

TOWN OF RED RIVER

**Advertising Agency of Record Contract for
Town of Red River**

"REQUEST FOR PROPOSALS"

RFP # 2019-01

Advertising

PROPOSAL DUE:

March 31, 2020

4:30 P.M.

Town of Red River

100 East Main Street

P.O. BOX 1020

RED RIVER, NM 87558

TABLE OF CONTENTS

Advertisement for Proposals	1
Proposal Schedule	2
Information to Proponents	3
Special Conditions.....	6
Scope of Services Required.....	8
Submittal Requirements	9
Final Evaluation for Written Proposals and Interviews	13

Attachments:

1. Non-Disclosure and Conflict of Interest Statement
2. Sample Contract
3. Campaign Contribution Form

REQUEST FOR PROPOSALS

PROPOSAL NUMBER 2019-01

Advertising

Proposals will be received by the Town of Red River and shall be delivered to the Town of Red River, Attention April Ralph, 100 East Main Street, PO Box 1020 Red River, New Mexico 87558 **until 4:30 P.M. local prevailing time on March 31, 2020**. Any proposal received after this deadline will not be considered. This proposal is for the purpose of procuring professional services for the following:

Advertising Agency of Record Contract for Red River, New Mexico

The proponent's attention is directed to the fact that all applicable Federal Laws, State Laws, Municipal Ordinances, and the rules and regulations of all authorities having jurisdiction over said item shall apply to the proposal throughout, and they will be deemed to be included in the proposal document the same as though herein written out in full.

The Town of Red River is an Equal Opportunity Employer and all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation or national origin. The successful proponent will be required to conform to the Equal Opportunity Employment regulations.

Proposals may be held for ninety (90) days subject to action by the Town. The Town reserves the right to reject any of all proposals in part or in whole. Proposal packets are available by contacting: Georgiana Rael Municipal Clerk & Town Administrator, 100 East Main Street, PO Box 1020, Red River, New Mexico, 87558, (719-221-2391)

Received by the Red River New Miner Newspaper on December 31, 2019
To be published on January 9, 2020

Received by the Albuquerque Journal Newspaper on December 31, 2019
To be published on January 2, 2020

Received by the Taos News on December 31, 2019
To be published on January 9, 2020

Received by the Santa Fe New Mexican on December 31, 2019
To be published on January 2, 2020

Received by the Pueblo Chieftain on December 31, 2019
To be published on January 2, 2020

Received by the Colorado Springs Gazette on December 31, 2019
To be published on January 2, 2020

PROPOSAL SCHEDULE

RFP # 2019-01 Advertising

1. Advertisement December 31, 2019
2. Issuance of RFP: December 31, 2019
3. Receipt of proposals: March 31, 2019 at
4:30 P.M local prevailing time.
Red River Town Hall
100 East Main Street
PO Box 1020
Red River, New Mexico
87558
4. Evaluation of proposals
and interviews: April 1 to May 20, 2020
5. Notify Finalists: May 26, 2020
6. Recommendation of
award to Town Council: May 26, 2020

DATES OF CONSIDERATION BY TOWN COUNCIL ARE TENTATIVE AND SUBJECT TO CHANGE WITHOUT NOTICE.

INFORMATION FOR PROPONENTS

1. RECEIPT OF PROPOSALS

The Town of Red River (herein called "Town"), invites firms to submit one electronic file and seven paper copies of the proposal. Proposals will be received by the Municipal Clerk & Town Administrator, until 4:30 p.m. local prevailing time, March 31, 2020.

The packets shall be submitted and addressed to the Town of Red River, 100 East Main Street, PO Box 1020, Red River, New Mexico, 87558. No late proposals will be accepted whether hand delivered, mailed or special delivery. Do not rely on "overnight delivery" without including some lead-time. "Overnight delivery" will be determined to be non-responsive if delivered late, no matter whose fault it was. It is recommended that extra days be included in the anticipated delivery date to ensure delivery is timely. The outside of the envelope should clearly indicate the following information: Proposal number: 2019- Title of the proposal: Advertising Agency of Record Contract for the Town of Red River.

Name and address of the proponent:

Any proposal received after the time and date specified shall not be considered. No proposing firm may withdraw a proposal within 60 days after the actual date of the opening thereof.

2. PREPARATION OF PROPOSAL

Vendors shall comply with all instructions and provide all the information requested. Failure to do so may disqualify your proposal. All information shall be given in ink or typewritten. Any corrections shall be initialed in ink by the person signing the proposal.

This request for proposal may be canceled or any and all proposals may be rejected in whole or in part, whenever the Town of Red River determines it is in the best interest of the town.

3. ADDENDA AND INTERPRETATIONS

No oral interpretation of the meaning of any section of the proposal documents will be binding. Oral communications are permitted in order to assess the need for an addendum. Any questions concerning the proposal must be addressed prior to the date set for receipt of proposal.

Every request for such interpretation should be in writing addressed to, Town of Red River, Attention: Georgiana Rael, Municipal Clerk & Town Administrator, 100 East Main Street, PO Box 1020, Red River, New Mexico 87558,

and to be given consideration must be received at least (5) business days prior to the date set for the receiving of proposals.

Any and all such interpretations and any supplemental instruction will be in the form of written addenda to the RFP, which if issued, will be delivered to all prospective firms not later than three days prior to the date fixed for the receipt of the proposals. Failure of any proposing firm to receive any such addenda or interpretations shall not relieve such firm from any obligation under their proposal as submitted. All addenda so issued shall become part of the contract documents.

The Town reserves the right to not comply with these time frames if a critical addendum is required or if the proposal deadline needs to be extended due to a critical reason in the best interest of the Town of Red River.

4. LAWS AND REGULATIONS

The proposing firm's attention is directed to the fact that all applicable Federal Laws, State Laws, Municipal Ordinances, and the rules and regulations of all authorities having jurisdiction over said item shall apply to the contract throughout. They will be deemed to be included in the contract the same as though herein written out in full.

5. METHOD OF AWARD

The proposal is to be awarded based on qualified proposals as per the enclosed rating system and at the discretion and consideration of the governing body of the Town of Red River. The selection committee may interview the top three rated proponents; however, contracts may be awarded without such interviews. At its discretion the Town reserves the right to alter the membership or size of the selection committee. The Town reserves the right to change the number of firms interviewed. The Town may extend the purchase of goods and services under the RFP at the option of the Town for a period of four (4) years from the date of the executed purchase order, subject to the agreement of the offeror.

6. PROTESTS AND RESOLUTIONS PROCEDURES

Any proponent, offeror, or contractor who is aggrieved in connection with a procurement may protest to the Purchasing Officer. The protest must be in writing and submitted within fifteen (15) days and requirements regarding protest and resolution of protests are available from the Town Administrator upon request.

SPECIAL CONDITIONS

1. GENERAL

When the Town's Marketing Director issues a purchase order document in response to the vendor's bid, a binding contract is created.

2. ASSIGNMENT

Neither the order, nor any interest therein, nor claim there under, shall be assigned or transferred by the vendor, except as expressly authorized in writing by the Town's Marketing Director. No such consent shall relieve the vendor from its obligations and liabilities under this order.

3. VARIATION IN SCOPE OF WORK

No increase in the scope of work of services or equipment after award will be accepted, unless means were provided for within the contract documents. Decreases in the scope of work of services or equipment can be made upon request by the town or if such variation has been caused by documented conditions beyond the vendor's control, and then only to the extent, as specified elsewhere in the contract documents.

4. DISCOUNTS

Any applicable discounts should be included in computing the bid submitted. Every effort will be made to process payments within 30 days of satisfactory receipt of goods or services. The Town's Marketing Director shall be the final determination of satisfactory receipt of goods or services.

5. TAXES

The price shall include all taxes applicable. The town is exempt from gross receipts tax on tangible personal property. A tax-exempt certificate will be issued upon written request.

6. INVOICING

(A) The vendor's invoice shall be submitted in duplicate and shall contain the following information: invoice number and date, description of the supplies or services, quantities, unit prices and extended totals. Separate invoices shall be submitted for each complete order.

(B) Invoice must be submitted to Town's Marketing Director in a timely manner.

7. METHOD OF PAYMENT

Every effort will be made to process payments within 30 days of receipt of a detailed invoice and proof of delivery and acceptance of the products hereby contracted or as otherwise specified in the compensation portion of the contract documents.

8. **DEFAULT**

The Town reserves the right to cancel all or any part of this procurement without cost to the Town if the vendor fails to meet the provisions for this RFP or any contract hereunder, and except as otherwise provided herein, to hold the vendor liable for any excess cost occasioned by the town due to the vendor's default. The vendor shall not be liable for any excess cost if failure to perform the order arises out of causes beyond the control and without fault or negligence of the Vendor and these causes have been made known to the Town of Red River in written form within five working days of the vendor becoming aware of a cause which may create any delay; such causes include, but are not limited to, acts of God or the public enemy, acts of the State or of the Federal Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and defaults of sub-contractors due to any of the above unless the town shall determine that the suppliers or services to be furnished by the sub-contractor are obtainable from other sources in sufficient time to permit the vendor to meet the required delivery schedule. The rights and remedies of the town are not limited to those provided for in this paragraph and are in addition to any other rights provided for bylaw.

9. **NON-DISCRIMINATION**

By signing this Town of Red River bid or proposal, the vendor agrees to comply with the Presidents Executive Order No. 11246 as amended.

10. **NON-COLLUSION**

In signing this bid or proposal, the vendor certifies they have not, either directly or indirectly, entered into any action in restraint of full competition in connection with this bid or proposal submittal to the Town of Red River.

Scope of Services

The town of Red River lies on New Mexico's Enchanted Circle. With a population of just under 500, the town is host to more than 350,000 visitors annually. This historic mining town is big on family adventure year-around. Summers boast temperatures in the 70's, blue skies, a huge motorcycle rally during Memorial weekend followed by parades, festivals, live music, fishing, hiking, OHVing, biking, ziplining, good old-fashioned fun with an oom-pah of a polka band at Oktoberfest. A vibrant music scene boasts several festivals and fills the bars and restaurants with nightly live music year-round. Skiing and Riding on lifts and runs that begin and end right in town is just the start to winter fun. Acres of snowmobiling, cross-country skiing followed by a craft brew or mug of hot chocolate beside a crackling fire are just a sampling of what Red River winter have to offer.

1. Red River Tourism seeks a well-qualified, full-service agency to provide comprehensive integrated advertising and marketing services to further enhance and develop the Red River brand in order to drive domestic travel. The chosen agency may be required to work with the existing campaign as they develop a new campaign that supports the Brand.
2. This scope includes creative development, production, trafficking/distribution and media placement. Target markets include regional drive markets and in-state travelers. Marketing to include both traditional and new media elements, such as, but not limited to print, television, out of home, digital display, online video, digital native content, paid social, event, strategic marketing partnerships and experiential marketing. No specific medium is considered mandatory.
3. Website development and public relations assistance are within the scope of this RFP.
4. Crisis management plan to include training/program are within the scope of this RFP.
5. This procurement may result in multiple source awards for various portions of the overall advertising and branding campaign.
6. The approximate 2020/2021 annual budget for Red River is \$300,000. The contract(s) resulting from this RFP will be for one year with the potential for up to four on-year renewals.
7. Partner with the New Mexico Tourism Office and other entities on facilitating and writing any/all grant opportunities that are available.

Submittal Requirements

Proposal Format

To provide for ease and uniformity in the evaluation of proposals, the Proponent must submit a proposal with the following sections and content. Failure to comply with this prescribed format may result in the Proponent being disqualified from the selection.

1. **Executive Summary**—an overview of the proposed service, outlining its benefits: a profile of the proposer (including number of years in business, current size and capabilities, customer base, employee resumes, history and future goals); and a customer reference list.
 - A. Red River wants to be an important and strategic client to the agency and requires the agency to have the depth of staff and experience to handle future destination growth. The agency should identify where Red River would rank on its client list. The agency must demonstrate strong meeting/convention (b2b) and leisure/consumer (b2c) experience, particularly with governmental entities and/or destination marketing organizations. Experience increasing visitor travel, is very important as is experience working with clients with complex stakeholder groups such as town staff, elected officials, community and business leaders. Based on the size of the budget experience in leveraging/maximizing resources should be highlighted.

2. **Conformance to Specifications**—Agency shall respond item-by-item in detail to each of the following Specifications:
 - A. The agency must demonstrate a strong knowledge of Red River and the North Central New Mexico market and its visitor offerings and must detail how they complete, integrated advertising campaign and comprehensive media plan to meet the following high-level objectives:
 - i. Drive domestic travel to Red River (more people, spending more dollars) and build the Red River Brand, driving awareness of Red River as a vacation destination the deliver history and adventure steeped in the outdoor for all ages.
 - B. The account director should be an experienced leader, proactive, detail-oriented and should be committed to Red River objectives and needs and have the ability to make things happen at the agency. In addition, to the account director, an account manager that is accessible on an as needed basis. The team should have an understanding and experience of destination marketing and share with the client the excitement and passion for the growth of our amazing little town. Strong project management and budget skills as well as proactive thinking and planning are a must. It is also important that the team be able to work in collaborative ways and be committed to a long-term partnership with the client and its other outside resources.

- C. Red River requires that the advertising agency function as a committed, deeply immersed member of the marketing/creative team, capable of providing high level counsel and day to day execution on a range of issues from defining the overall Red River brand, developing comprehensive messaging to prospective visitors and specific programs designed to meet the needs of individual Red River stakeholder groups such as Town Government, the hospitality community, outdoor recreation groups, Ski New Mexico, NM Tourism, Red River Ski and Summer Area and various other important constituents. The agency should have experience analyzing segmentation and target marketing. For the proposal process, please provide cases where the agency has recommended testable programs that were also scale-able to a broader audience and provide examples of proactive initiatives which produced verifiable results. Where possible, the agency should show how strategic insights make an impact on creative materials that produced results for the client.
- D. Over a 4-year period, describe the market research projects you would execute to ensure target market effectiveness of the advertising plan.
- E. The agency must have a track record of innovative and strategically grounded work and must have the capability to strategically guide the creation of high quality, integrated collateral materials for all media mixes. Red River is particularly interested in seeing how a high-level brand strategy translates into creative across all customer touch points including online, print, broadcast, direct, social media, trade shows, grass roots efforts and collateral. The agency must demonstrate its strength in copywriting and art direction. Please submit samples of previous campaigns.
- F. Full scale creative, media planning and buying capabilities (either in-house or through an established alliance) are required. Red River wants an agency that can evaluate the current media mix and recommend what will be most effective and successfully negotiate favorable terms. The agency should demonstrate how media buys will result in a saving to Red River. In addition, the agency should demonstrate how they will effectively measure and evaluate each campaign regarding ROI and reach.
- i. Provide a sample ad campaign creative that promotes Red River as both an outdoor recreation/family oriented as well as a meeting/conference destination and
 - ii. Submit example of media planning, execution and the impact of those particular buys.
 1. Red River's current marketing/media objectives include:
 - a. Build awareness of Red River as a family/outdoor recreation destination
 - b. Generate an increase level of visitation and engagement with the website.

- c. Drive qualified traffic to the website and measure attributable ROI
 - d. Leverage NMTD/" True" campaign in key markets
 - 2. Red River's current Target Market's include:
 - a. Texas: Dallas, Amarillo, Wichita Falls, Lubbock, Austin, Abilene, Odessa/Midland, San Antonio, Waco, Austin, Tyler, San Angelo and Houston
 - b. New Mexico: Albuquerque, Santa Fe, Taos, Las Vegas, Farmington, Gallup
 - c. Colorado: Pueblo, Colorado Springs, Denver, Alamosa
 - d. Oklahoma: Lawton, Oklahoma City, Tulsa, Stillwater
 - e. Kansas
 - f. California
 - g. Louisiana
 - h. Determine new potential target markets
 - iii. Specify what programs, rating and secondary research services your agency subscribes to.
 - iv. Describe your procedures regarding post-buy analysis and under-delivery.
 - v. Describe how new media buys will be leveraged in the effort to best serve the client.
 - vi. Submit examples of campaign evaluation reports.
- G. Red River is interested in learning about the agency's experience in production services, both from completing work internally to identifying outside resources when necessary

3. **Customer Support**—A policy statement and explanation of Proponent's approach to customer support i.e. the assignment of personnel, standard work turnaround commitments, the extent and duration of services and the degree of the Proponent's commitment to service support.
4. **Background of** proposing firm to include client list, overview of project scope capability, ability to work at the direction of the client with community/business members.
5. **Qualifications and Experience** of administrative/creative personnel who are expected to provide service.
6. List of five (5) customers with **similar** types of service including names, emails and current phone numbers.
7. Provide a copy of last year's Company financial statement.
8. Copy of New Mexico Taxation and Revenue gross receipts number.
9. Pricing schedules-an itemized list of all services and proposed fee structure; retainer, hourly, etc. In addition, identify any travel expenses based on client meetings.

10. Seven (7) paper copies of proposal submitted and one on a flash drive. The proponent is welcome to submit any other information that may assist the Town of Red River in making a selection.

**EVALUATION CRITERIA
&
WEIGHTED VALUES**

EVALUATION COMMITTEE MEMBERS

At its discretion, the Town reserves the right to alter the membership and size of the committee.

Scores of the evaluation committee members will be totaled to determine the top-rated firms.

If interviews are conducted for the top three rated firms, those scores totaled from the evaluation committee members from the interview evaluations will determine the final top-rated firm, unless other tangible extenuating circumstances are documented.

Unless noted elsewhere in this RFP, the same evaluation form will be used to separate the interview scores.

RED RIVER ADVERTISING CONTRACT FOR TOURISM RED RIVER

*Evaluation Points 1-5

1. Poorly addresses, not adequate
2. Insufficiently addressed capabilities questionable
3. Adequate response, capable
4. Good response, capabilities more than adequate
5. Exceed expectations, superior response

Evaluation Criteria

All proposals will be evaluated and rated in accordance with the following criteria and the indicated weighted value of the criteria.

CRITERIA	Weighted Value	Evaluation Pts. Total 1-2-3-4-5	_____	_____	Max Score
Best Value & Cost Effectiveness	25%	x	_____	_____	125
Conformance to Specifications Points will be awarded based on quality of creative campaign, media strategy/plans, and knowledge of Red River	20%	x	_____	_____	100
In-House Capacity Account coordination, research/planning, project management, design, production, meetings, and consultation	20%	x	_____	_____	100
Agency Capabilities & Experience Years of experience in tourism or other advertising, experience in building collaborative programs and leveraging/maximizing resources	10%	x	_____	_____	50
Sub Total	75%			_____	375

Answers to Questions 11 and 12 in Questionnaire

Promote and communicate Red River as a leisure travel destination	15%	x	_____	_____	75
Promote and communicate Red River as a meeting/conference destination	10%	x	_____	_____	50
Sub Total	25%			_____	125
Total	100%			_____	500

ADVERTISING CONTRACT QUESTIONNAIRE

1. Company

Name: Phone

Number:

Address:

Email Address:

Name of Owner:

2. Date of first occupation license applying to the business
3. Business organization of which your agency is a member. (List local, state, regional and national). List other community involvement.
4. Three-year history of largest advertising contract budget handled:

\$ _____

For whom (name of business) _____

Largest advertising budget ever handled:

\$ _____

For whom _____ Year _____

What were your total billings last year?

\$ _____

5. In-house capacity of your agency (provide detail for all that apply):

- Copywriting
- Photography
- Market Research
- Graphic Design
- Media Analysis
- Media Placement
- Direct Mail
- Video Production
- Grant writing

Other (Please list other capabilities)

6. How will you provide written estimates for client approval before buying media or starting production?

7. Do you plan on charging for storyboards, layouts and rough etc., which are not used?

8. Describe your social media capabilities?

9. What are your methods of measuring advertising results?

10. What experience do you have in digital/web or social media advertising?

11. How would you promote and communicate the Town of Red River as a historic, outdoor recreation and family destination?

12. How would you promote and communicate the Town of Red River as a meetings and conference destination?

13. Percent of total billings your firm spent last year in each medium.

- Radio
- TV
- Print
- Digital-ads, email
- Social media
- Outdoor

14. Would you be willing to work in partnership on some of these areas, giving direction to the Tourism Director if the work can be done in-house?

The undersigned authorizes and requests that any person, firm, or corporation to furnish any information requested by the owner in verification of the recitals comprising this statement of proponent qualifications.

DATE AT _____

THIS _____ **DAY OF** _____, **20** _____

PROPONENT

Town of Red River (TRR)

NON-DISCLOSURE AND CONFLICT OF INTEREST STATEMENT

REQUEST FOR PROPOSAL # 2019-01 Advertising

EVALUATOR NAME: _____

TRR policy is to prevent personal or organizational conflict of interest, or the appearance of such conflict of interest, in the award and administration of TRR contracts and Purchase Orders.

I, _____, the undersigned, hereby certify that the following statements are true and correct and that I understand and agree to be bound by commitments contained herein.

I am acting at the request of TRR as a participant in the evaluation of *offers/ proposals* received in response to the *Request for Offers/ Request for Proposals*, entitled and/ or numbered. I am acting of my own accord and not acting under duress. I am not currently employed by, nor am I receiving any compensation from, nor have I been the recipient of any present or future economic opportunity, employment, gift, loan, gratuity, special discount, trip, favor, or service in connection with any *offer/proposal* or involved *Offeror/Proposer* in return for favorable consideration. I have no preconceived position on the relative merits of any of the *offers/proposals* nor have I established a personal preference or position on the worth or standing of any *Offeror/Proposer* participating in this action. TRR policy is to prevent personal or organizational conflict of interest, or the appearance of such conflict of interest, in the award and administration of TRR contracts, including, but not limited to contracts for professional services, agreements with consultants and Purchase Orders.

I hereby certify that to the best of my knowledge and belief, no conflict of interest exists that may diminish my capacity to perform an impartial, technically sound, objective review of this proposal(s) or otherwise result in a biased opinion or unfair competitive advantage. I agree not to disclose or otherwise divulge any information pertaining to the contents, status, or ranking of any *offer/proposal* to anyone other than the team leader or other evaluation team members. I understand the terms and "disclose or otherwise divulge" to include, but are not limited to, reproduction of any part or any portion of any *offer/proposal*, or removal of same from designated areas without prior authorization from the evaluation team leader. I agree to perform any and all evaluations of said *offers/proposals* in an unbiased manner, to the best of my ability, and with the best interest of TRR paramount in all decisions.

I agree to return to TRR Marketing Department all copies of proposals, as well as any abstracts, upon completion of the evaluation.

SIGNATURE AND DATE:

Town of Red River

PROFESSIONAL SERVICES CONTRACT
REQUEST FOR PROPOSALS
RFP #2019-01 Advertising

THIS AGREEMENT is made and entered into by and between the Town of Red River, New Mexico, hereinafter referred to as the "Town," and **NAME OF CONTRACTOR**, hereinafter referred to as the "Contractor," and is effective as of the date set forth below upon which it is executed by the Parties.

IT IS AGREED BETWEEN THE PARTIES:

1. Scope of Work.

In collaboration with Town of Red River (TRR), the Contractor shall perform the following Scope of Work for the purpose of increasing tourism in the Town of Red River and building on the success and momentum of the Red River Tourism Brand.

A. Integrated Advertising Campaign and Comprehensive Media:

- 1) Contractor is responsible for the creative development, production, trafficking/distribution, media placement, and ongoing collaboration and account services for TRR to further strengthen the Brand's effectiveness.
- 2) Contractor shall identify target markets including out of state, regional drive markets, and in state travelers.
- 3) Contractor shall employ marketing strategies using both traditional and new media elements, including, but not limited to print, television, out of home, digital display, online video, digital native content, paid social media, strategic marketing partnerships, and experiential marketing.

B. Agency Collaboration:

- 1) Contractor shall be available upon reasonable notice to plan and review work in progress under the terms of this Agreement.
- 2) Contractor shall collaborate with TRR and third-party contractors, as appropriate, in the development of strategic plans that integrate advertising activities and other TRR programs including but not limited to web development, social media, public relations, meetings and conferences, and tourism trade.
- 3) Contractor may, in its discretion and at the request of TRR, assist in presenting TRR's advertising objectives, strategic plans and creative direction to industry partners, in legislative meetings, and in public forums. Travel expenses associated with planning or presentations are the responsibility of the Contractor.
- 4) Contractor shall collaborate with TRR and submit a yearly advertising plan that will be a strategic component of the TRR Marketing Plan that designates target markets and is supported by statistics and research required to achieve goal addition, on a yearly basis perform market research to inform and guide the advertising decisions.

C. Agency Services:

- 1) Contractor shall submit to TRR a budget tracker showing a detailed breakdown of all production and media budgets, amount committed to date, and amount billed to date no later than the tenth business day of the following month. Failure to provide an updated budget tracking may result in the delay of future payments directly related the reports but will not result in a delay in payment of monthly fees. Contractor shall also provide TRR with a production expense estimate, which must be submitted and approved prior to invoicing. Invoices should include line item detail with any variance vs. estimate explained.
- 2) Contractor shall submit a report on the effectiveness of the campaign(s) to TRR Marketing Director on a quarterly basis. The report shall include cost per inquiry, return on the advertising dollar investment, and any/all tracking mechanisms deemed appropriate by TRR.

D. Production:

- 1) The Contractor shall develop, design and produce advertising copy, layouts, designs and artwork for print, broadcast, radio, outdoor, interactive, audiovisual and on-line media and deliver such material to TRR for approval and then to advertising media, printer, broadcaster, internet provider or producer upon approval on time. Creative design and production include promotions and other projects as deemed necessary by TSF. Before releasing any material, including all forms of advertisement, to the media, the Contractor will obtain approval for all final layouts, copy or artwork from TSF. Final material shall be submitted to TRR for approval at least 24 hours in advance of release date.

E. Advertising and Media Buys:

- 1) Contractor shall arrange for all media to be billed at the net cost of time or space directly to the Contractor, which shall be paid from funds designated for media buys. The Contractor is responsible for placing written orders for time or space in advertising media and maintaining the records of all insertion orders, tear sheets, invoices, and all other billing information for a minimum of three (3) years. Contractor will notify TRR when prepayment of advertisement and/or production is required. TRR will make prompt payment in accordance with Section 2 of this Agreement.

F. The parties understand this is a non-exclusive agreement and Contractor may freely contract with other entities for the performance of service.

G. Standard of Performance: Licenses:

- 1) The Contractor represents that it possesses the experience and knowledge necessary to perform the services described under this Agreement.
- 2) The Contractor agrees to obtain and maintain throughout the Terms of this Agreement, all applicable professional and business licenses required by law, for itself, its employees, agents, representatives, and subcontractors.
- 3) Contractor will use its best efforts to contract with local Red River businesses to serve TRR and build the Brand. Contractor shall notify TRR of its subcontractors and update the Town on any subcontractor changes.

The receipt of the deliverables contemplated under this Agreement shall assist the Town in obtaining its goal(s) as set forth in its Strategic Plan on page(s) _____

(or reference an Attachment 1, see below)

2. Compensation.

A. The Town shall pay to the Contractor in full payment for services satisfactorily performed at the rate of _____dollars(\$ _____) per hour (OR BASED UPON DELIVERABLES, MILESTONES, BUDGET, ETC.), such compensation not to exceed (AMOUNT), excluding gross receipts tax. The New Mexico gross receipts tax levied on the amounts payable under this Agreement totaling (AMOUNT) shall be paid by the Town to the Contractor. **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed (AMOUNT). This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. The parties do not intend for the Contractor to continue to provide services without compensation when the total compensation amount is reached. Contractor is responsible for notifying the Town when the services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for services provided in excess of the total compensation amount without this Agreement being amended in writing prior to those services in excess of the total compensation amount being provided.**

B. Payment is subject to availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties from year to year pursuant to Paragraph 1, Scope of Work, and to approval by the Town. All invoices MUST BE received by the Town no later than thirty (30) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.

(OR **CHOICE - MULTI-YEAR** - A. The Town shall pay to the Contractor in full payment for services satisfactorily performed pursuant to the Scope of Work at the rate of _____dollars (\$ _____) in FYXX (USE FISCAL YEAR NUMBER TO DESCRIBE YEAR; DO NOT USE FYI, FY2, ETC.). The New Mexico gross receipts tax levied on the amounts payable under this Agreement in FYXX totaling (AMOUNT) shall be paid by the Town to the Contractor. **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed (AMOUNT) in FYXX.**

(REPEAT LANGUAGE FOR EACH FISCAL YEAR COVERED BY THE AGREEMENT -- USE

FISCAL YEAR NUMBER TO DESCRIBE EACH YEAR; DO NOT USE FYI, FY2, ETC.).

B. Payment in FYXX, FYXX, FYXX, and FYXX is subject to availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties from year to year pursuant to Paragraph 1, Scope of Work, and to approval by the Town. All invoices **MUST BE** received by the Town no later than fifteen (15) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date **WILL NOT BE PAID.)**

C. Contractor must submit a detailed statement accounting for all services performed and expenses incurred. If the Town finds that the services are not acceptable, within thirty days after the date of receipt of written notice from the Contractor that payment is requested, it shall provide the Contractor a letter of exception explaining the defect or objection to the services, and outlining steps the Contractor may take to provide remedial action. Upon certification by the Town that the services have been received and accepted, payment shall be tendered to the Contractor within thirty days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. However, the Town shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein.

3. Term.

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE TOWN. This Agreement shall terminate on **DATE** unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with Section 13-1-150 NMSA 1978, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

4. Termination.

A. Termination. This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. Except as otherwise allowed or provided under this Agreement, the Town's sole liability upon such termination shall be to pay for acceptable work performed prior to the Contractor's receipt of the notice of termination, if the Town is the terminating party, or the Contractor's sending of the notice of termination, if the Contractor is the terminating party; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor if the Contractor becomes unable to perform the services contracted for, as determined by the Town or if, during the term of this Agreement, the Contractor or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of state funds or due to the Appropriations paragraph herein. THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE TOWN'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.

B Termination Management. Immediately upon receipt by either the Town or the

Contractor of notice of termination of this Agreement, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of the Town; 2) comply with all directives issued by the Town in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the Town shall direct for the protection, preservation, retention or transfer of all property titled to the Town and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by the Contractor with contract funds shall become property of the Town upon termination and shall be submitted to the Town as soon as practicable.

5. Appropriations.

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Town Council for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Town Council, this Agreement shall terminate immediately upon written notice being given by the Town to the Contractor. The Town's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the Town proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

6. Status of Contractor.

The Contractor and its agents and employees are independent contractors performing professional services for the Town and are not employees of the State of New Mexico. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of state vehicles, or any other benefits afforded to employees of the State of New Mexico as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the State of New Mexico unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

7. Assignment.

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the Town.

8. Subcontracting.

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the Town. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the Town.

9. Release.

Final payment of the amounts due under this Agreement shall operate as a release of the Town, its officers and employees, and the State of New Mexico from all liabilities, claims and obligations whatsoever arising from or under this Agreement.

10. Confidentiality.

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

11. Product of Service - Copyright.

All materials developed or acquired by the Contractor under this Agreement shall become the property of the Town and shall be delivered to the Town no later than the termination date of this Agreement. Nothing developed or produced, in whole or in part, by the Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

12. Conflict of Interest: Governmental Conduct Act.

A. The Contractor represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement.

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978.

C. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which the Town relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the Town if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the Town and notwithstanding anything in the Agreement to the contrary, the Town may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this section.

13. Amendment.

A. This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

B. If the Town proposes an amendment to the Agreement to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Agreement, pursuant to the termination provisions as set forth in Article 4 herein, or to agree to the reduced funding.

14. Merger.

This Agreement incorporates all the Agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, Agreements and understandings have been merged into this written Agreement. No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

15. Penalties for violation of law.

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

16. Equal Opportunity Compliance.

The Contractor agrees to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

17. Applicable Law.

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with Section 38-3-1 (G) NMSA 1978. By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

18. Workers Compensation.

The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the Town.

19. Professional Liability Insurance. Contractor shall maintain professional liability insurance throughout the term of this Agreement providing a minimum coverage in the amount required under the New Mexico Tort Claims Act. The Contractor shall furnish the Town with proof of insurance of Contractor's compliance with the provisions of this section as a condition prior to performing services under this Agreement.

20. Other Insurance

If the services contemplated under this Agreement will be performed on or in Town facilities

or property, Contractor shall maintain in force during the entire term of this Agreement, the following insurance coverage(s), naming the Town as additional insured.

A. Workers Compensation (including accident and disease coverage) at the statutory limit. Employers liability: \$100,000.

B. Comprehensive general liability (including endorsements providing broad form property damage, personal injury coverage and contractual assumption of liability for all liability the Contractor has assumed under this contract). Limits shall not be less than the following:

- a. Bodily injury: \$1,000,000 per person /\$1,000,000 per occurrence.
- b. Property damage or combined single limit coverage: \$1,000,000.
- c. Automobile liability (including non-owned automobile coverage):\$1,000,000.
- d. Umbrella: \$1,000,000.

C. Contractor shall maintain the above insurance for the term of this Agreement and name the Town as an additional insured and provide for 30 days cancellation notice on any Certificate of Insurance form furnished by Contractor. Such certificate shall also specifically state the coverage provided under the policy is primary over any other valid and collectible insurance and provide a waiver of subrogation.

21. Records and Financial Audit.

The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the Town. The Town shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the Town to recover excessive or illegal payments

22. Indemnification.

The Contractor shall defend, indemnify and hold harmless the Town from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of the Town.

23. New Mexico Tort Claims Act

Any liability incurred by the Town of Red River in connection with! Qis Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended. The Town and its "public employees" as defined in the New Mexico Tort

Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

24. Invalid Term or Condition.

If any term or condition of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforceable.

25. Enforcement of Agreement.

A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

26. Notices.

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To the Town: [insert name, address and email].

To the Contractor: [insert name, address and email].

27. Authority.

If Contractor is other than a natural person, the individual(s) signing this Agreement on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date of the signature by the required approval authorities below.

TOWN OF RED RIVER:

CONTRACTOR:

Municipal Clerk & Town

NAME AND TITLE

Administrator

DATE: _____

DATE:

CRS# _____

Registration# _____

ATTEST:

Georgiana Rael
Municipal Clerk & Town
Administrator

APPROVED AS TO FORM for RFP purposes:

Attorney for the Town of Red River

APPROVED:

Linda Calhon, Mayor

Attachment 1

Scope of Work

Performance Measures

(Performance Measures should be based on the Scope of Work and must be tied to the Agency's Strategic Plan. The Plan should be referenced in the Measures and the applicable part of the Strategic Plan copied below or in an attachment. To the extent possible based on the nature of the work to be performed, the Measures should be "Output" oriented and specify an "Outcome.")

Performance Measures in Scope of Work shall contain measurable goals and objectives that are linked to the performance measures of the Agency's Strategic Plan:

Example: Goal: Reduce or Increase or Other Service [insert blank].

Objective: To reduce or increase or Other Service [insert blank] by [blank] percent or by a certain time.

Activities: [Insert what services the Contractor is expected to perform to accomplish goals and objectives including an evaluation of the process and the outcome as well as provides efficiency measures that relate efforts to outputs of services].

OR: Through satisfactory completion of the Scope of Work set forth above and submission of acceptable Deliverables, the Contractor will assist the Agency to meet the portions of its Strategic Plan set forth below *(insert additional language if necessary to describe how Contractor's work will assist the Agency to fulfill its duties)*.

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Pursuant to NMSA 1978, § 13-1-191.1 (2006), any person seeking to enter into a contract with any state agency or local public body **for professional services, a design and build project delivery system, or the design and installation of measures the primary purpose of which is to conserve natural resources** must file this form with that state agency or local public body. This form must be filed even if the contract qualifies as a small purchase or a sole source contract. The prospective contractor must disclose whether they, a family member or a representative of the prospective contractor has made a campaign contribution to an applicable public official of the state or a local public body during the two years prior to the date on which the contractor submits a proposal or, in the case of a sole source or small purchase contract, the two years prior to the date the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor, a family member or a representative of the prospective contractor to the public official exceeds two hundred and fifty dollars (\$250) over the two year period.

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

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

The following definitions apply:

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

"Campaign Contribution" means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made to or received by an applicable public official or any person authorized to raise, collect or expend contributions on that official's behalf for the purpose of electing the official to either statewide or local office. "Campaign Contribution" includes the payment of a debt incurred in an election campaign, but does not include the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate or political committee, nor does it include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee.

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

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

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

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

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

