SPECIAL STUDY SESSION MEETING NOTICE
TOWN COUNCIL OF DEWEY-HUMBOLDT
Tuesday, January 8, 2013, 2:00 P.M.

COUNCIL SPECIAL STUDY SESSION MEETING **COUNCIL CHAMBERS, TOWN HALL**
2735 S. HWY 69 **DEWEY-HUMBOLDT, ARIZONA**

AGENDA

The issues that come before the Town Council are often challenging and potentially divisive. In order to make sure we benefit from the diverse views to be presented, the Council believes that the meeting be a safe place for people to speak. With this in mind, the Council asks that everyone refrain from clapping, heckling and any other expressions of approval or disapproval. Council may vote to go into Executive Session for legal advice regarding any matter on the open agenda pursuant to A.R.S. 38-431.03 (A) (3), which will be held immediately after the vote and will not be open to the public. Upon completion of Executive Session, the Council may resume the meeting, open to the public, to address the remaining items on the agenda. Agenda items may be taken out of order. Please turn off all cell phones. The Council meeting may be broadcast via live streaming video on the internet in both audio and visual formats. One or more members of the Council may attend either in person or by telephone, video or internet conferencing. **NOTICE TO PARENTS:** Parents and legal guardians have the right to consent before the Town of Dewey-Humboldt makes a video or voice recording of a minor child. A.R.S. § 1-602.A.9. Dewey-Humboldt Council Meetings are recorded and may be viewed on the Dewey-Humboldt website. If you permit your child to participate in the Council Meeting, a recording will be made. You may exercise your right not to consent by not permitting your child to participate or by submitting your request to the Town Clerk that your child not be recorded.

1. **Call To Order.**
2. **Roll Call.**
   - **2.1. Town Council.** Town Council Members Arlene Alen, David Hiles, Mark McBrady, Denise Rogers, Nancy Wright; Vice Mayor Dennis Repan; and Mayor Terry Nolan**.**
3. **Study Agenda.** No legal action to be taken.
   - Page 3 **3.1. "Volunteer of the Year" Program selection criteria discussion.**
   - **3.2. Historical Overlay District Research and related issues.** Report and discussion.
   - **3.3. Centennial Monuments Unveiling Ceremony plan.** Discussion and direction.
   - **3.4. Town Manager Employment Anniversary.**
4. **Special Session.** Legal Action can be taken.
   - 9 **4.1. IT Support Service Contract Matters.** Discussion and possible action.
5. **Comments from the Public**. The Council wishes to hear from Citizens at each meeting. Those wishing to address the Council need not request permission or give notice in advance. For the official record, individuals are asked to state their name. Public comments may appear on any video or audio record of this meeting. Please direct your comments to the Council. Individuals may address the Council on any issue within its jurisdiction. At the conclusion of Comments from the Public, Council members may respond to criticism made by those who have addressed the public body, may ask Town staff to review a matter, or may ask that a matter be put on a future agenda; however, Council members are forbidden by law from discussing or taking legal action on matters raised during the Comments from the Public unless the matters are properly noticed for discussion and legal action. The total time for Public Comment is **3** minutes per person. The audience is asked to please be courteous and silent while others are speaking.
6. **Adjourn.**

For Your Information:

Next Town Council Meeting: Tuesday, January 15, 2013, at 6:30 p.m.
Next Planning & Zoning Commission Meeting: Thursday, February 7, 2013, at 6:00 p.m.
Next Town Council Work Session: Tuesday, February 12, 2013, at 2:00 p.m.

If you would like to receive Town Council agendas via email, please sign up at AgendaList@dhaz.gov and type Subscribe in the subject line, or call 928-632-7362 and speak with Judy Morgan, Town Clerk.

Certification of Posting

The undersigned hereby certifies that a copy of the attached notice was duly posted at the following locations: Dewey-Humboldt Town Hall, 2735 South Highway 69, Humboldt, Arizona, Chevron Station, 2735 South Highway 69, Humboldt, Arizona, Blue Ridge Market, Highway 69 and Kachina Drive, Dewey, Arizona, on the _____ day of _____, 2013, at _____ p.m. in accordance with the statement filed by the Town of Dewey-Humboldt with the Town Clerk, Town of Dewey-Humboldt.
By: _____, Town Clerk's Office.

Persons with a disability may request reasonable accommodations by contacting the Town Hall at 632-7362 at least 24 hours in advance of the meeting.

TOWN OF DEWEY-HUMBOLDT
P.O. BOX 69
HUMBOLDT, AZ 86329
Phone 928-632-8562 ▪ Fax 928-632-7365

TOWN COUNCIL SPECIAL SESSION MEETING
January 8, 2013– 2 pm Town Council Meeting Chambers

Agenda Item # 3.2 Historical Overlay District Research and Related Issues. Report and discussion.

To: **Mayor and Town Council Members**
From: **Yvonne Kimball, Town Manager**

Date submitted: January 2, 2013

Report:
I. Introduction.
The Dewey-Humboldt community embraces rich history. Buildings remaining on Main St. are one of the most apparent reminisces of the community's vibrant past. The D-H Town Council has expressed interest in preserving history and promoting activities alike. Therefore, an idea of establishing a historical overlay district was initiated. Staff has been tasked to explore this possibility.
Staff researched this topic from regulatory aspects as well as financial assistance possibilities. We researched the building codes, zoning codes and State regulations. We also communicated with other communities who have similar programs. Finally, we offered our opinions on this matter. This report is an overview of this subject and not intended to provide details of how to establish an "overlay district".

II. Findings.
Town of Dewey-Humboldt
The Town does not have a Town, state or federal designated historical district. However, a sign indicating Main St. being a historical district is posted on Hwy 69 near the intersection with Main St. Approximately 50 pieces of properties are located on Main St. The properties belong to about a dozen of different ownerships. The properties are zoned as either residential (R1) or commercial (C1 or C2). The Town does not own any properties on Main St. No properties on Main St. have been placed on the National Register for historic places which is the nation's official list of historical properties.
The Town's 2009 General Plan and the (planning and zoning) Codes do not address historical overlay uses. Building Codes that are implemented by the Town would provide some advantages (special exemptions) to buildings that are on the National Register.

City of Prescott
The City of Prescott has 12 different "historical overlay districts" containing more than 700 properties listed in the National Register. The properties in the HPO districts are residential and commercial uses.
The City of Prescott is a Certified Local Government (CLG). CLG is a nationwide program which offers technical and financial assistance to preserve historic buildings. Being a CLG, the City receives assistances from the State and the Federal agencies and is obligated to maintain a historic preservation commission, surveying local historic properties, providing public input and

enforcing state and local preservation laws. The City Council also approved and adopted a Historic Preservation Master Plan in 1998. Prescott employs one full time Historic Preservation Specialist to manage historic preservation programs; the position is supported by other city staff.

In Prescott, eligible historical properties are offered the following incentives by the City, State and Federal agencies:

Special provisions of the International Building Code for building conservation
Conservation and preservation easements allowing limited benefits
Federal investment Tax Credits* for National Register properties
State property tax reduction for National Register properties

The local historic overlay district designation process can be initiated by the property owners in a potential district, provided that a petition is signed by a majority of the property owners in the potential district. After the district is designated, property owners in a historic district are required to obtain City's permission for exterior alterations, rehabilitation, new construction or demolition.

**The Federal Historic Preservation Tax Incentives program encourages private sector rehabilitation of historic buildings and is one of the nation's most successful and cost-effective community revitalization programs. It generates jobs and creates moderate and low-income housing in historic buildings. The Preservation Tax Incentives reward private investment in rehabilitating historic properties such as offices, rental housing, and retail stores. Abandoned or under-used schools, warehouses, factories, churches, retail stores, apartments, hotels, houses, and offices in many cities have been restored to life in a manner that retains their historic character. The Preservation Tax Incentives have also helped to create moderate and low-income housing in historic buildings.*

Town of Florence

Staff also researched the Town of Florence historic district. We found Florence's practice very similar to Prescott's. The Town defined the oldest part of Town as the Florence Townsite Historic District. In 1983 the Florence Town Council adopted the Historic Overlay District ordinance. The District is also designated as a National Historic District and is listed on the National Register of Historic Places. Almost all the properties in the district are a National Register historic place.

A historic property may be eligible for certain incentives for rehabilitation, such as tax credits for rehabilitation of privately owned property. According to the Town website, Florence's Historic District also produces economic benefits for the Town.

Just like the City of Prescott, the Town of Florence is a certified local government for historic preservation. The Town maintains a Historic District Advisory Commission. The Commission evaluates the appropriateness of exterior changes to buildings and new construction proposed within the District.

The Historic District Advisory Commission reviews following types of projects:

New construction, additions to, or exterior renovation of, existing structures within the Florence Townsite Historic District that require a building permit; any change in occupancy as classified by the Building Code(s) of the Town of Florence; any expansion of an existing building; any remodeling of an existing use that alters at least twenty (20) percent of the floor area or site area; any remodeling or improvement valued at fifty (50) percent or more of the value of the existing improvements on the site; proposed occupancy or use of any commercial or industrial building or site that has been vacant for six (6) months or more; any amendment to an approved Design Review Plan; demolition of a structure or a part of a structure within the Florence Townsite Historic District and Construction or placement of signage in the Florence Townsite Historic District.

The Town complies with the Secretary of Interior's Standards for Rehabilitation and Arizona State Parks Board Minimum Maintenance/Restoration Standards. A copy of each set of standards is attached to this report.
The Town also imposes various comprehensive design guidelines for general matters which includes lighting, fences and walls, utilities and mechanical equipment, facades and building form, window, doors, roofs, building materials and amenities; design guidelines for specific architectural styles, conversions and infill development and signs.
The community determined that the area is an important part of the heritage of the Community and in turn needs to be protected and preserved through a set of distinct standards for historical buildings. The Community's strong commitment to history preservation and the Town's implementation and enforcement efforts have paid off. Florence's Historic District was recognized at the recent Arizona Planning Association's annual conference.

City of Cottonwood
Staff also researched the City of Cottonwood's practice. The City has designated the old town area as a historic district. Unlike Prescott and Florence, Cottonwood does not have concurrent special zoning regulations for the district. Prior to the district being designated, about 50 properties have been already listed on the National Register of Historic Places with the help from the local historical society. The City's involvement with the historical buildings related matters has been limited.
Although Cottonwood has a Historic Preservation Commission, the City is not a Certified Local Government and thereby is not receiving state and federal assistances for historical preservation like Prescott and Florence. It is our understanding that Cottonwood is considering establishing an overlay zoning district but also concerned about imposing additional regulations in the wake of Proposition 207 in 2006 (Private Property Rights Protection).

III. Analysis and Conclusion.
Historical preservation programs take different forms. The purpose of such a program is to increase public awareness of the community's historic significance, to preserve the unique qualities and distinctive historic characteristics of the community, to facilitate restoration and rehabilitation of historic structures, landscape features and other culturally significant physical objects and geographic areas.
Our research shows that a local Historic Overlay District is a district designated by local ordinance and falls under the jurisdiction of a local preservation review commission who deals with the appearance of the district. Overlay districts are generally intended to apply in combination with the underlying base zoning district. Its purpose is to impose regulations and standards in addition to those required by the base district. Overlay Districts are defined and enacted by a local ordinance. ARS 9-462.01 stipulates how to establish an ordinance to regulate the overlay district. The local ordinance does not give the community advantage of using state or federal funds. Becoming certified by state or federal agencies would enable eligibility for funding.
The successful examples of historic overlay districts demonstrate strong commitments from individual property owners living in the "historic district". Without their willingness to comply with standards that preserves and enhances historic appearance, no overlay district would work.
Unless the Town Council wishes to impose more stringent regulations to provide oversight to the properties on Main St. or elsewhere in Town, staff does not believe an "overlay" district backed up by zoning ordinance is appropriate for historical preservation purposes. The Town,

however, can consider designating a “historic district” based on geographic boundary without imposing additional rules to the properties in the district. Although a locally designated district is unlikely to be eligible for federal or state funding, it would perhaps demonstrate the Town’s general interest in historical preservation. In addition, the Town can also establish D-H local incentive programs to encourage historic preservation activities in the district. Programs that the Town could consider are: staff providing technical support to the property owners who are interested in placing their properties on the National Register for Historic places; Town funded façade grant to encourage developments that display a historical appearance; reduced permit/application fees for developments under prescribed historical preservation criteria. Those programs perhaps would provide more local control over local activities. Meanwhile, the Town could continue the dialogue with State agencies to seize opportunities for national or state recognition of historic preservation efforts.

Attachments: The Secretary of the Interior’s Standards, AZ parks Board Rules

The Secretary of the Interior's Standards for the Treatment of Historic Properties: Standards for Rehabilitation

REHABILITATION IS DEFINED AS *the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features that convey its historical, cultural, or architectural values.*

1. A property will be used as it was historically or be given a new use requiring minimal change to its distinctive materials, features, spaces, and spatial relationships.

2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships characterizing a property will be avoided.

3. Each property will be recognized as a physical record of its time, place, and use. Changes creating a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.

4. Changes to a property having acquired historic significance in their own right will be retained and preserved.

5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship characterizing a property will be preserved.

6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color,texture, and physical evidence.

7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments causing damage to historic materials will not be used.

8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

9. New additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships characterizing the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.

10. New additions and adjacent or related new construction will be undertaken in such a manner, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

REHABILITATION AS A TREATMENT: *When repair and replacement of deteriorated features are necessary: when alterations or additions to the property are planned for a new or continued use; and when its depiction at a particular period of time is not appropriate, rehabilitation may be considered as a treatment.*

For more information on the interpretation or application of the Secretary's Standards, please contact:

State Historic Preservation Office
Arizona State Parks
1300 West Washington Street
Phoenix, AZ 85007

Phone: 602-542-4009
Fax: 602-542-4180
Web: http://www.pr.state.az.us

You can also find additional information on the National Park Service websites listed below:

http://www2.cr.nps.gov/tps/standards/index.htm
http://www2.cr.nps.gov/tps/secstan1.htm
http://www2.cr.nps.gov/tps/tax/rhb/index.htm

Arizona State Parks Board Rules
R12-8-306 Minimum Maintenance/Restoration Standards

A) The owner of a certified Commercial or Non-Commercial historic property shall maintain the property to preserve the historical integrity of the features, materials, appearance, workmanship and environment, according to the following standards:
    1) Protect the Historic Property against accelerated deterioration due to:
        a) Vandalism
        b) Structural failure
        c) Climatic weathering including the affects of water infiltration
        d) Biological affects due to insects, animals, or plants
        e) Fire
        f) Flooding
    2) Maintain the historic property by:
        a) Keeping it secure
        b) Maintain the windows and doors, or covering them without injuring the property's integrity
        c) Maintain security fencing, if applicable
        d) Maintain roofs and drainage systems
        e) Minimize damage for insects, birds, or animals
        f) Maintain landscaping to reduce fire potential

B) The Officer shall decertify any certified Historic Property condemned by a local authority.
C) Before implementation of any rehabilitation project, the owner shall submit both a written and graphic proposal (Construction Documents) to the Officer. The Officer has 30 calendar days from receipt of the proposal to comment on the appropriateness of the project in relationship to the Secretary of the Interior's Standards for Rehabilitation.
D) The Officer shall review all rehabilitation projects done to ensure the Historic Property is in accordance with the guidelines established by the U.S. Government, Cyclical Maintenance for Historic Buildings, J. Henry Chambers, AIA, 1976, available from the U.S. Government Printing Office and the U.S. Department of the Interior, National Park Service, publication entitled, The Secretary of the Interior's Standards for Historic Preservation Projects, Section III, Guidelines, 1983 and The Secretary of the Interior's Standards for Rehabilitation, National Park Service, 1995 available from the National Park Service Technical Preservation Services Division, the State Historic Preservation Office or the U.S. Government Printing Office. These 3 documents are incorporated by reference and on file with the Board and the Office of Secretary of State. The materials incorporated by reference contain no future editions or amendments.
E) The owner shall submit pictures of rehabilitation projects no later than 30 calendar days after completion of the project illustrating compliance with the standards established in Subsection (D).
F) If a conflict occurs between the requirements of the Officer or the Officer's representative, and local building officials or any applicable laws, a meeting including appropriate representatives shall be called by the owner to discuss the question and reach an equitable solution.

TOWN OF DEWEY-HUMBOLDT
P.O. BOX 69
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Phone 928-632-8562 ▪ Fax 928-632-7365

TOWN COUNCIL SPECIAL SESSION MEETING
January 8, 2013– 2 pm Town Council Meeting Chambers

Agenda Item # 4.1. IT Support Service Contract Matters. Discussion and direction.

To: **Mayor and Town Council Members**
From: **Yvonne Kimball, Town Manager**

Date submitted: January 2, 2013

Summary:
The Town's IT services have been provided by consultant, Four-D, LLC since 2009. The original agreement was an initial one-year term with 3 automatic 1-year renewals. The renewed contract will expire on June 30, 2013.

If the Town were to extend the contract with Four-D for additional terms, the hourly rate will increase from $50/hour to $75/hour. Four-D advised that their other clients are charged at $75/hour currently.

Staff enjoys working with Four-D, LLC; however, we believe that it is in the best interest of the Town if we advertise for IT services for FY 13-14 and beyond. Four-D and other qualified companies are all welcome to apply. We seek the Council's direction whether to advertise the service.

Attachment: 2008 Request for Proposal for It services, 2009 IT service agreement

TOWN OF DEWEY-HUMBOLDT
P.O. BOX 69
HUMBOLDT, AZ 86329
Phone 928-632-7362 ▪ Fax 928-632-7365

Request for Proposal for Enterprise Technical Support

Item	Important Dates
Distribution of RFP	November 28, 2008
Proposal Due Date	4:00 p.m. Local time, December 19, 2008
Proposal Review	December 22-26
Contract Award	Late December
Implementation and Conversion	January (est.)

Return Proposals to: Town of Dewey-Humboldt
Town Clerk's Office
2735 South Highway 69, P.O. Box 69
Humboldt, AZ 86329

Competitive sealed proposals for the materials or services specified will be received by the Town Clerk's Office at the above specified location, until the time and date cited.

Proposals must in the actual possession of the Town Clerk's Office on or prior to the exact time and date indicated above. It is the bidder's responsibility to ensure that bids are received prior to the 4:00 P.M. closing time as LATE PROPOSALS WILL NOT BE ACCEPTED. The Town of Dewey-Humboldt reserves the right to award or reject bids in part or in whole and on any basis it deems in the best interest of the town.

Proposals must be submitted in a sealed envelope marked "Sealed Proposal" with the Request for Proposal subject and proposal opening date and time (4:00 P.M. LOCAL TIME, DECEMBER 19, 2008) clearly indicated on the envelope.

Questions regarding the general terms and conditions of this Request for Proposal (RFP) may be addressed to Jane Fuller, Administrative Services Assistant, janefuller@dhaz.gov.

1. **General Information.** The Town of Dewey-Humboldt currently maintains on-call contracts for technical support, with internal staff providing assistance when able. The Town has determined that a review of the services offered by qualifying providers is appropriate at this time and is requesting proposals from qualified information technology and telecommunications providers that can provide the Town with above standard, flexible Enterprise Technical Support including, but not limited to enterprise server, remote connection, desktop management, training, software management, IT security, and telecommunications requirements. The successful bidder will be awarded an information technology and telecommunications service contract for the Term.

In order to be considered, Offerors must meet the mandatory requirements outlined in the Mandatory Criteria. Offerors that do not meet the mandatory requirements will be considered non-responsive.

1.1. General Vendor Qualifications.

1.1.1. The Contractor shall be in compliance with all applicable Federal, State, Local, A.N.S.I., and O.S.H.A. laws, rules, and regulations and all other applicable regulations for the term of this contract.

1.1.2. The Contractor, without additional expense to the Town, shall be responsible for obtaining and maintaining any necessary licenses and permits required in connection with the completion of the required service herein.

1.1.3. The Contractor may not subcontract any segment or services covered herein, without prior approval of the Town Manager. All subcontracted services shall be warranted by and be the responsibility of the Contractor.

1.1.4. Contractor shall have been conducting business within Arizona for a minimum of *2* consecutive years immediately preceding the date of this RFP.

1.2. Pricing.

1.2.1. Pricing shall be listed on the Schedule of Fees. Prices quoted by the Offeror shall be applicable during the entire term of the contract.

1.2.2. For reasons of clarity all submissions of pricing shall be priced in the same unit (size, volume, quantity, weight, etc.). Proposals failing to comply with this requirement may be declared non-responsive.

1.2.3. All charges associated with this contract MUST be shown on the Schedule of Fees form returned by the Offeror or other supporting documentation. Any charges not listed on the Schedule of Fees form or supporting documentation submitted with the Offeror's Proposal, will not be allowed during the contract period and any applicable extensions.

1.2.4. Unit prices quoted shall be all inclusive and include all pertinent additional fees normally associated with this type of service. No additional charges beyond the quoted unit price (except applicable sales tax) shall be allowed, unless authorized by the Contract Administrator before final invoicing.

1.2.5. Unit prices quoted shall be applicable for any quantity ordered by the Town of Dewey-Humboldt or differentiated on the Schedule of Fees form or other supporting documentation.

1.2.6. The Offeror is strongly encouraged to offer additional pricing for related items and products which are not specifically addressed as line items in this RFP, but are directly related to the items and products requested by the Town herein and offered by the Offeror. Additional items and products proposed pricing should be noted on the Schedule of Fees form or a separate attachment to Offeror's submittal document.

1.2.7. Once the contract has been awarded, the Contractor will not be permitted to charge the Town for any service that is not clearly identified in terms of cost and detail within their original proposal to the Town. The only exceptions to this limitation will be if the Town specifically requests an additional service that was not identified in the RFP or in the Contractor proposal.

1.3. Preparation of Proposal.

1.3.1. All proposals must contain the proposal signature page included herein. Faxed proposals will not be considered.

1.3.2. The proposal document must be submitted with an original ink signature by the person authorized to sign the proposal.

1.3.3. Erasures, interlineations or other modification in the proposal shall be initialed in original ink by the authorized person signing the offer.

1.3.4. In case of error in the extension of prices in the proposal, the unit prices will govern.

1.3.5. Periods of time, stated as a number of days, shall be calendar days.

1.3.6. It is the responsibility of all Offerors to examine the entire Request for Proposal package and seek clarification of any item or requirement that may not be clear and to check all responses for accuracy before submitting a proposal. Negligence in preparing an offer confers no right of withdrawal after due time and date.

1.3.7. Submit one master (so marked) and ***2*** copies of your proposal. Format and Content of Proposal provides detailed instructions regarding submission of proposals.

1.3.8. All proposals must be sealed.

1.4. Inquiries.

1.4.1. Any doubt as to the requirements of this Request for Proposal or any apparent omission or discrepancy should be presented to the Town. The Town will then determine the appropriate action necessary, if any, and issue a written amendment to the Request for Proposal. ORAL STATEMENTS OR INSTRUCTIONS WILL NOT CONSTITUTE AN AMENDMENT TO THIS REQUEST FOR PROPOSAL.

1.4.2. All questions must be received by December 19, 2008.

1.5. Offerors' Presentation. During the evaluation process, the Town Manager may, at his discretion, request any one of all Offerors to make oral presentations. Such presentations will provide Offerors with an opportunity to answer any questions the Town Manager may have on an Offeror's proposal. Not all Offerors may be asked to make such oral presentations. If invited, the Town Manager or his designee will notify the Offerors of the date and time of the presentation.

1.6. Late Proposal. Late proposals will not be considered.

1.7. **Withdrawal of Proposal.** At any time prior to the specified proposal due time and date, an Offeror (or designated representative) may withdraw the proposal. Only written withdrawals delivered in person, by mail, or facsimile may be allowed.

1.8. **Addenda.** All proposers must acknowledge any addendum issued as a result of any change in the Request for Proposal in one of the following manners:

1.8.1. Copies of all addenda must be attached to the submittal or the appropriate addenda acknowledgment section on the Proposal Signature Page must be completed.

1.8.2. Failure to indicate receipt of addenda in one of the above manners may result in a proposal being rejected as non-responsive

1.9. **Taxes.** The Town of Dewey-Humboldt is exempt only from Federal Excise Tax. Exemption certificates will be furnished upon request. All prices quoted will reflect the total cost to the Town and will include all applicable taxes and delivery charges.

1.10. **Award of Contract.**

1.10.1. Unless the Offeror states otherwise, or unless otherwise provided within the Request for Proposal, the Town reserves the right to award by individual line item, by group of line items, or as a total, whichever is deemed most advantageous to the Town.

1.10.2. Notwithstanding any other provision of the Request for Proposal, the Town expressly reserves the right to; Waive any immaterial defect or informality, or Reject any or all proposals, or portions thereof, or Reissue a Request for Proposal, or Award separate items within the RFP to separate proposers as may be deemed to be in the best interest of the Town.

1.10.3. Response to a Request for Proposal is an offer to contract with the Town based upon the Terms, Conditions, Scope of Work contained in the Town's Request for Proposal. Proposals do not become contracts unless and until the Town Council awards it and a contract is signed.

1.11. **Obligations.** The issuance of this Request for Proposal does not obligate the Town to pay any costs incurred in the preparation and submission of proposals.

1.12. **Duration of Proposal.** Timely submitted proposals shall be irrevocable for a period of ***90*** days following the proposal due date set forth on Page 1 of this Request for Proposal.

1.13. **Request for Taxpayer I.D. Number and Certification IRS W-9 Form.** Prior to any Contract Award, the I.R.S. W-9 Form must be completed and submitted to the Town's Finance Department.

1.14. Confidential Information.

1.14.1. Requests for nondisclosure of confidential information such as trade secrets and other proprietary data must be made known to the Town within the submitted proposal.

1.14.2. Offerors are instructed to clearly identify any proprietary information that may be submitted with your proposal, and, if feasible, package such information in a separate, sealed envelope labeled "Confidential" or "Proprietary."

1.14.3. The Town is subject to Arizona statutes and Town Charter provisions that permit the inspection of public records. The Town cannot insure confidentiality of any portion of submitted proposal documents in the event of a public inspection requests is made.

1.14.4. This is the only notification concerning confidential information that will be given to potential Offerors, and this provision should be taken into consideration prior to submitting a proposal.

1.14.5. After contract award, and unless otherwise instructed by the Offeror, the Town shall destroy all information identified as confidential or proprietary in accordance with public records retention requirements.

2. **Terms Common to All Town Contracts.** The Contract between the Town and the Offeror shall consist of (1) the Request for Proposal, instructions, all terms and conditions, specifications, Scope of Work, attachments, and any amendments thereto, and (2) the offer submitted by the Offeror in response to the Request for Proposals. In the event of a conflict in language between the Request for Proposal documents and the submitted offer referenced above, the provisions and requirements in the Request for Proposal shall govern. However, the Town reserves the right to clarify any contractual terms in writing with the concurrence of the Offeror, and such Written Contract Amendment shall govern in all other matters not affected by the Amendment.

2.1. **Term of Contract.** The term of the contract shall be for a ***3***-year period, with the option to extend the contract for a maximum of ***2*** additional ***1***-year periods, subject to the approval of the Town Manager and contractor. Any contract/agreement made pursuant to this Request for Proposal must be accepted in writing by the Offeror within ***10*** days after receipt.

2.2. **Contract Modification.** A contract modification alters the terms and conditions of the contract and must be signed by all the parties signing the original contract.

2.2.1. The Town may, at any time as the need arises, order changes within the Scope of the Work without invalidating this Agreement.

2.2.2. The Town, also may at any time, by issuing a written Change Order from the Town Manager, make changes in the details of the work not affecting price. The Contractor shall proceed with the performance of any changes in the work so requested unless the Contractor believes that such written request entitles him

to a change in price, in which event Contractor shall give the Town written notice thereof within ***5*** days after the receipt of the Town Manager's written Change Request. The Contractor shall not execute such changes pending resolution as to the applicability of a formal Change Order as described below. If Contractor performs work authorized under a written Change Order and subsequently claims a price change, the Town shall not be obligated to the price.

2.2.3. Contractor may initiate changes in the work by completing a Change Order and submitting it to the Town Manager. Any Change Order submitted by the Contractor shall be submitted within ***5*** days of identifying the subject of the request. The Town Manager and the Contractor's Project Manager will assess the need to include the change in the Scope of Work as described herein. If the change is approved and does not affect price, the Change Request will be processed as outlined in the paragraph above.

2.2.4. Change Orders determined to require additional monies will not be included in the project unless the Town approves an increase in price. Contract Change Orders are subject to the Rules and Procedures within the Town's Principals of Sound Financial Management.

2.3. Price Escalation.

2.3.1. There will be no price escalation for the initial ***3***-year period. Any price increases for the additional ***1***-year periods must be requested ***90*** days prior to the anniversary date of the contract. Failure to do so may result in the denial of any increase requested.

2.3.2. Price increases will become effective only after written approval by the Town Manager and will be effective for at least one year from the date of approval. The percentage increase in the unit pricing may not exceed the percent of increase in the United States "Consumer Price Index" for all urban consumers (CPI-U) for the Percent Change from the Year-Ago as published by the U.S. Department of Labor, Bureau of Labor Statistics. This increase, however, shall not be allowed to exceed a limit of ***3%***.

2.4. Termination.

2.4.1. Termination for Convenience: The Town reserves the right to terminate this contract or any part hereof for its sole convenience with ***30*** days written notice. In the event of such termination, and upon written statement by the Town to stop work, Contractor shall stop all work hereunder, and shall immediately cause any of its suppliers and subcontractors to cease such work. Contractor shall not be paid for any work done after receipt of the notice of stop work, or for any costs incurred by contractors, suppliers or subcontractors that Contractor could reasonably have avoided, but will be paid for work completed after notice of termination and before a notice to stop work, if any. The notice of termination and the notice to stop work may be contained within the same document. Contractor shall not unreasonably anticipate the requirements of this contract

(i.e., order two years' worth of supplies in advance, or order significant equipment prior to Town authorization).

2.4.2. Termination for Cause: The Town may also terminate this contract or any part hereof with ***7*** days notice for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any of the terms and conditions of this contract. Late deliveries, deliveries of products, which are defective or do not conform to this contract, unsatisfactory performance as judged by the Town Manager, and failure to provide the Town, upon request, with adequate assurances of future performance shall all be causes allowing the Town to terminate this contract for cause. In the event of termination for cause, the Town shall not be liable to Contractor for any amount, and the Contractor shall be liable to the Town for any and all damages sustained by reason of the default that gave rise to the termination. If it should be determined that the Town has improperly terminated this contract for default, such termination may be deemed a termination for convenience. The Contractor will be liable for the cost of substitutionary performance obtained by the Town for a period of up to 30 days after the notice of termination for cause, which may have to be obtained at retail or emergency rates.

2.4.3. Termination for Conflict: In the event the Contractor is in violation of any Federal, State, County or Town law, regulation or ordinance, the Town may terminate this contract immediately upon giving notice to the Contractor. The Town may cancel any contract or agreement, without penalty or obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the Town's departments or agencies is, at any time while the contract or any extension of the contract is in effect, an employee of any other party of the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract. In the foregoing event, the Town of Dewey-Humboldt further elects to recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating this agreement on behalf of the Town of Dewey-Humboldt from any other party to the agreement arising as a result of this agreement. The cancellation shall be effective when all other parties to the contract receive written notice from the Town, unless the notice specifies a later time (A.R.S. 38-511). The Contractor will be liable for the cost of substitutionary performance obtained by the Town for a period of up to 30 days after the notice of termination for conflict, which may have to be obtained at retail or emergency rates.

2.5. Rights and Remedies. No provision in this document or in the Contractor's offer shall be construed, expressly or by implication, as a waiver by the Town of any existing or future right and/or remedy available by law in the event of any claim or default or breach of contract. The failure of the Town to insist upon the strict performance or any term or condition of the contract or to exercise or delay the exercise of any right or remedy provided in the contract, or by law, or the

acceptance of materials or services, or the payment for materials or services, shall not release the Contractor from any responsibilities or obligations imposed by this contract or by law, and shall not be deemed a waiver of any right of the Town to insist upon the strict performance of the contract.

2.6. **Alternative Dispute Resolution.** The parties agree to submit any disputes arising from this agreement to final and binding arbitration under the appropriate Commercial Rules of the American Arbitration Association. Arbitration expenses will be divided equally; however, special services requested by a party must be borne by that party alone (for example, if a party decides to have a court reporter transcribe the proceedings). If the amount in contention is less than $50,000, only one arbitrator is needed; if more is in contention, then 3 arbitrators will be empanelled, with each party choosing one and then the two will chose a third. After the arbitrator(s) is (are) selected, the parties' counsel shall confer jointly with the arbitrator at the earliest convenient date to determine the discovery that shall take place. Each party shall have the right to take no more than 1 deposition of potential witnesses, and each shall have the right to serve no more than 1 set of interrogatories, none of which shall include more than 20 Interrogatories. Additional discovery shall be in the discretion of the arbitrator. All discovery shall be completed within 3 months after the selection of the arbitrator, unless this period of time is extended by the arbitrator for good cause. Unless extended by the arbitrator for good cause shown, arbitration hearings shall begin no later than 4 months after the selection of the arbitrator. 3 days shall be allotted to the arbitration hearings, and the arbitrator shall determine how much of the hearing time shall be allocated to the direct and cross examination of witnesses. The arbitrator shall allocate time equally amongst the parties. The arbitrator shall have the authority to award compensatory damages only. Arbitration awards are final and binding.

2.7. **Billing and Payment.** The Town Manager, prior to payment, must approve all changes. The Town will not pay for services that are not provided according to the terms of the contract. The Contractor shall present an invoice, in duplicate, for services rendered. The billing shall be at the contracted price. The billing shall contain, if applicable, adjustments for additions, deletions, or changes in service and credit for services charged but not performed. Payment is due from the Town within 30 days after the receipt of an invoice, or within 30 days after resolution of any written objections by the Town to the invoice. Such objections, if any, must be made within 14 days of the receipt of the invoice by the Town. Any costs to the Town caused by the Contractor existing at or arising after the time of termination (including costs associated with a termination for cause or conflict) may be offset against any payments then due to Contractor.

2.8. **Miscellaneous Contract Terms.**

2.8.1. Equal Employment Opportunity. During the performance of this contract the Contractor will follow the Federal Government's Affirmative Action guidelines to

ensure that employees or applicants applying for employment will not be discriminated against because of race, color, religion, sex or national origin.

2.8.2. Successors and Assigns.

2.8.2.1. This Contract shall extend to and be binding upon Contractor, its successors and assigns, including any individual, company, partnership or other entity with or into which contractor shall merge, consolidate or be liquidated, or any person, corporation, partnership or other entity to which contractor shall sell its assets.

2.8.2.2. No right or interest covered by this contract shall be assigned in whole or in part without the prior written consent of the Town.

2.8.2.3. Contractor must immediately notify the Town of any merger, acquisition, or involuntary reorganization (or any legal action inaugurating such a shift), and the Town thereafter will have ***30*** days to provide or deny consent for the assignment or succession of the contract, in the Town's sole discretion and without stated reasons.

2.8.3. Subcontractors.

2.8.3.1. Contractor shall not enter into any future subcontract for any material, service or item specified within this Request for Proposal without prior written approval of the Town.

2.8.3.2. The Town may consider the qualifications and experience of subcontractors, suppliers, and other persons and organizations proposed for the work when such information is required to be submitted with the proposal.

2.8.3.3. Contractor shall require subcontractors to comply with the provisions of this RFP by insertion of the requirements hereof in any subcontract pursuant to this contract.

2.8.4. Arizona Law. This contract shall be governed and interpreted according to the laws of the State of Arizona.

2.8.5. Contract Applicability. The Offeror shall substantially conform to the terms, conditions, specifications and other requirements found within the text of this specific RFP. All previous agreements, contracts, or other documents, which have been executed between the Offeror and the Town, are not applicable to this RFP or any resultant contract.

2.8.6. Advertising. No advertising or publicity concerning the Town using the Contractor's services shall be undertaken without prior written approval of such advertising or publicity by the Town Manager.

2.8.7. Force Majeure. Neither party shall be responsible for delays or failures in performance resulting from acts beyond their control. Such acts include, but not limited to, acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations superimposed after the fact, fire, communication line failures, power failures, earthquakes or other disasters.

2.8.8. Funds Appropriation. If funds are not appropriated by the Town Council to continue the contract awarded, and for the payment of changes hereunder, the Town may terminate the contract at the end of the current fiscal period. The town agrees to give written notice of termination to the Contractor at least ***30*** days prior to the end of its current fiscal period and will pay to the Contractor all charges incurred through the end of such period.

2.8.9. Compliance with Laws. Contractor agrees to fully observe and comply with all applicable federal, state and local laws, rules, regulations and orders pertaining to the production and sale of the goods ordered, and upon request, Contractor will furnish Town certificates of compliance with such laws, rules, regulations and orders.

2.8.10. Local Conditions, Rules and Regulations. The Contractor shall familiarize himself with the nature and extent of the Contract documents, work to be performed, all local conditions, and federal, state and local laws, ordinances, rules and regulations that in any manner may affect cost, progress or performance of the work.

2.8.11. Notices. All notices or demands required to be given pursuant to the terms of this contract shall be given to the other party in writing, delivered by hand or registered or certified mail, at the addresses set forth below, or to such other address as the parties may substitute by written notice given in the manner prescribed in this paragraph:

In the Case of the Contractor:

The address listed on the signature page of the proposal.

In the Case of the Town:

Town Manager, Town of Dewey-Humboldt
2735 S. Hwy. 69
P.O. Box 69
Humboldt, AZ 86329

Copy to:

Town Attorney, Town of Dewey-Humboldt
100 E. Union
P.O. Box 3840
Prescott, AZ 86302

2.8.12. Warranty. The Contractor expressly warrants that all services furnished under this proposal shall conform to this contract and applicable standards. Contractor warrants that all such services will conform to any statements made within their proposal of advertisements. Contractor warrants that all services furnished hereunder will be merchantable, and will be safe and appropriate for the purpose for which the services of that kind are normally used. If the Contractor knows or has reason to know that particular purpose for which the Town intends

to use the services, the Contractor warrants that such services will be fit for such particular purpose. Contractor agrees to replace or correct defects of any services not conforming to the foregoing warranty promptly, without expense to the Town, when notified of such nonconformity by the Town, provided the Town elects to provide the Contractor with the opportunity to do so. In the event of failure of Contractor to correct defects in or replace nonconforming services promptly, the Town, after reasonable notice to the Contractor, may make such corrections or replace such services and charge the Contractor for the Cost incurred by the Town in doing so. In such event, the Contractor shall reimburse the Town for the costs, delays, or other damages that the Town has incurred.

2.8.13. Intellectual Property. The Contractor agrees upon receipt of notification to promptly assume full responsibility for the defense of any suit or proceeding which may be brought against the Town or its agents or vendors for alleged patent and/or copyright infringement, as well as for the alleged unfair competition resulting from similarity in design, trademark or appearance of goods by reason of the use or sale of any goods furnished under this contract except for goods manufactured entirely to Town specifications and the Contractor further agrees to indemnify the Town against any and all expenses, losses, royalties, profits and damages including court costs and attorney's fees resulting from the bringing of such suit or proceedings including any settlement or decree of judgment entered therein. The Town may be represented by and actively participate through its own counsel in any such suit or proceedings if it so desires. Intellectual property created by performance of this contract is and will remain the property of the Town.

2.8.14. Records and Audit Rights.

2.8.14.1. Contractor's records (hard copy, as well as computer readable data), and any other supporting evidence deemed necessary by the Town to substantiate charges and claims related to this contract shall be open to inspection and subject to audit and/or reproduction by the Town's authorized representatives to the extent necessary to adequately permit evaluation and verification of cost of the work, and any invoices, change orders, payments or claims submitted by the Contractor or any of his payees pursuant to the execution of the contract. The Town's authorized representative shall be afforded access, at reasonable times and places, to all of the contractor's records and personnel pursuant to the provisions of this article throughout the term of this contract and for a period of three years after final payment.

2.8.14.2. The Contractor shall require all subcontractors, insurance agents, and material suppliers (payees) to comply with the provisions of this article by insertion of the requirements hereof in a written contract between Contractor and payee. Such requirements will also apply to subcontractors, etc.

2.8.14.3. If an audit in accordance with this article discloses overcharges of any nature by the Contractor to the Town in excess of ***1%*** of the total contract billings, the

Contractor shall reimburse the actual cost of the Town's audit to the Town. Any adjustments and/or payments that must be made as a result of any such audit or inspection of the Contractor's invoices and/or records shall be made within ***30*** days form presentation of Town's findings to the Contractor.

2.8.15. Indemnification. To the fullest extent permitted by law, the Contractor, its successors, assigns and guarantors, shall pay, defend, indemnify and hold harmless the Town of Dewey-Humboldt, its agents, representatives, officers, directors, officials and employees from and against all allegations, demands, proceedings, suits, action, claims, damages, losses, expenses, including but not limited to, attorney fees, court costs, and the cost of appellate proceedings, and all claim adjusting and handling expense, related to, arising from or out of or resulting from any actions, acts, errors, mistakes or omissions caused in whole or part by Contractor relating to work or services in the performance of this contract, including but not limited to, any Subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable and any injury or damages claimed by any of Contractor's and Subcontractor's employees, regardless of whether or not caused in part by the active and or passive negligence of a party indemnified hereunder including the Town of Dewey-Humboldt, its agents, representatives, officers, directors, officials and employees. The amount and type of insurance coverage set forth in this contract shall not be construed in any way to limit the scope or magnitude of the indemnity provisions of this paragraph.

2.8.16. Insurance Representation and Requirements.

2.8.16.1. No Representation of Coverage Adequacy. By requiring insurance herein, the Town does not intend to imply an upper-limit on the Contractor's potential liability in its actions related to this agreement. The Town reserves the right to review any and all of the insurance policies and/or endorsements cited in this contract, but has no obligation to do so. Failure to demand such evidence of full compliance with the insurance requirements set forth in this agreement or failure to identify any insurance deficiency shall not relieve the Contractor from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this contract.

2.8.16.2. Insurance Coverage. The Contractor shall maintain Contractor Coverage, including but not limited to, General Liability Coverage, Errors and Omissions, Computer Crime, Employee Dishonesty, and Theft, Robbery, and Burglary On and Off Premises coverage, naming the Town as Additional Insured and Loss Payee as applies to subject Enterprise Technical Support. Coverage shall be in the amount not less than the highest amount of total exposed dollars at any one time. If such coverage is not available, Contractor will disclose such unavailability in its proposal, together with a statement of insurance proposed.

2.8.16.3. Contractor shall submit, within ***10*** days of award, Certificate of Insurance or other evidence to the Town Manager verifying such coverage requirements and

containing ***30***-day unequivocal advance notice of policy cancellation and or material change in policy.

2.8.16.4. Required Coverage. Coverages shall be written so as to be primary. Insurance coverage shall be written through carriers possessing an A.M. Best rating of at least ***B+*** or through Lloyds of London. Should coverage be written on a claims-made basis, the reporting period for claims shall be extended for at least two years beyond contract expiration.

2.8.16.5. The Town may require a financial statement so as to evidence the ability to fund the deductible.

2.8.16.6. Cancellation / Expiration Notice. If a policy does expire during the life of the contract, a renewal Certificate must be sent to the Town of Dewey-Humboldt's Town Manager ***30*** days prior to the expiration date.

2.8.17. Contract Administrator. The Town Manager or his designee will audit the billings, approve payments, establish delivery schedules, approve addenda to the contract and generally be responsible for overseeing the execution of the contract.

3. **Goal of the RFP Process.** The Town's goal is to enter into a contract to obtain required Enterprise Technical Support in the most efficient and cost-effective manner available. The Town is firmly committed to an ETS program which will do the following.

- **Enterprise server support;**
- **Remote connection;**
- **Desktop management;**
- **Software management;**
- **Training;**
- **Data security and backup;** and
- **Robust telecommunications.**

4. **Evaluation Criteria.** Proposals will be evaluated using four sets of criteria. Offerors meeting the mandatory criteria will have their proposals evaluated for both qualifications and price. The following represent the principal selection criteria that will be considered during the evaluation process.

4.1. Mandatory Criteria.

4.1.1. Offerors must adhere to the instructions in this Request for Proposal on preparing and submitting the proposal.

4.1.2. Must demonstrate knowledge of:

4.1.2.1. Principles, applications, and techniques of electronic data processing systems.

4.1.2.2. Computer systems design, programming, and operations.

4.1.2.3. Computer hardware and software systems planning and technical support functions.

4.1.2.4. Organization, management, and control of complex computer equipment and data processing facilities.

4.1.3. Must demonstrate ability to perform the full Scope of Work.

4.2. Expertise and Experience.

4.2.1. Experience with other municipalities.

4.2.2. Demonstrated ability to perform requested services on a consistent, above-standard basis.

4.2.3. The primary contact should have some combination of experience and education leading to the ability to perform the Mandatory Criteria, which typically includes three years of technical experience in directing a major program in a large scale data processing facility and a bachelor's degree in mathematics, business administration, computer sciences or a related field. Other combinations of experience and education that meet the minimum requirements may be substituted.

4.3. **Price.** The price should be quoted per unit, per person, per hour, and otherwise as detailed as possible, except with regard to retainer arrangements.

5. **Required Services; Scope of Work.** The Contractor will perform the following services:

- **Establish guidelines and programs for effective information technology management;**
- **Provide data processing services required by the Town;**
- **Recommend long-range and short-range management information systems plans and ETS budgets to Town management;**
- **Make recommendations on major systems development and research projects;**
- **Establish Town-wide strategic policy for planning, development, and design of information needs;**
- **Research management information systems hardware and software including applicable vendor applications, data base management, and operational control packages;**
- **Set policies to ensure privacy data and security of data processing facilities;**
- **Establish guidelines and programs for effective database management utilization;**

- **Keep the servers, desktops, website, and phones of the Town working well, with a target problem resolution time of less than 48 hours 90% of the time and an emergency response of less than 2 hours 80% of the time;**
- **Consult with and advise Town program heads on information technology management needs and problems; and**
- **Demonstrate continuous effort to improve operations, decrease turnaround times, streamline work processes, and work cooperatively and jointly to provide quality seamless citizen service.**

6. **Format and Content of Proposal.** The Proposal must include the following, in the order presented, to be considered for evaluation:

6.1. Transmittal Letter. A signed letter of transmittal briefly stating the following.

6.1.1. Offeror's understanding of the work to be done, and the assurance that it can perform the work within the time line and time frame of the Contract.

6.1.2. Offeror's commitment to quality throughout the duration of the Contract.

6.1.3. Why the Offeror believes itself to be best qualified to perform the services.

6.1.4. That the person signing the proposal is entitled to represent the firm, empowered to submit the bid, and authorized to sign a Contract with the Town, and

6.1.5. The proposal is a firm and irrevocable offer for ***90*** days

6.2. Title Page. Title page must show the request for proposal subject, the Offeror's name; the name, address and telephone number of the contact person, and the date of the proposal.

6.3. Table of Contents.

6.4. Mandatory Criteria Response.

6.4.1. Offeror shall provide resumes of key professional staff, including the Town Liaison assigned to service the Town's information technology and telecommunications relationship.

6.4.2. Offeror shall provide an organization chart depicting the various departments, including department location and contact names, which would be involved in the administration of the Town's information technology and telecommunications relationship.

6.4.3. Offeror shall provide three references of similarly sized entities, preferably municipalities that are current customers.

6.5. Scope of Work Response.

6.5.1. Formal Scope of Work solicitation response.

6.5.2. Optional Services. The Town would like Offerors to propose any optional services or make recommendations they feel would enhance the technical capabilities of the Town. Offerors should feel free to make suggestions or add additional information not requested in this proposal; however, to be considered responsive, all Offerors must submit a proposal addressing each required service in the proposal format requested. Optional services should be summarized in one section of the Proposal, which follows the Scope of Work section.

6.6. Schedule of Fees. Offeror must provide a Schedule of Fees. The Schedule should quote the best prices for the latest technology. The schedule should also include all start-up fees.

Request for Proposal (RFP) for Enterprise Technical Support Signature Page

The undersigned hereby offers and agrees to furnish the material, or service, in compliance with all the terms and conditions, instructions contained in this Request for Proposal document and any written exceptions in the offer accepted by the Town, and represents that such signer has the full authority to bind the below-named entity, if any.

Date	Signature of Authorized Person
Company Name	Printed Name of Signer
State and type of organization	Title of Signer

Company Address

Company phone number and contact email

The Offeror hereby acknowledges receipt of and agrees this submittal is based on the following Addenda.

ADDENDUM # _____ DATED_____

ADDENDUM # _____ DATED_____

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TOWN OF DEWEY-HUMBOLDT
AGREEMENT FOR CONSULTANT SERVICES
(Independent Contractor Agreement)

THIS AGREEMENT made this 15th day of January 2009, by and between the Town of Dewey-Humboldt, an Arizona municipality (the "Town"), and Four-D, LLC, an Arizona limited liability company ("Consultant").

WHEREAS, the Town desires to enter into an agreement with Consultant for Enterprise Technical Support, and to provide for the terms and conditions under which Consultant might be so contracted; and

WHEREAS, Consultant desires to provide such service, under the terms and conditions outlined herein.

NOW THEREFORE, in consideration of the mutual covenants, promises and payments hereinafter set forth, it is agreed between the parties as follows:

1. Scope of Services. The Scope of Services consists of the RFP, attached hereto as ***Exhibit A*** (the "RFP"), and the Consultant's Response to the RFP, attached hereto as ***Exhibit B*** (the "Response") (collectively, the RFP and the Response are the "Scope"). In the event of a conflict between the RFP and the Response, the RFP will prevail. Consultant agrees and covenants to fully perform all the acts contained in the Scope, in accordance with the time schedules or phases contained therein, if any, except as may be modified in accordance with ***§ 1.2***.

1.1. Phase Structure. The Town may terminate this Agreement, without cause, upon completion of any phase of a project for which Consultant's services are utilized, with payment to Consultant for its work done on those phases completed to that point constituting full compensation.

1.1.1. Within any proposal provided to Town by Consultant for services on a multi-phase project, all Consultant fees must be allocated for each of the phases in proportion to the amount of work for which Consultant is to be compensated for that phase.

1.1.2. Consultant stipulates and agrees that the time frames stated within the Scope shall be and are realistic for the work of each phase.

1.1.3. Consultant understands that the Town intends to, and should be entitled to, strictly enforce the time frames and other performance measures as indicated by Consultant within the Scope, but will allow for time extensions if conditions occur which are deemed to be outside the Consultant's reasonable control and the Consultant promptly requests an extension, in writing, and memorializes within such request the specific bases for such extension.

1.1.4. Approvals. Each work phase and selected sub-phases, especially including project cost estimates, are subject to Town approval and acceptance before the work proceeds further. The Town is responsible to respond within 30 days to requests for approvals, disapprovals, or demand for corrections. The Town Finance Director or Town Manager is authorized to act on behalf of the Town throughout the entire project.

1.2. Change Orders. Change Orders are amendments to this Agreement. Consultant agrees that no Change Orders will be submitted to the Town except for unforeseeable circumstances which could not have been foreseen prior to the execution of this Agreement and are, therefore, otherwise outside of Consultant's control. For example, the conduct and performance of all consultants, financiers, and employees/sub-contractors of the Consultant are herein understood to be foreseeable matters, and therefore within the Consultant's control. Change Orders must be submitted within 30 days of the date that the event or circumstance arises (or the first time such circumstance should have been reasonably discerned) justifying the Change Order, or the Change Order shall be justifiably denied. The Town must respond in writing within 30 days to accept, deny, or request additional information: failure by the Town to respond within 30 days is presumed to be a request for additional information and not an approval or waiver.

1.3. Term. Unless terminated sooner pursuant to ***§ 1.1***, this Agreement will be for an initial term of the period from the date first listed above to the date that is 1 year after the last date of the current fiscal year (*i.e.*, until June 30, 2010), with 3 automatic 1-year extensions unless either party gives notice to the other in writing at least 90 days prior to the beginning of the succeeding term. This Agreement may be terminated by either party with 90 days notice; but if Consultant initiates this kind of termination, the Consultant agrees to refrain from bidding on a Town request for qualifications or other public procurement for the period of 1 year after such termination.

1.3.1. Cancellation. Pursuant to the specific language and allowance of ARS § 38-511, the Town may cancel this Agreement, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating the Agreement on behalf of the Town of Dewey-Humboldt is, at any time while the Agreement or any extension of the Agreement is in effect, an employee or agent of any other party to the Agreement in any capacity or a consultant to any other party to the Agreement with respect to the subject matter of the Agreement.

1.3.2. Commencement of Work under the Scope. Consultant will commence and diligently prosecute the work as directed by the Town. The Town acknowledges that it is not the only customer of the Consultant, and agrees to make reasonable demands. Consultant understands that the nature of local government and its non-delegable duty to support its citizens may sometimes create emergency situations, and Consultant agrees to reasonably assist in any response to such emergencies.

1.3.3. Limitation on Year 1. In the event that the Town Council does not allocate funds in the FY2010 Budget equal to or greater than the cost of this contract for the period of July 2009 to June 2010, then this Agreement will terminate as of the last date of June 2009, unless amended by the mutual consent of the parties.

2. Fees and Payments.

2.1. The Fee and Payment Schedule for any and all compensation to be sought by Consultant, hereunder, is attached hereto as ***Exhibit C*** (the "Fee Schedule"). Consultant agrees

to accept the compensation contained on the Fee Schedule as full compensation for all of the work contained in the Scope.

2.2. Fees are fully payable within 30 days from the date upon which the related work has been completed and accepted, in writing, by the Town. Progress payments are appropriate for all but minor phases, based upon a mutually agreed state of completion, as specifically referenced and addressed within the Scope. Payments shall be withheld if there are shortfalls in Consultant activity or delivery, or may otherwise be adjusted pending full and satisfactory completion of the Scope.

2.3. Consultant must include a statement, listing work done by specific task, of services completed as part of each invoice submitted for payment. Such a statement shall justify the invoice based upon the method of compensation. For example, for "lump sum" compensation, the requirement will include the tasks or percentage of task(s) completed to date. For a cost-based contract, the statement must include an accounting for staff hours or days of services included in the invoice.

3. Consultant Project Staff. Consultant agrees that the key individuals (such as managers, firm principals, and technical experts responsible for fulfilling this Agreement) named in the Scope will not be changed nor will the work allocated to such individuals change without the prior written consent of the Town. Removal or reappointment of the project manager-designate is hereby defined to constitute a material breach of this Agreement. The Town's interest in withholding or granting prior written consent is in ensuring continuity in the completion of work, avoiding costs of redundancy where possible, and that Consultant personnel replacements possess qualifications acceptable to the Town.

4. Miscellaneous.

4.1. Disputes.

4.1.1. Attorney's Fees. In the event of a material breach of this Agreement, the non-breaching party shall be entitled to be compensated by the breaching party for the reasonable amount of their attorney's fees so incurred, regardless of whether the matter results in litigation.

4.1.2. Alternative Dispute Resolution. Any dispute arising hereunder shall be resolved through mediation and, if thereafter necessary, binding arbitration as the sole remedy and recourse of either party. Both Parties hereby agree to participate in such proceedings in good faith. The parties also agree to engage in the cooperative defense of any third party suits, and the parties further agree to defer resolution of any issues which may arise between them in the course of this Agreement until any third party matters are resolved.

4.1.3. Jurisdiction and Venue. Except as provided by ***§ 4.1.2***, jurisdiction and venue for any and all matters arising pursuant to this Agreement shall be in Yavapai County, Arizona.

4.1.4. Applicable Law. The applicable law in regard to the interpretation of the provisions of this Agreement shall be the laws and ordinances of the State of Arizona, Yavapai County, and the Town as such are found to exist as of the date of the execution of this Agreement.

4.1.5. Provisions in Violation of Law. Any provision of this Agreement held to violate any law shall be deemed void, and all remaining provisions shall continue in full force and effect.

4.1.6. Waiver. Either Party's waiver of any term, condition, covenant or provision, or breach of any term, condition, covenant or provisions, must be in writing and shall not constitute the waiver of any subsequent breach of any other term, condition or covenant.

4.2. Document issues.

4.2.1. Headings. The headings used in this Agreement are for general reference only and are not a part of the Agreement.

4.2.2. Drafting of Documents. This Agreement shall be interpreted as having been drafted by both parties.

4.2.3. Documents Constituting Entirety of Agreement. This Agreement, along with all additional documents and exhibits attached and referred to by this Agreement, comprise the final and complete repository of the understandings between the Parties and supersede all prior or contemporary communications, representations or agreements, whether oral or written, relating to the subject matter of this Agreement.

4.2.4. Writings Required. This Agreement, including the exhibits hereto, constitutes the entire Agreement between the parties. In that regard, the content, terms, provisions, understandings and entitlements of any and all additional documents, conversations, understandings, etc., alleged to otherwise exist or have occurred, shall be deemed to have been merged into the specific contents of this Agreement, with the provisions of this Agreement being all that remains enforceable. This Agreement shall only be amended or modified in writing executed by the parties, and this Agreement and any such modifications and amendments shall be binding upon the parties. Notices are proper when sent by U.S. Mail, e-mail with "delivered" receipt requested and received, or by facsimile to the following addresses.

If to the Town: Town of Dewey-Humboldt
P.O. Box 69
Humboldt, AZ 86329

williamemerson@dhaz.gov

Facsimile: 928-632-7365

If to Consultant: Four-D, LLC
571 McKinnon Rd.
Clarkdale, AZ 86324

peter@deblanc.net

Facsimile: Please call for instructions

4.3. Risk Management.

4.3.1. Indemnification. To the fullest extent permitted by law, Consultant shall indemnify and hold harmless Town and Town's officers, directors, partners and employees from and against any and all claims, costs, losses and damages, including reasonable attorneys fees, to the extent caused by the negligent acts, errors or omissions of Consultant or Consultant's officers, directors, partners, employees, agents, and sub-consultants in the performance and furnishing of Consultant's services under this Agreement. Within 30 days of acceptance, Consultant must place on file with the Town an acceptable policy or certificate of coverage for general liability and all other important risks in the minimum amount of $1,000,000 per occurrence and $2,000,000 in annual aggregate coverage. Further, Consultant must furnish evidence of a professional liability policy rated "AM Best A-"or better to protect the Town from any claims of Consultant's negligent acts, errors, or omissions, naming the Town as an Additional Insured.

4.3.2. Compliance with Civil Rights.

4.3.2.1. Equal Employment Opportunity. In connection with the execution of this Agreement, Consultant shall not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin. Such actions shall include, but not be limited to the following: employment, promotion, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training, including apprenticeship.

4.3.2.2. Nondiscrimination Civil Rights Act of 1964. Consultant will comply with all federal regulations relative to nondiscrimination in federally-assisted programs.

4.3.2.3. Solicitations for Subcontractors Including Procurement of Materials and Equipment. In all solicitation, either by competitive bidding or negotiation, made by Consultant for work to be performed under a subcontract including procurement of materials or leases of equipment, each potential subcontractor, supplier, or lessor shall be notified by Consultant of Consultant's obligations under this Agreement and the regulations relative to nondiscrimination on the grounds of race, religion, color, sex or national origin.

4.4. Relationship of the Parties.

4.4.1. Independent Contractor Status. Consultant shall be an independent contractor and shall have responsibility for and control over the details and means of providing the services anticipated pursuant to this Agreement. This Agreement does not create an employee/employer relationship between the parties. It is the parties' intention that the Consultant will be an independent contractor and not an employee of the Town for all purposes, including, but not limited to, the Fair Labor Standards Act, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the Internal Revenue Code (and any other Arizona income tax laws), the Arizona state workers' compensation laws, the Arizona State unemployment insurance laws and any of the Town's benefit plans for the Town's employees. Consultant agrees that it is a separate and independent enterprise from the Town, that it has a full opportunity to find other business, that it has made its own investment in its business, and that it will utilize a high level of skill

necessary to perform any work performed for the Town. This Agreement shall not be construed as creating any joint employment relationship between Consultant and the Town and the Town will not be liable for any obligation incurred by the Consultant, including but not limited to unpaid minimum wages and/or overtime premiums.

4.4.2. Successors and Assigns. This Agreement shall be binding upon the successors and assigns of the Parties, but shall not be assigned by either party without written consent of the other party.

4.4.3. Representational Authority. Consultant has no authority to commit the Town or make significant decisions on the Town's behalf. Additionally, Consultant and Consultant's agents, employees and representatives shall not make public statements or respond to media inquiries regarding any condition, circumstances, aspect or element of any work done, to be done, or which is anticipated to be done by Consultant for the benefit of the Town. This Agreement shall not be construed to authorize the Consultant to act as an agent for the Town in any manner, but does not prevent the Town from so authorizing by separate instrument.

4.4.4. Confidentiality. Consultant may not release information (including future Consultant publication of project information, such as in papers, articles, or advertising) related to the Agreement except upon written approval of the Town, or as required by law.

4.4.5. Ownership of Documents and Innovative Solutions. All original materials, concepts, methods, or products created by Consultant pursuant to this Agreement are the property of the Town and must be delivered to the Town on or before final completion of the work contained in the Scope. The Town agrees that it will not modify documents without Consultant's consent, in keeping with professional license laws; however, there are no such restrictions/limitations on the Town's reuse or sale of such intellectual property.

4.4.6. Authority to Execute. Those natural persons executing this Agreement on behalf of the actual Parties assert, through their signatures, that the entity they represent has reviewed this Agreement, understands its content, has authorized its execution by the natural person signing the Agreement and agrees to be bound by its terms.

IN WITNESS WHEREOF, the parties have executed this Agreement.

TOWN:	CONSULTANT:
Town of Dewey-Humboldt, an Arizona municipality	Four-D, LLC, an Arizona limited liability company
_____	By: _____
William Emerson, Town Manager	Peter deBlanc, Member & Statutory Agent
ATTEST:	APPROVED AS TO FORM:
_____	_____
Judy Morgan, Town Clerk	Kenton D. Jones, Town Attorney

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EXHIBIT A
RFP document

EXHIBIT B
RFP Response

EXHIBIT C
Fee Schedule

$50 per person per hour, with the expectation of the following level of utilization:

- 1 person for 64 hours from the commencement of the Agreement through the end of February 2009.
- 1 person for 32 hours per month in March 2009.
- 1 person for 24 hours per month in April, May, and June 2009.
- 1 person for 8 hours per week thereafter.

Additionally, the Town will provide workspace and a workstation as required by the Scope.

Consultant will be compensated for mileage at the federal mileage rate for any trips required at the direction and approval of the Town for the purpose of conducting business for the Town. The mileage to and from the Town for the purpose of reporting for daily work and mileage within the Town for routine work shall not be eligible for reimbursement.

Consultant will be compensated for any approved travel expenses, necessary to conduct business for the Town of Dewey-Humboldt in accordance with any existing travel policies of the Town.