



TOWN OF TAOS SOLE SOURCE REQUEST AND DETERMINATION FORM

A sole source *determination* is not effective until the *sole source request for determination* has been posted for thirty (30) calendar days without challenge, and subsequently approved in writing by the Procurement Officer. The foregoing is a requirement under NMSA 13-1-126 – 13-1-126.1 as amended by Laws 2013, ch. 40 § 6 effective June 14, 2013.

I. Name of Entity: TOWN OF TAOS

Procurement Agent Sharon Voigt
svoigt@taosgov.com
Telephone Number: 575-751-2025

II. Name of prospective Contractor: Artspace

Address of prospective Contractor: 250 Third Avenue North, Suite 400
Minneapolis, MN 55401
Phone: 612.333.9012

Amount of prospective contract: \$350,000

Term of prospective contract: November 14, 2017 to December 31, 2019

III. Please thoroughly list the services (scope of work), construction or items of tangible personal property of the prospective contract:

Pre-development professional and technical services, including site identification and obtaining site control by January 1, 2019, for the development of an affordable artist-based live-work affordable housing project with shared performance and exhibition space and potential on-site retail areas governed by a long-term property, tenant and affordability management plan. The site (or sites) for the project will be within the Town of Taos Historic District and walking distance of public transit, shopping, hotels, entertainment and the historic plaza. Tasks to be completed include site selection, initial structural engineering, geo-tech, environmental studies, site plan development, architectural design consistent with the Historic District architectural design requirements, financial analysis and project feasibility studies for the targeted population. Additionally, the contractor will be responsible for the identification and obtainment of required acquisition and construction financing, including loans, grants and Low-Income Housing Tax Credits ,

conducting community informational meetings with regard to project, obtaining community and foundation support, performing environmental assessment and any required remediation, obtaining permits and approvals at all levels, combined with creating and implementing a management plan acceptable to the Town for on-going tenant selection and management, affordability management, common space, on-site programming, property and retail space management.

The contractor must have a demonstrated track record of experience and success in developing, financing and the management of large scale downtown arts-based live-work mixed-use housing projects, a proven familiarity with the Taos arts and housing market and demonstrated support from the Taos community, including arts, governmental and foundation support. The contractor must be able to demonstrate site control by December 31, 2018 and have an application previewed and submitted for NM Low-Income Housing tax credits to the New Mexico Mortgage Finance Agency by the January 2019 deadline.

IV. Provide an explanation of: the criteria developed and specified by the department.

The Town of Taos investigated affordable housing developers who specialize in live-work affordable single, multi-site and congregate housing for artists, that also incorporates incubator, creative, display, retail and performance space that would remain both financially and programmatically managed and affordable in perpetuity. The only national, state or local firm that responded to an earlier Request for Qualifications (RFQ), that is dedicated solely to this demographic, vocation and unique type of affordable mixed-use housing and also has been in business with a demonstrated track record of 100% success in such difficult projects for over 40 years is Artspace. The Town has previously worked with Artspace on the two earlier steps in the development of this project and funded a needs assessment and feasibility analysis completed by Artspace in the spring of 2009, with a full market study conducted in a proprietary format for the Town of Taos in 2010, tailored to our location, population and available sites. The two prior studies commissioned by the Town and state have created the foundation for the pre-development phase of constructing an Artspace branded community project in Taos and switching developers at this point would likely require starting the feasibility and financial analysis process, as well as meeting with funding sources and local groups, all over again; entirely negating the initial investment by the Town.

V. Provide a detailed, sufficient explanation of the reasons, qualifications, proprietary rights or unique capabilities of the prospective contractor that makes the prospective contractor ***the one source*** capable of providing the required professional service, service, construction or item(s) of tangible personal property. (Please do not state the source is the “best” source or the “least costly” source. Those factors do not justify a “sole source.”)

See above IV. Rather than a stand-alone project or element of a project, this contract covers the next phase in the development process for a specific product specified by and designed for the unique circumstances of the Town by the contractor, based both on earlier project specifications and needs assessment, market studies and financial analysis performed for the Town by the vendor. The project was delayed due to a number of factors, including uncertainty in the federal tax credit regulations and insufficient funding

in the Town's Affordable Housing Fund to finance the next phase, or the earlier phases would have seamlessly transitioned to the next phase. The Town requested the project response to the original proposal to be phased so that it would match the available periods of funding to complete each phase, not with the intention of creating distinct project components or contracts outside of the originally envisioned project plan. The two prior studies commissioned by the Town and state have created the foundation for the pre-development and construction phase of the custom designed Artspace project in Taos. Switching developers at this point would likely require having to redo the feasibility and financial analysis process, as well as meeting with funding sources and local groups, all over again, negating the initial investment by the Town. Developers will not rely on the prior design and market analysis work of other developers not invested in the project. The community relationship by potential participants and investors for the project would also need to be re-established by any new developer and our initial (RFQ) and subsequent searches indicate that no other developer specializes in this field, as there is both high risk, high management costs and no profit margin for this type of below-market deeply subsidized artist housing project.

Artspace has an entirely unique approach to combining arts incubators, performance space, live-work housing, retail and deeply subsidized below-market managed housing, in combination with a 100% success rate in projects leading to actual construction and long-term successful property and program management throughout the United States that matches the project specifications originally advertised by the Town for this project. Changing developers would not only lead to a year or more delay but would substantially increase the risk that the project might fail or the funding window projected would lapse and the project would not get built. The unique position of Artspace, through its relationships with national private foundation, non-profit and public financing on these rural and small niche market projects also make them the only entity that assures that they can entirely finance the proposed project. They are also the only arts-based developer that can entirely develop the project from market analysis through construction and tenant, program and tax credit management for the life of the project.

- VI. Provide a detailed, sufficient explanation of how the professional service, service, construction or item(s) of tangible personal property is/are *unique and how this uniqueness is substantially related to the intended purpose of the contract*.

This project is proposed as a custom designed project for the Town of Taos that combines affordable housing, arts enhancement and promotion, art-related economic development, property management, arts program management, both private and public financing, experience in the monitoring and management of tax credits, retail space and tenants. Artspace has developed and branded a singularly unique approach to combining arts incubators, performance space, live-work housing, retail and deeply subsidized below-market managed housing, along with proprietary design, construction and long-term successful property and program management systems. They also uniquely offer a unique life-time guarantee of continued management and affordability, as well as full project acquisition, construction and operational financing.

These elements were incorporated into the initial first two phases of project development

and cannot be separated from the following phases within this contract without having to start the program over again.

- VII. Explain why other similar professional services, services, construction or item(s) of tangible personal property *cannot* meet the intended purpose of the contract.

There are simply are no similar developers or projects. The characteristics unique to this project (seeking a project developer, financier, and operator for a specific demographic for which there is no marketplace equivalent or profit) have resulted in only one responded based on earlier nationwide solicitations and subsequent research. Additionally, the Town has only assisted in a fraction of the analysis and pre-development (in fact, 50% of what even Artspace historically has required) and is providing no property acquisition, construction or operation costs for the project.

- VIII. Provide a narrative description of the agency's due diligence in determining the basis for the procurement, including procedures used by the agency to conduct a review of available sources such as researching trade publications, industry newsletters and the internet; reviewing telephone books and other advertisements; contacting similar service providers; and reviewing the State Purchasing Agent's vendor list. Include a list of businesses contacted (*do not state that no other businesses were contacted*), date of contact, method of contact (telephone, mail, e-mail, other), and documentation demonstrating an explanation of why those businesses could not or would not, under any circumstances, perform the contract; or an explanation of why the agency has determined that no businesses other than the prospective contractor can perform the contract.

Town staff recommending this sole source determination have over 30 years of experience in both affordable housing and downtown redevelopment and are well versed in all available models and entities for developing such a projects. Staff are only aware of one entity nationally that specializes in such projects, specifically targeted at the development of fully subsidized arts-based live-work multi-purpose downtown incubator projects, and none that carry out such projects in small, rural communities like Taos. Only the identified vendor engages in such projects and within the parameters specified by the Town, but this will be a first even for Artspace to develop such a complicated heavily subsidized project in such a small community, and with no municipal donation of cash or properties.

Staff have performed a review of all available and related literature, websites and records from the US Department of Housing and Urban Development and New Mexico Mortgage Finance Agency, which are the primary source of financing for such projects, affordable housing and arts websites, newsletters and trade journals. In each case, the sole developer identified for the projects even close to this anywhere in the country was Artspace.

We have established the following with certainty, based on our investigation:

- There are no similar projects or developers in New Mexico
- Artspace is the sole source in Colorado and Arizona
- We were unable to identify any similar developers or developments for arts and artist-based projects in communities our size and with the project requirements specified, including no public acquisition or operational funding, project lifetime affordability guarantees and management, etc.

Certified by:

Department Approval by:

Date: 11-17-2017



Department Head

If this sole source relates to a procurement of general services:

- 1) Signature of the Town Procurement Officer on this form certifies the sole source has been posted for thirty (30) calendar days and has received no challenges.
- 2) Sole source is granted as of the date of signature by the Procurement Officer.
- 3) Signature of the Procurement Officer on this form is the final signature required for this sole source procurement.

If this sole source relates to a procurement of professional services:

- 1) Signature of the Procurement Officer on this form certifies the sole source has been posted for thirty (30) calendar days and has received no challenge(s).
- 2) Signature of the Procurement Officer (below) is required; and
- 3) Sole source is granted as of the date of signature by the Procurement Officer.

APPROVED:

Date: _____

Town of Taos Chief Procurement Officer

Challenges
