Such action shall include, but not be limited to: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; selection for training; and disciplinary actions and grievances. Consultant agrees to post in conspicuous places available to employees, and applicants for

employment, notice to be provided setting forth the provisions of this non-discrimination clause.

Consultant, for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration of this Agreement, does hereby covenant and agree that in the event facilities are constructed, maintained, or otherwise operated on the Airport Premises, for a purpose for which a United States Department of Transportation program of activity is extended or for another purpose involving the provision of similar services or benefits, Consultant shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Parts 21, 23 and 26, and as said regulations may be amended.

Consultant, for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration of this Agreement, does hereby covenant and agree that: (1) no person on the grounds of race, color, religion, gender, sexual preference, sexual orientation, national origin or ancestry, age, or physical or mental handicap shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, religion, gender, sexual preference, sexual orientation, national origin or ancestry, age, or physical or mental handicap shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that Consultant shall use the Airport Premises in compliance with all other requirements imposed by, or pursuant to, the New Mexico Human Rights Act, the Albuquerque Human Rights Ordinance, and 49 CFR Parts 21, 23 and 26, and as said regulations may be amended; and

Consultant assures that it will undertake an affirmative action program as required by 14 CFR Part 152 Subpart E, Nondiscrimination Airport in Aid Program, to ensure that no person shall on the grounds of race, color, religion, national origin or ancestry, gender, sexual preference, sexual orientation, age, or physical or mental handicap be excluded from participating in any employment activities covered in 14 CFR Part 152 Subpart E, or such employment activities covered in the New Mexico Human Rights Act, or the Albuquerque Human Rights Ordinance. Consultant assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. Consultant assures that it will require that any covered sub-organization similarly will undertake affirmative action programs and that the sub-organization will require assurance from the sub-organization, as required by 14 CFR Part 152 Subpart E, to the same effect.

14.6 Non-Liability of Agents and Employees. No member, officer, agent, director, or employee of City or Consultant shall be charged personally or held contractually liable by or to the other party under any term or provision of this Agreement

or because of any breach thereof or because of their execution or attempted execution of this Agreement.

14.7 No Partnership or Agency. Nothing contained in this Agreement is intended or shall be construed in any respect to create or establish any relationship other than that of owner and Consultant, and nothing herein shall be construed to establish any partnership, joint venture or association or to make Consultant the general representative or agent of City for any purpose whatsoever.

14.8 Subordination.

14.8.1 Sponsor's Assurance Subordination. This Agreement shall be subordinate to the provisions of any existing or future agreement between the City and the United States regarding the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the acquisition by the City of the Airport or any portion thereof or to the expenditure of Federal funds for the operation, maintenance or development of the Airport.

14.8.2 Other Subordination. The Airport and this Agreement are subject to and subordinate to the terms of any and all deeds from the United States of America to the City, including that certain deed from the United States of America to the City dated December 15, 1962, and filed for record on December 19, 1962, in Volume 672 of Records, Folio 469, with the records of the County Clerk of the County of Bernalillo, New Mexico, wherein the City agreed to hold title to certain property upon certain terms and which also provides that the United States may regain title should the City not cure any default within sixty (60) days of notice thereof.

14.8.3 Airport Bond Ordinances. This Agreement is subject to and subordinate to any and all City Ordinances pertaining to Airport Bonds.

14.9 Ethics.

14.9.1 Conflict of Interest. Upon execution of this Agreement, or within five (5) days after the acquisition of any interest described in this Section during the term of this Agreement, Consultant shall disclose in writing to City whether any City Councilor, Albuquerque Airport Advisory Board member, officer or employee of the City has or hereafter acquires any direct, indirect, legal, or beneficial interest in Consultant or in any contract, lease, or agreement between City and Consultant, or in any franchise, concession, right, or privilege of any nature granted by City to Consultant in this Agreement or otherwise.

14.9.2 Fair Dealing. Consultant covenants and warrants that the only person or firm interested in this Agreement as principal (or principals) are named in this Agreement and that no other person or firm has any interest in this Agreement, and this Agreement is entered into by Consultant without collusion on the part of Consultant with any person or firm, without fraud and in good faith. Consultant also covenants and warrants that no gratuities, in the form of entertainment, gifts or otherwise, were, or during the term of this Agreement, will be, offered or given by Consultant, or any agent or representative of Consultant, to any officer or employee of City with a view toward securing this Agreement or for securing more favorable treatment with respect to making any determinations with respect to performing this Agreement.

14.9.3 Board of Ethics and Campaign Practices. Consultant agrees to provide the Board of Ethics and Campaign Practices of the City of Albuquerque or its investigator ("Board") with any records or information pertaining in any manner to this Agreement, or both, whenever such records or information is within Consultant's custody, are germane to an investigation authorized by the Board, and are requested by the Board. Consultant further agrees to appear as a witness before the Board as required by the Board in hearings concerning ethics or campaign practices charges heard by the Board. Consultant agrees to require that all subcontractors employed by Consultant for services performed for this Agreement shall agree to comply with the provisions of this Section. Consultant and its subcontractors shall not be compensated under this Agreement for its time or any costs incurred in complying with this Section.

14.9.4 Open Meetings Requirements. Any nonprofit organization in the City, which receives funds appropriated by the City, or which has as a member of its governing body an elected official, or appointed administrative official, as a representative of the City, is subject to the requirements of §2-5-1 et seq. R.O.A. 1994, Public Interest Organizations. Consultant agrees to comply with all such requirements, if applicable.

14.9.5 Accountability in Government. Consultant understands and will comply with City's Accountability in Government Ordinance, §2-10-1 et seq. R.O.A. 1994.

14.10 Approvals, Consents, and Notices. All approvals, consents, and notices required by this Agreement shall be in writing and shall be given by registered or certified mail by depositing the same in the U.S. mail in the continental United States, postage prepaid, return receipt requested, or by personal delivery, or by facsimile transmission to the "FAX" number given below, provided that the completed transmission is electronically verified. Either party shall have the right, by giving written notice to the other, to change the address at which its notices are to be received. Until any such change is made, notices shall be delivered as follows:

City: Director of Aviation
Albuquerque International Sunport
Certified Mail: PO Box 9948
Albuquerque, New Mexico 87119-1048
Personal Delivery: 2200 Sunport Blvd. SE, 3rd Floor
Albuquerque, NM 87106
Telephone: (505) 244-7700
FAX Transmission: (505) 842-4278

Consultant:
Consultant Official:
**Certified Mail and
Personal Delivery:**
Telephone:
FAX Transmission:

If approval, consent, or notice is given in any other manner or at any other place, it will also be given at the place and in the manner specified above.

The effective date of such approval, consent, or notice shall be the date of the receipt as shown by the U.S. Postal Service Return Receipt, or the date personal delivery is certified, or the date of electronic verification of the facsimile transmission, unless provided otherwise in this Agreement.

14.11 Force Majeure. Except as expressly provided in this Agreement, neither City nor Consultant shall be deemed to be in default hereunder if either party is prevented from performing any of the obligations, other than payment of rentals, fees and charges hereunder, by reason of strikes, boycotts, labor disputes, embargoes, shortages of energy or materials, acts of the public enemy, weather conditions and the results of acts of nature, riots, rebellion, sabotage, or any other similar circumstances for which it is not responsible or which are not within its control.

14.12 Contract Interpretation.

14.12.1 Severability. In the event any covenant, condition or provision herein is held to be invalid, illegal, or unenforceable by any court of competent jurisdiction, such covenant, condition or provision shall be deemed amended to conform to applicable laws so as to be valid or enforceable or, if it cannot be so amended without materially altering the intention of the parties, it shall be stricken. If stricken, all other covenants, conditions and provisions of this Agreement shall remain in full force and effect provided that the striking of such covenants, conditions or provisions does not materially

prejudice either City or Consultant in its respective rights and obligations contained in the valid covenants, conditions or provisions of this Agreement.

14.12.2 Waiver. No provision of this Agreement shall be deemed to have been waived by either party unless such waiver is in writing, signed by the party making the waiver and addressed to the other party, nor shall any custom or practice which may evolve between the parties in the administration of the terms of this Agreement be construed to waive or lessen the right of either party to insist upon the performance of the other party in strict accordance with the terms of this Agreement. Further, the waiver by any party of a breach by the other party or any term, covenant, or condition hereof shall not operate as a waiver of any subsequent breach of the same or any other term, covenant, or condition thereof.

14.12.3 Gender, Singular/Plural. Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

14.12.4 Captions and Section Headings. The captions, section headings, and table of contents contained in this Agreement are for convenience of reference only, and in no way limit, define, or enlarge the terms, scope, and conditions of this Agreement.

14.12.5 Entire Agreement. This Agreement represents the entire contract between the parties and, except as otherwise provided herein, may not be amended, changed, modified, or altered without the written consent of the parties hereto. This Agreement incorporates all of the conditions, agreements, and understandings between the parties concerning the subject matter of this contract, and all such conditions, understandings and agreements have been merged into this written Agreement. No prior condition, agreement, or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this written Agreement.

14.12.6 Relationship of Contract Documents. All documents attached to this Agreement or incorporated into this Agreement are complementary, and any requirement of one contract document shall be as binding as if required by all.

14.12.7 Exhibits, Certificates, Documents Incorporated, and Attachments. All certificates, documents, exhibits, attachments, riders, and addenda referred to in this Agreement are hereby incorporated into this Agreement by reference and made a part hereof as though set forth in full in this Agreement to the extent they are consistent with its conditions and terms.

14.12.8 Successors. All covenants, stipulations and agreements in this Agreement shall extend to and bind the legal representatives, successors, and assigns of the respective parties hereto.

14.12.9 Governmental Rights and Powers. Nothing in this Agreement shall be construed or interpreted as limiting, relinquishing, or waiving any rights of ownership enjoyed by the City in the Airport property, or waiving or limiting the City's control over the management, operations, or maintenance of property, except as specifically provided in this Agreement, or impairing, exercising or defining governmental rights and the police powers of the City.

14.12.10 Cross References. References in the text of this Agreement to articles, sections, or exhibits pertain to articles, sections or exhibits of this Agreement unless otherwise specified.

14.12.11 Time is of the Essence. Subject to the qualifications otherwise set forth herein, time is of the essence in the performance of this Agreement.

14.13 Assignment of Agreement. Consultant shall not assign or otherwise transfer, in whole or in part, any of the rights granted in this Agreement without the prior written approval of City. City shall not be required to approve any assignment or other transfer of this Agreement that would result in the services required in this Agreement to be performed by any other person or entity than Consultant.

14.14 Patents and Trademarks. Consultant represents that it is the owner or fully authorized to use any and all services, processes, machines, articles, marks, names or slogans used by it in its performance under this Agreement. Consultant agrees to defend, indemnify and hold harmless the City, pursuant to the Indemnification Agreement above, from any loss, liability, expense, suit or claim for damages in connection with any actual or alleged infringement of any patent, trademark, or copyright arising from any alleged or actual unfair competition or other similar claim arising out the performance of this Agreement by Consultant.

14.15 Savings. City and Consultant acknowledge and agree that they have thoroughly read this Agreement, including all exhibits thereto, and have sought and received whatever competent advice and counsel was necessary for them to form a full and complete understand of all rights and obligations herein. City and Consultant further acknowledge that the Agreement is the result of negotiations between them and that this Agreement shall not be construed against either party by reason of that party's preparation of all or part of this Agreement.

14.16 Administration of Agreement. The Director of Aviation, or his authorized representative, shall administer this Agreement for City.

14.17 Approval of Agreement. This Agreement shall not become effective or binding until signed by the City's Chief Administrative Officer.

IN WITNESS WHEREOF, City has caused this Agreement to be executed by its Chief Administrative Officer and Consultant has caused the same to be executed by its appropriate and authorized officer.

CITY OF ALBUQUERQUE

By: _____ Date: _____
Bruce J. Perlman, Ph.D.
Chief Administrative Officer

Approved:

By: _____ Date: _____
John D. "Mike" Rice
Director of Aviation

CONSULTANT:

By: _____ Date: _____

NM State Taxation & Revenue Taxpayer ID Number: _____

Federal Taxation ID Number: _____

City of Albuquerque Business Registration Number: _____