



INVITATION FOR BID

Construction

B24-095MZ

Date issued: July 30, 2024

26TH STREET LANDFILL REPAIRS AND MITIGATION

THE CITY OF COLORADO SPRINGS

The City of Colorado Springs hereby solicits Firm Fixed Price (FFP) (or Fixed Unit Price (FUP)) Bids, as detailed in this Invitation For Bids (IFB), for XXXXX

This IFB is posted to BidNet Direct and the City of Colorado Springs Procurement Services Website. It is available for all vendors free of charge, following free registration, at the BidNet Direct website.

SUBMITTALS FOR THIS PROJECT WILL ONLY BE ACCEPTED ON THE BIDNET DIRECT PLATFORM.

Please login to the following website to register (Free Registration) to submit a bid for this project. All required documents will be uploaded to the BidNet website. The City of Colorado Springs belongs to BidNet's Rocky Mountain e-Purchasing Group within BidNet.

<https://www.bidnetdirect.com/>

BIDNET Direct Support

800-835-4603

Estimated Project Magnitude: \$100,000.00 - \$200,000.00

SECTION I – BID INFORMATION

1.0 BID INFORMATION

Section I provides general information to potential Bidders, such as bid submission instructions and other similar administrative elements. This Invitation for Bid (IFB) is available on BidNet (www.bidnetdirect.com). All addenda or amendments shall be issued through BidNet and may not be available through any other source.

1.1 SPECIAL TERMS

Please note the following definitions of terms as used herein:

The term “City” means the City of Colorado Springs.

The term “Contractor” or “Consultant” means the Bidder whose offer is accepted and is awarded the contract to provide the products or services specified in the IFB.

The term “Offer” or “Bid” means a bid submitted in response to this IFB.

The term “Offeror” or “Bidder” means the person, firm, or corporation that submits a formal bid or offer and that may or may not be successful in being awarded the contract.

The term “Project” refers to 26th Street Landfill Repairs and Mitigation Project.

The term “Invitation for Bid” or “IFB” means this solicitation of formal, competitive, sealed bids from prospective bidders in which the intent is to award a contract to the resultant lowest responsible and responsive bidder.

1.2 BID ISSUE DATE

Invitation for Bid (IFB) Number B24-095MZ is being issued and posted on www.bidnetdirect.com on July 30, 2024.

1.3 SUBMISSION OF BIDS

- A. Bids are to be submitted electronically on BidNet Direct (www.bidnetdirect.com). Please review the submission requirements **well in advance** of the submission date and time, and allow for ample time to upload each required document. It is recommended that Offerors begin the submission process at least one (1) day in advance of the proposal deadline.

Offerors are solely responsible for ensuring all required bid documents are uploaded and submitted correctly, and that a **confirmation number** is obtained upon successful submission. Customer support for BidNet Direct may be reached at (800) 835-4603.

- B. Bids shall be received on or before August 27, 2024 2:00PM. A public opening will be held via Microsoft Teams at that time. Web access and dial-in information is below:

Microsoft Teams [Need help?](#)

[Join the meeting now](#)

Meeting ID: 248 467 740 153

Passcode: QUUKbS

Dial in by phone

[+1 720-617-3426](tel:+17206173426), [266483792#](tel:+17206173426) United States, Denver

[Find a local number](#)

Phone conference ID: 266 483 792#

- C. Bid bond is required if the total bid exceeds \$50,000.00. (Also see 1.22)
- D. The cost of Bid preparation is not a reimbursable cost. Bid preparation shall be at the Bidder's sole expense and is the Bidder's total and sole responsibility.

1.4 PRE-BID CONFERENCE

A pre-bid meeting will be held at the site at 10:00AM August 9, 2024. This meeting is highly encouraged but not mandatory.

Please meet at 1502 S. 26th Street Colorado Springs, CO 80904 (38.833895, -104.877216). We will have a quick get together to discuss the project and due dates and then visit the site location. See link below for map location:

<https://maps.app.goo.gl/3qThnj2j2cxb46Fo9>

1.5 LATE BIDS/LATE MODIFICATIONS OF BIDS

Bids, withdrawals, or modifications of Bids received after the time set for opening, as designated in 1.3 above, are considered "late bids", and will not be accepted by the City, except as provided for in the City of Colorado Springs Procurement Rules and Regulations and approved by the Procurement Services Manager. Bidders are solely responsible for ensuring their bids arrive on time and to the place specified in this Invitation for Bid.

1.6 MISTAKES IN BIDS - CONFIRMATION OF BID

If it appears from a review of a Bid that a mistake has been made, the Bidder may be requested to confirm its Bid in writing. Situations in which the confirmation may be requested include obvious, apparent errors on the face of a Bid or a Bid unreasonably lower than the other Bids submitted. All mistakes in Bids will be handled in accordance with the City of Colorado Springs Procurement Rules and Regulations.

1.7 PROCUREMENT RULES AND REGULATIONS

All formal IFBs advertised by the City of Colorado Springs are solicited in accordance with the City's Procurement Rules and Regulations. The City's Procurement Rules and Regulations can be reviewed and/or downloaded from the City's Procurement Services Division website at www.coloradosprings.gov. Any discrepancies or conflicting statements, decisions regarding bidding irregularities, or clarifications regarding clauses or specifications will be rectified utilizing the City's Procurement Rules and Regulations, when applicable. It is the Bidder's responsibility to advise the Contracts Specialist listed in this IFB of any perceived discrepancies, conflicting statements, or problems with clauses or specifications prior to the Bid opening date and time.

1.8 MINOR INFORMALITIES/IRREGULARITIES IN BIDS

- A. A minor informality or irregularity is one that is merely a matter of form and not of substance. It also pertains to some immaterial defect in a Bid or variation of a Bid from the exact requirements of the invitation that can be corrected or waived without being prejudicial to other Bidders. The defect or variation is considered immaterial when the effect on price, quantity, quality, or delivery is negligible when contrasted with the total cost or scope of the goods and/or services being acquired.
- B. If the City Procurement Services Division determines that a Bid submitted contains a minor informality or irregularity, then the Procurement Services Manager shall either give the Bidder an opportunity to cure any deficiency resulting from the minor informality or irregularity or waive the deficiency, whichever is to the advantage of the City. In no event will the Bidder be allowed to change the Bid amount. Examples of minor informalities or irregularities include but are not limited to the following:
 - 1. Bidder fails to sign the Bid, but only if the unsigned Bid is accompanied by other material evidence, which indicates the Bidder's intention to be bound by the unsigned Bid (such as Bid security, or signed cover letter which references the Bid Number and amount of Bid).
 - 2. Bidder fails to acknowledge an Amendment, although this may be considered a minor informality only if the Amendment, which was not acknowledged, involves only a matter of form or has either no effect or merely a negligible effect on the price, quantity, quality, or delivery of the item or services bid upon.

1.9 REJECTION OF BIDS

The Procurement Services Manager has the authority to reject any Bid based on, but not limited to, the following:

- A. Any Bid that fails to conform to the essential requirements of the Invitation for Bids shall be rejected.
- B. Any Bid that does not conform to the applicable specifications shall be rejected unless the IFB authorizes the submission of alternate bids and the items or services offered as alternates meet the requirements specified in the IFB.
- C. A Bid that fails to conform to the specified delivery schedule.
- D. A Bid shall be rejected when the Bidder imposes conditions that would modify the requirements of the IFB or limit the Bidder's liability to the City since to allow the Bidder to impose such conditions would be prejudicial to other Bidders.

For example, Bids shall be rejected in which the Bidder:

- 1. Protects against future changes in conditions, such as increased costs, if total possible costs to the City cannot be determined. This includes failure to completely fill out the required bid schedule.
- 2. Fails to state a price and indicates that price shall be "price in effect at time delivery".
- 3. States a price but qualifies it as being subject to "price in effect at the time of delivery".
- 4. Takes exceptions to the IFB terms and conditions.
- 5. Inserts the Bidder's terms and conditions.

6. Limits the rights of the City under any Contract/Invitation for Bid clause.
- E. Any Bid in which the price is considered to be unreasonable or is over budget.
 - F. Any Bid if the prices are determined to be unbalanced.
 - G. Bids received from any person or contractor that is suspended, debarred, proposed for debarment, or under investigation for fraud, including failure to pay federal, state, local, or city taxes.
 - H. When a bid guarantee is required and the bidder fails to furnish the guarantee in accordance with the requirements of the IFB.
 - I. Low Bids received from bidders who are determined to be non-responsible in accordance with the City's Procurement Rules and Regulations.
 - J. Any Bid that was prepared and submitted by a vendor who has been determined by the Procurement Services Manager to have an unfair advantage over other Bidders. Examples of an unfair advantage include, but are not limited to, the following:
 1. A previous or prior employee who in the last six (6) months was directly involved in the design or specification preparation of the completed procurement.
 2. A vendor who was directly involved in the design or specification preparation of the completed project either for pay or voluntarily.

1.10 ESTIMATED QUANTITIES

If the Bid Form (Schedule A) herein contains estimated quantities, this provision is applicable. The quantities listed for each of the items in the Bid Form are only estimated quantities. Contractors are required to bid a firm unit price for each item specified. The actual quantities ordered may fluctuate up or down. The unit prices proposed by each Bidder will remain firm and will not be re-negotiated if the estimated quantities are not met or are exceeded. This clause will take precedence over any/all other estimated quantity clauses that conflict with this clause.

For bidding purposes, if there is a conflict between the extended total of an item and the unit price, the unit price shall prevail and be considered as the amount of the Bid. All unit prices shall include all necessary overhead and profit. Items not listed in the Bid Form such as overhead, profit, mobilization, de-mobilization, bonding, etc. shall be distributed throughout the Bidder's Unit Prices for the items listed on the Bid Form.

1.11 NUMBER OF COPIES

Bidders shall submit one electronic copy of each required document on the BidNet Direct Procurement Platform (www.bidnetdirect.com). Upon submission, all Bid documents shall become and remain the property of the City.

1.12 IDENTIFICATION OF BID

Bids must be submitted to the BidNet Direct Procurement Platform (www.bidnetdirect.com). The solicitation number and Offeror name must be clearly marked within the Bid.

Bid No.: B24-095MZ

Due Date and Time: August 27, 2024 2:00PM

1.13 SALES TAX

The successful Offeror, if awarded a contract, shall apply to the Colorado Department of Revenue for a tax-exempt certificate for this project. The certificate does not apply to the City of Colorado Springs Sales and Use Tax which shall be applicable and should be included in all bids and proposals. The tax-exempt project number and the exemption certificate only apply to County, PPRTA (Pikes Peak Rural Transportation Authority), and State taxes when purchasing construction and building materials **to be incorporated into this project**.

Furthermore, the exemption **does not** include or apply to the purchase or rental of equipment, supplies, or materials that **do not become a part of the completed project or structure**. In these instances, the purchase or rental is subject to full taxation at the current taxation rate.

The Offeror and all subcontractors shall include in their Offer the City of Colorado Springs Sales and Use Tax on the work covered by the offer, and all other applicable taxes. Any increase in applicable sales or use tax occurring after the contract has been let shall be borne by the contractor and not passed through to the City.

Forms and instructions can be downloaded at the City of Colorado Springs Website:<https://coloradosprings.gov/sales-tax/page/additional-sales-tax-forms?mlid=30771>.

Questions can be directed to the City Sales Tax Division at (719) 385-5903 or Construction_SalesTax@ColoradoSprings.gov.

Our Registration Numbers are as follows:

City of Colorado Springs

Federal I.D.: 84-6000573

Federal Excise: A-138557

State Sales Tax: 98-03479

1.14 PREPARATION OF BID OFFER

- A. Bidders are expected to examine the drawings, specifications, bid documents, proposed contract forms, terms and conditions, and all other instructions and solicitation documents. Bidders are expected to visit the job site to determine all requirements and conditions that will affect the work. Failure to do so will not relieve a Bidder from their responsibility to know what is contained in this Invitation for Bid, or site conditions affecting the work.
- B. The Bidder certifies that it has checked all of its figures and understands that the City will not be responsible for any errors or omissions on the part of the Bidders in preparing its Bid.
- C. All items, (unless the invitation specifically states otherwise) including any additive or deductive alternates on the Bid Form, must be completely filled out or the Bid will be determined non-responsive and ineligible for consideration for award.
- D. The Bidder declares that the person or persons signing this Bid is/are authorized to sign on behalf of the firm listed and to fully bind the Bidder to all the requirements of the IFB.
- E. The Bidder certifies that no person or firm other than the Bidder or as otherwise indicated has

any interest whatsoever in the Bid or the contract that may be entered into as a result of the Bid and that in all respects the Bid is legal and firm, submitted in good faith without collusion or fraud.

- F. By submitting a Bid the Bidder certifies that it has complied and will comply with all requirements of local, state, and federal laws and that no legal requirements have been or will be violated in making or accepting this Bid. Bidders are expected to review the City's Procurement Rules and Regulations, which will be used when determining whether a Bidder is responsive and responsible and awarding contracts in the best interest of the City.
- G. If there is a discrepancy between the unit price and the total price, the unit price shall be used to determine the applicable total price. Bidders are responsible for including profit and overhead associated with the project when determining their unit prices.

1.15 BASIS OF AWARD

- A. Bid offers that include a base bid and add or deduct alternates will be evaluated and awarded as follows. At bid opening, the City will announce a Budgetary Control Dollar Amount to be used for determining the low bidder. The City intends to award a contract for the base bid item if the Budgetary Control Amount is not exceeded, to the lowest responsive and responsible bidder.
- B. If the Budgetary Control Amount is exceeded by all bidders then the deductive alternate(s) will be subtracted from each bid accordingly and the award will be made to the resulting lowest responsible bidder that does not exceed the Budgetary Control Amount. The deductive alternates will be deducted in the order in which they appear on the Bid Form.
- C. If the lowest responsive and responsible bid still exceeds the City's budget for these items after the deduct alternate is read, the City reserves the right to reduce estimated quantities to get within the available budget and award a contract that is within budget. B.18.4 only applies to the lowest responsive and responsive bidder at the time of bid opening.

1.16 PERIOD OF ACCEPTANCE

The Bidder agrees that its Bid shall remain open for acceptance by the City for a period of sixty (60) calendar days from the date specified in the IFB for receipt of Bids.

1.17 CONTRACT AWARD

The signature of the Bidder indicates that within ten (10) calendar days from acceptance of its Bid, it will execute a contract with the City and, if indicated in this IFB, furnish a project-specific Certificate of Insurance naming the City as Additional Insured, furnish Performance, Labor and Materials, Payment and Maintenance Bonds and any other documents required by the Specifications or Contract Documents.

1.18 NOTICE TO PROCEED

Work may not start under any awarded contract until a written notice to proceed is issued by the City. The City may issue the Notice to Proceed any time after the contract is signed and, if required, insurance and bonds have been provided in accordance with 1.22 below.

1.19 AMENDMENTS TO THE SOLICITATION

Amendments are also referred to as addendum or addenda, and these terms shall be considered synonymous. It is the Bidder's responsibility to contact the Contracts Specialist listed in 1.21 below to confirm the number of Amendments which have been issued.

- A. If this solicitation is amended, then all specifications, terms, and conditions, which are not specifically amended, remain unchanged.
- B. Bidders shall acknowledge receipt of any amendment to this solicitation by signing and returning the amendment and by identifying the amendment number and date in the space provided on the form for submitting a Bid.
- C. Acknowledged amendments must be received prior to Bid opening. Bidders are encouraged to include signed addenda or initialed acknowledgment with returned Bids.

1.20 EXPLANATIONS TO PROSPECTIVE OFFERORS

Any prospective Bidder desiring an explanation or interpretation of the IFB documents, drawings, specifications, etc., must request it in writing within ten days of the Bid due date to allow enough time for a reply to reach all prospective offerors before the time for submission of offers. Oral explanations or instructions given before the opening of Bids will not be binding. Any information provided to a prospective Bidder during the Bid preparation stage will be promptly furnished to all other prospective Bidders as an amendment to the solicitation, if that information is necessary in submitting Bids or if the lack of it would be prejudicial to other prospective Bidders.

1.21 QUESTIONS AND OTHER REQUESTS FOR INFORMATION

All questions must be submitted in writing to the following Contracts Specialist. All questions must be submitted via email and must be received no later than **1:00PM August 16, 2024**.

Requests for Information, support, and questions shall be directed to:

CONTRACT SPECIALIST Mike Zeller
CONTRACT SPECIALIST michael.zeller@coloradosprings.gov

**DO NOT CONTACT ANY OTHER INDIVIDUAL AT THE CITY OF COLORADO SPRINGS
REGARDING THIS SOLICITATION.**

1.22 SECURITY REQUIREMENTS

- A. Bid Security
 - 1. If the total amount of the accumulative Bid is more than \$50,000, or a bond is required elsewhere in this IFB, the Bidder is required to furnish with their Bid a bid security in the form of a bank-certified check, bank cashier's check or a one-time bid bond underwritten by a company licensed to issue bonds in the State of Colorado and acceptable to the City in an amount equal to at least 5% of the total amount of the Bid payable without condition to the City.
 - 2. The Bid security shall guarantee that the Bid will not be withdrawn or modified for a period

of sixty (60) calendar days after the time set for the receipt of Bids, and, if the Bid is accepted within those sixty (60) calendar days, that the person, firm or corporation submitting same shall within ten (10) calendar days after being notified of the acceptance of its Bid, enter into a Contract and furnish the required bonds and all insurance certificates called for under this Invitation for Bid.

3. The Bid bonds of unsuccessful Bidders will not be returned to the respective Bidders unless a self-addressed, stamped envelope is provided along with a written request for bid bond return. However, if a certified check or a cashier's check is submitted as Bid security, it will be returned as soon as possible after the lowest responsive and responsible Bidder is determined and a contract is executed.
4. In the event the Bidder whose Bid is accepted fails to enter into the contract and/or furnish the required contract bonds, its certified check, cashier's check or bid bond will be forfeited in full to the City.

B. Performance, Labor and Materials Payment, and Maintenance Bonds

1. For contracts in excess of \$50,000, the Contractor shall furnish to the City each of the following: a Performance Bond, a Labor and Materials Payment Bond, and a Maintenance Bond. Each such bond shall be in the amount of one hundred percent (100%) of the contract price. Bonds shall be submitted within ten (10) calendar days after notification of award of a Contract. The cost of all bonds shall be included in the Contractor's Bid.
2. Bonds shall:
 - a. Be for the full amount of the Contract price.
 - b. Guarantee the Contractor's faithful performance of the work under the Contract, and the prompt and full payment for all labor and materials involved therein.
 - c. Guarantee protection to the City against liens of any kind.
 - d. Be from a surety company operating lawfully in the state of Colorado and accompanied by an acceptable "Power-of-Attorney" form attached to each bond copy.
 - e. Be issued from a surety company that is acceptable to the City.
 - f. Be submitted using the forms in the Exhibit section of this IFB or such forms as are approved by the City Attorney's Office.

1.23 SPECIFICATIONS AND DRAWINGS

No Fee solicitations: Specifications and Drawings are normally included in the IFB. If the Specifications and Drawings are too large to be included in the IFB, all interested Bidders may obtain one copy of the Project Specifications and a set of the Project Drawings for use in preparing Bids from the City Procurement Services Division office. If the Bidder requires additional sets, it is the Bidder's responsibility to duplicate any additional copies, at its own expense.

1.24 TYPE OF CONTRACT

As a result of this Invitation for Bids, it is the City's intention to award a fixed unit price Contract based on the prices offered by the lowest responsive and responsible bidder. Contract prices shall remain firm and fixed throughout the Contract performance period.

1.25 F.O.B. DESTINATION

Unless otherwise specified in the Invitation for Bid, all goods, materials, supplies, equipment, or services covered by this IFB shall be delivered F.O.B. Destination shall be the location indicated in the awarded Contract or Purchase Order.

1.26 BID RESULTS

The City does not mail Bid results or tabulations. However, Bid tabulations are posted and can be downloaded from BidNet. Bidders submitting Bids in response to this solicitation may also request the Bid tabulation for this solicitation via email to the Contracts Specialist indicated as the point of contact for this solicitation.

1.27 APPROPRIATION OF FUNDS

- A. In the event funds are not appropriated in whole or in part sufficient for the performance of the City's obligations under this IFB, or appropriated funds may not be expended due to the City Charter spending limitations, then the City, without compensation to Bidders, may terminate or cancel this IFB or not award any contracts under this IFB.
- B. In accordance with the Colorado Constitution and City Charter, performance of the City's obligations under any resultant Contract will be expressly subject to appropriations of funds by the City Council, and, in the event the budget or other means of appropriation for any year of the Contract fails to provide funds in sufficient amounts to discharge such obligations, such failure (i) shall act to terminate the Contract at such time as the then-existing and available appropriations are depleted, and (ii) neither such failure nor termination shall constitute a default or breach of the Contract, including any sub-agreement, attachment, schedule, or exhibit thereto, by the City.

1.28 PERIOD OF PERFORMANCE

The Contractor shall complete all work within the period of performance of **NOTICE TO PROCEED THROUGH DECEMBER 31, 2024.** The Contractor shall start work promptly after receipt of the Notice to Proceed and Pre-Construction Meeting and continue to work diligently until all work is completed and accepted by the City.

1.29 BID DOCUMENTS

The following comprise this Invitation for Bid.

- Schedule A – Bid Form
- Schedule B – General Construction Terms and Conditions
- Schedule C – Scope of Work
- Schedule D – Clauses for Contracts Subject to Federal Requirements
- Schedule E - Exhibits

The following listed documents must be included with your Bid in order for your Bid submittal to be considered responsive.

- Schedule A – Bid Form**
- Exhibit 1 – Qualifications Documents**

Exhibit 2 – Bid Bond if applicable (see 1.23)
Exhibit 3 – Federal Exhibits
Acknowledged Addenda, if issued

SECTION II – SCHEDULES

Schedule A – Bid Form

Schedule B – General Construction Terms and Conditions

Schedule C – Special Contract Terms and Conditions

Schedule D – Scope of Work

Schedule E – Clauses for Contracts Subject to Federal Requirements

Schedule F – Exhibits

SCHEDULE A – BID FORM

PLEASE SUBMIT SCHEDULE A – BID FORM IN BIDNET

SCHEDULE B – GENERAL CONSTRUCTION TERMS AND CONDITIONS

Schedule B -- General Construction Terms and Conditions, Version 100316 are hereby incorporated by reference, with the same force and effect as if they were given in full text. Upon request, the City will make their full text available. Also, the full text of a clause may be accessed electronically at this address:

<https://www.coloradosprings.gov/finance/page/procurement-regulations-and-documents>

The referenced General Construction Terms and Conditions will be incorporated in the resultant Contract.

SCHEDULE C – SPECIAL CONTRACT TERMS AND CONDITIONS/SPECIAL SOLICITATION PROVISIONS

In addition to the special contract terms and conditions listed below, the City's sample contract (see Exhibit 1) contains contract terms and conditions.

ADA Standards: It is a requirement of the City and required by law that any new or renovated facility meet the scoping and technical requirements of the 2010 ADA Standards for newly designed and constructed or altered local government facilities, public accommodations, and facilities. The selected Design Professional shall design the project so it both conforms to the 2010 ADA Standards, as applicable and as amended, and is readily accessible to and usable by individuals with disabilities. The selected Contractor shall build the project so it both conforms to the 2010 ADA Standards, as applicable and as amended, and is readily accessible to and usable by individuals with disabilities. Facilities that are designed, constructed, and/or altered facilities that meet or exceed the IBC 2015/ANSI A117.1 2009, used by Pikes Peak Regional Building Department, will be accepted as meeting or exceeding the 2010 ADA Standards.

GENERAL

Contractor acknowledges the City is subject to Title II of the Americans with Disabilities Act ("ADA") and other laws that prohibit public entities from excluding from participation in, denying the benefits of, or discriminating against qualified individuals with disabilities on the basis of disability in the entity's services, programs, and activities and agrees to comply with the following requirements as applicable to the goods or services that are the subject of this Agreement.

- 1) Videos for public dissemination must be captioned. This non-inclusive list could include training program videos for the public, for web content, or even a museum setting. If the goods or services that are the subject of this Agreement are being purchased by the City to enhance or augment a City program, service, or activity, then the materials must be captioned.
- 2) Digital documents must be properly formatted and accessible. Digital documents intended for public use must meet accessibility guidelines as required by the City's [Administrative Regulation 2020-02, as it now exists or is amended](#), (examples include: doc, .docx, .xlsx, .pptx, .pdf, .jpg). Exclusions to this requirement can be found on page four (4) of Administrative Regulation 2020-02 and include:
 - a. Blueprints
 - b. Architectural Drawings
 - c. Diagrams displaying information that is also provided in narrative text
 - d. Complex and/or atypical images and diagrams
 - e. Scanned historical publications
 - f. Handwritten correspondence
 - g. Technical drawings
 - h. Site plans, development plans, and maps
 - i. Complex and comprehensive tables and charts

Note: Information intended for the public contained in document types excluded under Administrative Regulation 2020-02 must be made available to the City by the Contractor in other accessible formats upon request. The City requests that content be delivered in an accessible format regardless of exclusion if possible.

More information on document accessibility can be found on the City's [Accessible Digital Documents Reference Page](#)

- 3) Kiosks purchased for public use must adhere to the City's adopted [Kiosk Accessibility Standards](#)

- 4) A Software Statement of Accessibility from the vendor is required for all purchases of software for programs the public will use.

A certificate of WCAG 2.0 (AA) or higher minimal compliance will be requested and required. In the alternative, the City can accept a certificate of 508 compliance. Typically, these are going to be “plug-in-play” software programs for such things as vendor payments, customer service surveys, and citizen requests. [Learn more about the City's Procurement of Accessible Information Technology policy.](#)

- 5) The City maintains a list of technical resources for other [ADA related Works](#):
 - a. [ADA/City Standards for Public Right of Way for Sidewalks, Protruding Objects, and Vertical Clearance](#)
 - b. [Pedestrian Accessibility in the Public Way During Construction](#)
 - c. [ADA Restroom Requirements and Considerations](#)
 - d. [ADA Requirements and Considerations: Dining and Work Surface Requirements](#)
 - e. [ADA Requirements and Considerations: Sales and Service Counters](#)

DOCUMENTATION OF ACCESSIBILITY

Within 10 days of the City's written request, the Contractor will provide the City with accessibility testing results and/or other written documentation as assurance and verification of the state of accessibility required. Documentation of accessibility as required by the City's Administrative Regulation 2020-02 and the City's Accessible IT Procurement policy is considered to be:

- 1) A current VPAT (2020), which can be found at <http://www.itic.org/policy/accessibility>, or
- 2) A completed copy of the City's Accessibility Checklist, which can be found at https://coloradosprings.gov/sites/default/files/accessible_it_procurement_002.pdf, or
- 3) An independent third-party evaluation from an accessibility consultant.

RESOLUTION OF ACCESSIBILITY MATTERS

The City, in its sole discretion and at its own expense, may choose to obtain an independent assessment of the Contractor's compliance with these requirements but will not be responsible for doing so. If the City so chooses to obtain an independent assessment, then upon the City's notice or request to the Contractor, the Contractor shall:

- 1) Provide a Point of Contact (including name, address, phone number, and email address) specifically to confer with the project manager on accessibility matters.
- 2) Promptly respond to complaints about accessibility made or received by the City related to the Contractor's performance of this Agreement.

SCHEDULE D – SCOPE OF WORK

D.1 BACKGROUND

The City of Colorado Springs is seeking an experienced and qualified licensed contractor to repair and mitigate flood damage on the existing cover of the 26th street landfill. The work will be conducted through FEMA Public Assistance. The landfill is under a post closure mitigation and maintenance plan requiring the cover to stay free of ponding and in good repair. The flooding in June of 2023 created a ponding area (site 1) and erosion on the slope of the toe of the landfill (site 2).

The Scope of Services to be provided shall include, but not be limited to: furnishing of all labor, materials, equipment, component/devices, transportation, fuel, supervision, clean up and inspections to repair and mitigate flood damage; and all other incidentals needed to complete all necessary work, in accordance with this proposal and as indicated in the attached specifications and drawings.

Proposers need to submit the repairs to site 1 and site 2 as a single bid. The mitigation work to site 2 will be bid as an additive alternate. The separate bids will be submitted to FEMA for final approval.

D.2 SITE 1 REPAIR

Repair a ponding site. The area is approximately 110 feet by 60 feet. This area needs to be filled with 4 feet of unclassified clean fill. Compaction rate will be 6" to 12" vertical lifts depending on soil composition. The repair area will be covered with 12" of grade A topsoil with no rocks and hydroseeded with the seed mix listed below. Grade on this repair is not to exceed 2% to protect the landfill cover.

D.3 SITE 2 REPAIR

Repair the erosion on slope of the toe of the landfill. The area is 100 feet x 40 feet. The area will be filled with 24" of grade A topsoil with no rocks and hydroseeded with the seed mix listed.

D.4 SITE 2 MITIGATION (ADD ALT)

The mitigation work will work to stabilize the slope of the landfill at site 2. The slope will be reinforced with approximately 200 cubic yards of 6" to 18" rip rap. Staging rip rap check dams on the slope every 25 feet to prevent further erosion. Rip rap will go over the 24" topsoil repair. Rip rap will be covered with 3" of grade A topsoil with no rocks and hydroseeded with the seed mix listed below.

Proposers are expected to visit the jobsite to determine all requirements and conditions that will affect the work. Failure to do so will not relieve a proposer from responsibility to know what is contained in this request for proposal, or site conditions affecting the work.

The successful offeror will be a highly qualified firm that not only offers a cost proposal that will be within the City's construction budget, but also be able to demonstrate their ability to complete this project within the requested completion time or earlier. Furthermore, the successful contractor based on strong partnerships with their subcontractors, can obtain fair and competitive prices for

products, and the ability to ensure the production necessary to meet proposed schedule milestones and completion date.

D.5 MISCELLANEOUS ITEMS TO NOTE

A. The Contractor shall be responsible for planning and providing perimeter site fencing and signage as required to ensure the safety and security of the site from the public.

B. Contractor shall be responsible for legal disposal of any waste created during the project.

D.6 ACCEPTANCE

The City of Colorado Springs will review each installation to determine compliance prior to final acceptance of the work. Any work not installed in accordance with the plans and specifications and rejected by the City of Colorado Springs must be removed and replaced at the Contractor's expense.

D.7 CLEANING

Perform cleaning during installation of the work and upon completion of the work. Remove from site all excess materials, soil, debris, and equipment. Any spoils created from this work must become the property of the Contractor and must be disposed of in a legal and proper manner.

D.8 FIELD CONDITIONS

It is the responsibility of the Contractor to verify all site conditions before they submit their bid. Verify and coordinate all work to field locations and dimensions. Contractor is responsible for the installation of temporary construction fencing and signage to safely enclose the work area along with silt fencing for entire perimeter of site work.

D.9 MEETINGS

Weekly meetings with city staff for project progress, issue identification and resolution of departmental input. The contractor will also coordinate a pre-construction meeting with departmental representatives.

D.10 CONSTRUCTION

Construction must be in accordance with the terms and conditions in this Invitation to proposal, construction documents provided under Exhibit and as stated in the Scope of Services. All work must meet all applicable Federal, State, and local regulations.

D.11 PROPERTY REPLACEMENT

Property at the site, including turf (sod), concrete pavement, asphalt, and fencing requiring movement during the course of construction, or any other damage due to the work performed by contractor must be reinstalled, repaired or replaced before final payment is made.

D.12 SAFETY PRECAUTIONS

The contractor is responsible for initiating, maintaining, and supervising all safety precautions in connection with the work and applies continuously throughout the contract term. The contractor is responsible for meeting or exceeding all OSHA standards on the site as well as meeting any state or local safety standards. The contractor must erect and maintain all reasonable safeguards for safety and protection, including posting danger signs and other warning signs against hazards. It is the responsibility of the contractor to provide a safe environment for park patrons and must monitor and maintain fencing/barricades to ensure continued safety.

D.13 USE OF SITE

The contractor must confine its operations at the site to areas permitted by law, ordinances and permits. The contractor must not unreasonably encumber the site with materials, equipment or trailers nor shall the entrance be blocked or otherwise prevent reasonable access to the site, other working, and parking areas, completed portions of the work and/or properties and storage areas. The Park and trails surrounding the site will remain open to the public during the project.

D.14 WARRANTY AND GUARANTEES

The contractor must furnish the City of Colorado Springs with a signed Two (2) year warranty and maintenance program covering all systems for Two (2) years from the date of final acceptance of the project by City of Colorado Springs. The contractor is responsible for securing warranties and guarantees for any materials, equipment, or fixtures to be incorporated into the project.

D.15 WORKMANSHIP

A. All furnishings described in this solicitation must be installed by qualified tradesman. All installation work and materials to be per manufacturer's specifications, or as directed by the Owner's Representative.

B. All work and materials are subject to the approval of the City of Colorado Springs.

C. All products must be inspected by the City of Colorado Springs for damage and chipped or marred finish. The contractor must replace any damaged or rejected products at no additional cost to the owner. The owner's representative may at his option authorize acceptance of chipped or scratched painted surfaces repaired by contractor at his own risk.

D.16 TIMELINE

The City would like this project completed before December 2024.

D.17 SEED MIX

Basic reclamation requirements:

Scientific Name	Common Name	%
Bouteloua Curtipendula	Side Oats Grama	25
Pascopyrum Smithii	Western Wheatgrass	10
Elymus Trachycaulus	Slender Wheatgrass	5

Andropogon Gerardii	Big Bluestem	5
Bouteloua Gracilis	Blue Grama	15
Panicum Virgatum	Purple Three-Awn	10
Schizachyrium Scoparium	Little Bluestem	10
Sporobolus Cyrptandrus	Sand Dropseed	5
Nassella Viridula	Green Needlegrass	5
Bromus Marginatus	Mountain Brome	10

D.18 LOCATION MAPS

D18.1 – Site Locations



D18.2 Overhead View



SCHEDULE E – CLAUSES FOR CONTRACTS SUBJECT TO FEDERAL REQUIREMENTS

1. EQUAL EMPLOYMENT OPPORTUNITY

To view the City of Colorado Springs EEOP (Equal Employment Opportunity Plan) Utilization Report, the link is www.coloradosprings.gov/eeop.

During the performance of this Contract, the Contractor agrees as follows:

A. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

B. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

C. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

D. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

E. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

F. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

G. The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however*, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

H. Subcontracts. Each nonexempt prime contractor or subcontractor shall include the equal opportunity clause in each of its nonexempt subcontracts.

I. Incorporation by reference. The equal opportunity clause may be incorporated by reference in all Government contracts and subcontracts, including Government bills of lading, transportation requests, contracts for deposit of Government funds, and contracts for issuing and paying U.S. savings bonds and notes, and such other contracts and subcontracts as the Deputy Assistant Secretary may designate.

J. Incorporation by operation of the order. By operation of the order, the equal opportunity clause shall be considered to be a part of every contract and subcontract required by the order and the regulations in this part to include such a clause whether or not it is physically incorporated in such contracts and whether or not the contract between the agency and the contractor is written.

K. Adaptation of language. Such necessary changes in language may be made in the equal opportunity clause as shall be appropriate to identify properly the parties and their undertakings. [43 FR 49240, Oct. 20, 1978, as amended at 62 FR 66971, Dec. 22, 1997]

2. EQUAL EMPLOYMENT OPPORTUNITY REPORTS AND OTHER REQUIRED INFORMATION

A. Requirements for prime contractors and subcontractors.

1. Each prime contractor and subcontractor shall file annually, on or before the September 30, complete and accurate reports on Standard Form 100 (EEO-1) promulgated jointly by the Office of Federal Contract Compliance Programs, the Equal Employment Opportunity Commission and Plans for Progress or such form as may hereafter be promulgated in its place if such prime contractor or subcontractor (i) is not exempt from the provisions of these regulations in accordance with § 60-1.5; (ii) has 50 or more employees; (iii) is a prime contractor or first tier subcontractor; and (iv) has a contract, subcontract or purchase order amounting to \$50,000 or more or serves as a depository of Government funds in any amount, or is a financial institution which is an issuing and paying agent for U.S. savings bonds and savings notes: *Provided*, That any subcontractor below the first tier which performs construction work at the site of construction shall be required to file such a report if it meets requirements of paragraphs (a)(1) (i), (ii), and (iv) of this section.

2. Each person required by § 60-1.7(a)(1) to submit reports shall file such a report with the contracting or administering agency within 30 days after the award to him of a contract or subcontract, unless such person has submitted such a report within 12 months preceding the date of the award. Subsequent reports shall be submitted annually in accordance with § 60-1.7(a)(1), or at such other intervals as the Deputy Assistant Secretary may require. The Deputy Assistant Secretary may extend the time for filing any report.

3. The Deputy Assistant Secretary or the applicant, on their own motions, may require a contractor to keep employment or other records and to furnish, in the form requested, within reasonable limits, such information as the Deputy Assistant Secretary or the applicant deems necessary for the administration of the order.

4. Failure to file timely, complete and accurate reports as required constitutes noncompliance with the prime contractor's or subcontractor's obligations under the equal opportunity clause and is ground for the imposition by the Deputy Assistant Secretary, an applicant, prime contractor or subcontractor, of any sanctions as authorized by the order and the regulations in this part.

B. Requirements for bidders or prospective contractors—

1. Certification of compliance with Part 60-2: Affirmative Action Programs. Each agency shall require each bidder or prospective prime contractor and proposed subcontractor, where appropriate, to state in the bid or in writing at the outset of negotiations for the contract: (i) Whether it has developed and has on file at each establishment affirmative action programs

pursuant to Part 60-2 of this chapter; (ii) whether it has participated in any previous contract or subcontract subject to the equal opportunity clause; (iii) whether it has filed with the Joint Reporting Committee, the Deputy Assistant Secretary or the Equal Employment Opportunity Commission all reports due under the applicable filing requirements.

2. *Additional information.* A bidder or prospective prime contractor or proposed subcontractor shall be required to submit such information as the Deputy Assistant Secretary requests prior to the award of the contract or subcontract. When a determination has been made to award the contract or subcontract to a specific contractor, such contractor shall be required, prior to award, or after the award, or both, to furnish such other information as the applicant or the Deputy Assistant Secretary requests.

C. *Use of reports.* Reports filed pursuant to this section shall be used only in connection with the administration of the order, the Civil Rights Act of 1964, or in furtherance of the purposes of the order and said Act.[43 FR 49240, Oct. 20, 1978, as amended at 62 FR 66971, Dec. 22, 1997]

3. CONSTRUCTION WAGE RATE REQUIREMENTS (DAVIS BACON) (From FAR 52.222-6)

The term "Contracting Officer" herein shall refer to the City of Colorado Springs Contracting Specialist assigned to this contract.

A. Definition.-"Site of the work"-

1. Means-

a. *The primary site of the work.* The physical place or places where the construction called for in the contract will remain when work on it is completed.

b. *The secondary site of the work, if any.* Any other site where a significant portion of the building or work is constructed, provided that such site is-

1. Located in the United States; and
2. Established specifically for the performance of the contract or project;

2. Except as provided in paragraph (3) of this definition, includes any fabrication plants, mobile factories, batch plants, borrow pits, job headquarters, tool yards, etc., provided-

a. They are dedicated exclusively, or nearly so, to performance of the contract or project; and

b. They are adjacent or virtually adjacent to the "primary site of the work" as defined in paragraph (a)(1)(i), or the "secondary site of the work" as defined in paragraph (a)(1)(ii) of this definition;

3. Does not include permanent home offices, branch plant establishments, fabrication plants, or tool yards of a Contractor or subcontractor whose locations and continuance in operation are determined wholly without regard to a particular Federal contract or project. In addition, fabrication plants, batch plants, borrow pits, job headquarters, yards, etc., of a commercial or material supplier which are established by a supplier of materials for the project before opening of bids and not on the Project site, are not included in the "site of the work." Such permanent, previously established facilities are not a part of the "site of the work" even if the operations for a period of time may be dedicated exclusively or nearly so, to the performance of a contract.

B. All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, or as may be

incorporated for a secondary site of the work, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics. Any wage determination incorporated for a secondary site of the work shall be effective from the first day on which work under the contract was performed at that site and shall be incorporated without any adjustment in contract price or estimated cost. Laborers employed by the construction Contractor or construction subcontractor that are transporting portions of the building or work between the secondary site of the work and the primary site of the work shall be paid in accordance with the wage determination applicable to the primary site of the work.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Construction Wage Rate Requirements statute on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (e) of this clause; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such period.

Such laborers and mechanics shall be paid not less than the appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill, except as provided in the clause entitled Apprentices and Trainees. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed.

The wage determination (including any additional classifications and wage rates conformed under paragraph (c) of this clause) and the Construction Wage Rate Requirements (Davis-Bacon Act) poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the primary site of the work and the secondary site of the work, if any, in a prominent and accessible place where it can be easily seen by the workers.

C. The Contracting Officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The Contracting Officer shall approve an additional classification and wage rate and fringe benefits therefor only when all the following criteria have been met:

1. The work to be performed by the classification requested is not performed by a classification in the wage determination.
2. The classification is utilized in the area by the construction industry.
3. The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Contracting Officer agree on the classification and wage rate (including the amount designated for fringe benefits, where appropriate), a report of the action taken shall be sent by the Contracting Officer to the Administrator of the:

Wage and Hour Division
Employment Standards Administration
U.S. Department of Labor
Washington, DC 20210

The Administrator or an authorized representative will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

In the event the Contractor, the laborers or mechanics to be employed in the classification, or their representatives, and the Contracting Officer do not agree on the proposed classification and wage rate

(including the amount designated for fringe benefits, where appropriate), the Contracting Officer shall refer the questions, including the views of all interested parties and the recommendation of the Contracting Officer, to the Administrator of the Wage and Hour Division for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

The wage rate (including fringe benefits, where appropriate) determined pursuant to paragraphs (c)(2) and (c)(3) of this clause shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

D. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

E. If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program; provided, That the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Construction Wage Rate Requirements statute have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

4. CONTRACT WORK HOURS AND SAFETY STANDARDS (from FAR 52.222-4)

The term "Contracting Officer" herein shall refer to the City of Colorado Springs Contracting Specialist assigned to this contract.

The term "Government" herein shall refer to the City of Colorado Springs and any interested federal or state entity.

A. *Overtime requirements.* No Contractor or subcontractor employing laborers or mechanics (see Federal Acquisition Regulation 22.300) shall require or permit them to work over 40 hours in any workweek unless they are paid at least 1 and 1/2 times the basic rate of pay for each hour worked over 40 hours.

B. *Violation; liability for unpaid wages; liquidated damages.* The responsible Contractor and subcontractor are liable for unpaid wages if they violate the terms in paragraph (a) of this clause. In addition, the Contractor and subcontractor are liable for liquidated damages payable to the Government. The Contracting Officer will assess liquidated damages at the rate of \$10 per affected employee for each calendar day on which the employer required or permitted the employee to work in excess of the standard workweek of 40 hours without paying overtime wages required by the Contract Work Hours and Safety Standards statute (found at 40 U.S.C. chapter 37).

C. *Withholding for unpaid wages and liquidated damages.* The Contracting Officer will withhold from payments due under the contract sufficient funds required to satisfy any Contractor or subcontractor liabilities for unpaid wages and liquidated damages. If amounts withheld under the contract are insufficient to satisfy Contractor or subcontractor liabilities, the Contracting Officer will withhold payments from other Federal or federally assisted contracts held by the same Contractor that are subject to the Contract Work Hours and Safety Standards statute

D. Payrolls and basic records.

1. The Contractor and its subcontractors shall maintain payrolls and basic payroll records for all laborers and mechanics working on the contract during the contract and shall make them available to the Government until 3 years after contract completion. The records shall contain the name and address of each employee, social security number, labor classifications, hourly rates of

wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. The records need not duplicate those required for construction work by Department of Labor regulations at 29 CFR 5.5(a)(3) implementing the Construction Wage Rate Requirements statute.

2. The Contractor and its subcontractors shall allow authorized representatives of the Contracting Officer or the Department of Labor to inspect, copy, or transcribe records maintained under paragraph (d)(1) of this clause. The Contractor or subcontractor also shall allow authorized representatives of the Contracting Officer or Department of Labor to interview employees in the workplace during working hours.

E. *Subcontracts*. The Contractor shall insert the provisions set forth in paragraphs (a) through (d) of this clause in subcontracts that may require or involve the employment of laborers and mechanics and require subcontractors to include these provisions in any such lower tier subcontracts. The Contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the provisions set forth in paragraphs (a) through (d) of this clause.

5. CLEAN AIR ACT

By signing this Contract, the Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). Further, the Contractor agrees to include this clause in all subcontracts in excess of \$150,000.

6. DEBARMENT AND SUSPENSION

By signing this Contract, the Contractor certifies to the best of its knowledge and belief that it and its principals:

A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

B. Have not within a three year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, falsification or destruction of records, making false statements, or receiving stolen property;

C. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

D. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

7. BYRD ANTI-LOBBYING AMENDMENT

By signing this Contract, the Contractor certifies that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Further, the Contractor certifies that it has not engaged in lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. The Contractor must require the same certification from all subcontractors with subcontracts valued in excess of \$100,000 under this Contract.

8. SMALL BUSINESS REQUIREMENTS

The Contractor must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

Affirmative steps must include:

- A. Placing qualified small and minority businesses and women's business enterprises on subcontract solicitation lists.
- B. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources for subcontracting.
- C. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises.
- D. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises.
- E. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

9. PROCUREMENT OF RECOVERED MATERIALS

The Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

10. ANTI-KICKBACK PROCEDURES

A. Definitions.

1. "Kickback," as used in this clause, means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided to any prime Contractor, prime Contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract.
2. "Person," as used in this clause, means a corporation, partnership, business association of any kind, trust, joint-stock company, or individual.
3. "Prime contract," as used in this clause, means a contract or contractual action entered into by the United States for the purpose of obtaining supplies, materials, equipment, or services of any kind.
4. "Prime Contractor" as used in this clause, means a person who has entered into a prime contract with the United States.
5. "Prime Contractor employee," as used in this clause, means any officer, partner, employee, or agent of a prime Contractor.
6. "Subcontract," as used in this clause, means a contract or contractual action entered into by a prime Contractor or subcontractor for the purpose of obtaining supplies, materials, equipment, or services of any kind under a prime contract.
7. "Subcontractor," as used in this clause,

a. Means any person, other than the prime Contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a prime contract or a subcontract entered into in connection with such prime contract, and

b. Includes any person who offers to furnish or furnishes general supplies to the prime Contractor or a higher tier subcontractor.

8. "Subcontractor employee," as used in this clause, means any officer, partner, employee, or agent of a subcontractor.

B. The 41 U.S.C. chapter 87, Kickbacks, prohibits any person from --

1. Providing or attempting to provide or offering to provide any kickback;

2. Soliciting, accepting, or attempting to accept any kickback; or

3. Including, directly or indirectly, the amount of any kickback in the contract price charged by a prime Contractor to the United States or in the contract price charged by a subcontractor to a prime Contractor or higher tier subcontractor.

C. The Contractor shall have in place and follow reasonable procedures designed to prevent and detect possible violations described in paragraph (b) of this clause in its own operations and direct business relationships.

When the Contractor has reasonable grounds to believe that a violation described in paragraph (b) of this clause may have occurred, the Contractor shall promptly report in writing the possible violation. Such reports shall be made to the inspector general of the contracting agency, the head of the contracting agency if the agency does not have an inspector general, or the Attorney General.

The Contractor shall cooperate fully with any Federal agency investigating a possible violation described in paragraph (b) of this clause.

The Contracting Officer may

1. offset the amount of the kickback against any monies owed by the United States under the prime contract and/or

2. direct that the Prime Contractor withhold from sums owed a subcontractor under the prime contract the amount of the kickback. The Contracting Officer may order that monies withheld under subdivision (c)(4)(ii) of this clause be paid over to the Government unless the Government has already offset those monies under subdivision (c)(4)(i) of this clause. In either case, the Prime Contractor shall notify the Contracting Officer when the monies are withheld.

The Contractor agrees to incorporate the substance of this clause, including subparagraph (c)(5) but excepting subparagraph (c)(1), in all subcontracts under this contract which exceed \$150,000.

11. ENERGY EFFICIENCY IN ENERGY CONSUMING PRODUCTS

A. Definition. As used in this clause--

1. "Energy-efficient product"—

a. Means a product that—

i. Meets Department of Energy and Environmental Protection Agency criteria for use of the Energy Star trademark label; or

ii. Is in the upper 25 percent of efficiency for all similar products as designated by the Department of Energy's Federal Energy Management Program.

2. The term "product" does not include any energy-consuming product or system designed or procured for combat or combat-related missions (42 U.S.C. 8259b).

B. The Contractor shall ensure that energy-consuming products are energy efficient products (i.e., ENERGY STAR® products or FEMP-designated products) at the time of contract award, for products that are—

1. Delivered.

2. Acquired by the Contractor for use in performing services at a Federally controlled facility.

3. Furnished by the Contractor for use by the Government.

4. Specified in the design of a building or work, or incorporated during its construction, renovation, or maintenance.

C. The requirements of paragraph (b) apply to the Contractor (including any subcontractor) unless:

1. The energy-consuming product is not listed in the ENERGY STAR® Program or FEMP; or

2. Otherwise approved in writing by the Contracting Officer.

D. Information about these products is available for—

1. ENERGY STAR® at <http://www.energystar.gov/products>; and

2. FEMP at http://www1.eere.energy.gov/femp/procurement/eep_requirements.html.

12. BUY AMERICAN—CONSTRUCTION MATERIALS

A. Definitions. As used in this clause—

1. "Commercially available off-the-shelf (COTS) item"—

a. Means any item of supply (including construction material) that is—

i. A commercial item (as defined in paragraph (1) of the definition at FAR [2.101](#));

ii. Sold in substantial quantities in the commercial marketplace; and

iii. Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and

b. Does not include bulk cargo, as defined in [46 U.S.C. 40102\(4\)](#), such as agricultural products and petroleum products.

2. "Component" means an article, material, or supply incorporated directly into a construction material.

3. "Construction material" means an article, material, or supply brought to the construction site by the Contractor or a subcontractor for incorporation into the building or work. The term also

includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.

4. "Cost of components" means—

- a. For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the construction material (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or
- b. For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the construction material.

5. "Domestic construction material" means—

- a. An unmanufactured construction material mined or produced in the United States;
- b. A construction material manufactured in the United States, if—
 - i. The cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic.
 - b. The construction material is a COTS item.

6. "Foreign construction material" means a construction material other than a domestic construction material.

7. "United States" means the 50 States, the District of Columbia, and outlying areas.

a. Domestic preference.

- i. This clause implements [41 U.S.C. chapter 83](#), Buy American, by providing a preference for domestic construction material. In accordance with [41 U.S.C. 1907](#), the component test of the Buy American statute is waived for construction material that is a COTS item. (See FAR [12.505\(a\)\(2\)](#)). The Contractor shall use only domestic construction material in performing this contract, except as provided in paragraphs (b)(2) and (b)(3) of this clause.
- ii. This requirement does not apply to information technology that is a commercial item or to the construction materials or components listed by the Government as follows:

- b. The Contracting Officer may add other foreign construction material to the list in paragraph (b)(2) of this clause if the Government determines that—
- i. The cost of domestic construction material would be unreasonable. The cost of a particular domestic construction material subject to the requirements of the Buy American statute is unreasonable when the cost of such material exceeds the cost of foreign material by more than 6 percent;
 - ii. The application of the restriction of the Buy American statute to a particular construction material would be impracticable or inconsistent with the public interest; or
 - iii. The construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality.

8. Request for determination of inapplicability of the Buy American statute.

- a. Any Contractor request to use foreign construction material in accordance with paragraph (b)(3) of this clause shall include adequate information for Government evaluation of the request, including—
- i. A description of the foreign and domestic construction materials
 - ii. Unit of measure
 - iii. Quantity
 - iv. Price
 - v. Time of delivery or availability
 - vi. Location of the construction project
 - vii. Name and address of the proposed supplier
 - viii. A detailed justification of the reason for use of foreign construction materials cited in accordance with paragraph (b)(3) of this clause.
- b. A request based on unreasonable cost shall include a reasonable survey of the market and a completed price comparison table in the format in paragraph (d) of this clause.
- (iii) The price of construction material shall include all delivery costs to the construction site and any applicable duty (whether or not a duty-free certificate may be issued).
- (iv) Any Contractor request for a determination submitted after contract award shall explain why the Contractor could not reasonably foresee the need for such determination and could not have requested the determination before contract award. If the Contractor does not submit a satisfactory explanation, the Contracting Officer need not make a determination.

(2) If the Government determines after contract award that an exception to the Buy American statute applies and the Contracting Officer and the Contractor negotiate adequate consideration, the Contracting Officer will modify the contract to allow use of the foreign construction material. However, when the basis for the exception is the unreasonable price of a domestic construction material, adequate consideration is not less than the differential established in paragraph (b)(3)(i) of this clause.

(3) Unless the Government determines that an exception to the Buy American statute applies, use of foreign construction material is noncompliant with the Buy American statute.

(d) Data. To permit evaluation of requests under paragraph (c) of this clause based on unreasonable cost, the Contractor shall include the following information and any applicable supporting data based on the survey of suppliers:

FOREIGN AND DOMESTIC CONSTRUCTION MATERIALS PRICE COMPARISON

Construction Material Description	Unit of Measure	Quantity	Price (Dollars)*
Item 1:			
Foreign construction material	_____	_____	_____
Domestic construction material	_____	_____	_____
Item 2:			
Foreign construction material	_____	_____	_____
Domestic construction material	_____	_____	_____

[List name, address, telephone number, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.]

[Include other applicable supporting information.]

[* Include all delivery costs to the construction site and any applicable duty (whether or not a duty-free entry certificate is issued).]

13. INFRASTRUCTURE INVESTMENT AND JOBS ACT, BUILD AMERICA, BUY AMERICA

THIS SECTION ONLY APPLIES TO PROJECTS THAT HAVE A TOTAL COST OF \$250,000 OR MORE AND THAT INCLUDE THE USE OF IRON OR STEEL.

Recipients of an award of Federal financial assistance from a program for infrastructure are hereby notified that none of the funds provided under this Agreement may be used for a project for infrastructure unless:

A. All iron and steel used in the PROJECT are produced in the United States--this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

B. All manufactured products used in the PROJECT are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation.

C. All construction materials (excludes cement and cementitious materials, aggregates such as stone, sand, or gravel, or aggregate binding agents or additives) are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States.

D. The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

E. Definitions:

“Construction materials” includes an article, material, or supply—other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives 46—that is or consists primarily of:

1. Non-ferrous metals
2. Plastic and polymer-based products (including polyvinyl/chloride, composite building materials, and polymers used in fiber optic cables)
3. Glass (including optic glass)
4. Lumber; or drywall

F. Subrecipient Agreements

Contractors and their subcontractors who apply or bid for an award for an infrastructure project subject to the domestic preference requirement in the Build America, Buy America Act (BABAA) shall file the required certification to the City with each bid or offer for an infrastructure project, unless a domestic preference requirement is waived by the federal awarding agency. Contractors and subcontractors certify that no federal financial assistance funding for infrastructure projects will be provided unless all the iron, steel, manufactured projects, and construction materials used in the project are produced in the United States. BABAA, Pub. L. No. 117-58, §§ 70901-52. Contractors and subcontractors shall also disclose any use of federal financial assistance for infrastructure projects that do not ensure compliance with BABAA domestic preference requirement. Such disclosures shall be forwarded to City who in turn will forward the disclosures to the federal awarding agency; subrecipients will forward disclosures to the City, who will in turn forward the disclosures to the federal awarding agency.

SCHEDULE F – EXHIBITS

- Exhibit 1 Sample Contract
- Exhibit 2 Solicitation Qualifications Documents
- Exhibit 3 Bid Bond
- Exhibit 4 Federal Exhibits

EXHIBIT 1 – SAMPLE CONTRACT

CONSTRUCTION CONTRACT

Contract Number:		Project Name/Title	
Vendor/Contractor			
Contact Name:		Telephone:	
Email Address:			
Address:			
Federal Tax ID #		Please check one:	<input type="checkbox"/> Corporation <input type="checkbox"/> Individual <input type="checkbox"/> Partnership
City Contracting Specialist		City Dept Rep	
NOT TO EXCEED Contract Amount:		City Account #	
Contract Type:		Period of Performance:	

1. INTRODUCTION

THIS TYPE CONTRACT ("Contract") is made and entered into this ___ day of _____, 20xx by and between the City of Colorado Springs, a Colorado municipal corporation and home rule city, in the County of El Paso, State of Colorado, (the "City"), and _____ (the "Contractor").

THE CITY AND THE CONTRACTOR HEREBY AGREE AS FOLLOWS:

The City has heretofore prepared the necessary Contract Documents for the following Activity: XXXXXXXX.

The Contractor did on the ___ day of _____, 20xx submit to the City the Contractor's written offer and proposal to do the work therein described under the terms and conditions therein set forth and furnish all materials, supplies, labor, services, transportation, tools, equipment, and parts for said work in strict conformity with the accompanying Contract Documents, which are attached hereto and incorporated herein by this reference, including the following:

1. This Contract
2. Appendix A – Additional Terms and Conditions
3. Appendix B – Contractor’s Proposal,
4. Appendix C – Statement of Work.
5. Schedule A – Proposal Price Sheet
6. Schedule B – General Construction Terms and Conditions
7. Schedule C – Special Construction Terms and Conditions
8. Schedule D – General Specifications
9. Schedule E – Special Specifications
10. Schedule F – Minimum Insurance Requirements

11. Exhibit 1 – Performance, Labor and Material Payment, and Maintenance Bonds
12. Exhibit 2 – Notification of Utilities
13. Exhibit 3 – Project Schedule

2. COMPENSATION/CONSIDERATION

If FFP:

THIS FIRM FIXED PRICE CONTRACT is established at firm fixed amount of \$xxxxxxx.

Subject to the terms and conditions of the Contract Documents, Contractor shall provide all materials, supplies, labor, services, transportation, tools, equipment, and parts to perform _____ services for the City of Colorado Springs in a good and workmanlike manner to the satisfaction of the City for the total contract amount designated above and in the Notice of Award, to be paid by the City to the Contractor.

IF FIXED UNIT PRICE

THIS FIXED UNIT PRICE CONTRACT is established at the Not to Exceed amount of \$xxxxxxx.

Subject to the terms and conditions of the Contract Documents, Contractor agrees to furnish all materials and to perform all work as set forth in its proposal and as required by the Contract Documents.

All pricing is in accordance with the fixed unit prices found in Schedule A, as proposed by the Contractor. Payment made for actual quantities as set forth in Schedule B, General Construction Terms and Conditions. At no time shall the total obligation of the City exceed the not to exceed amount of this Contract.

3. TERM OF CONTRACT

Contractor will start work promptly after the Notice to Proceed and continue to work diligently until completed. The Contractor shall complete all work on an as ordered basis throughout the Contract period which is _____ **Calendar Days** after the Notice-to-Proceed (“Period of Performance”) as per the specifications and drawings. The Contractor shall provide a two-year guarantee on all work performed under this Contract after the job has been completed and accepted.

4. INSURANCE

The Contractor shall provide and maintain acceptable Insurance Policy(s) consistent with the Minimum Insurance Requirements attached as Schedule F, which includes Property, Liability, and as otherwise listed in Schedule F. The City of Colorado Springs shall be reflected as an additional insured on the Property and Liability policy(s).

Further, Contractor understands and agrees that Contractor shall have no right of coverage under any existing or future City comprehensive, self, or personal injury policies. Contractor shall provide insurance coverage for and on behalf of Contractor that will sufficiently protect Contractor, or Contractor's agents, employees, servants or other personnel, in connection with the services which are to be provided by Contractor pursuant to this Contract, including protection from claims for bodily injury, death, property damage, and lost income. Contractor shall provide worker's compensation insurance coverage for Contractor and all Contractor personnel. Contractor shall

file applicable insurance certificates with the City and shall also provide additional insurance as indicated in this Contract. ***A CURRENT CERTIFICATE OF INSURANCE IS REQUIRED PRIOR TO COMMENCEMENT OF SERVICES LISTING THE CITY AS ADDITIONALLY INSURED.***

5. RESPONSIBILITY OF THE CONTRACTOR

- A. The Contractor shall be responsible for the professional quality, technical accuracy, and the coordination of all Scope of Work services furnished by the Contractor under this Contract. The Contractor shall, without additional compensation, correct or revise any errors or deficiencies in services provided under this Contract to the satisfaction of the City.
- B. The City's review, approval of, acceptance of, or payment for the services required under this Contract shall not be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the Contractor shall be and remain liable to the City for any and all damages to the City caused by the Contractor's negligent performance of any of the services furnished under this Contract.
- C. The rights and remedies of the City provided for under this Contract are in addition to any other rights and remedies provided by law.
- D. If the Contractor is comprised of more than one legal entity, each such entity shall be jointly and severally liable hereunder.

6. WORK OVERSIGHT

- A. The extent and character of the work to be done by the Contractor shall be subject to the general approval of the City's delegated Project Manager.
- B. If any of the work or services being performed does not conform with Contract requirements, the City may require the Contractor to perform the work or services again in conformity with Contract requirements, at no increase in Contract amount. When defects in work or services cannot be corrected by re-performance, the City may (1) require the Contractor to take necessary action to ensure that future performance conforms to Contract requirements and (2) reduce the Contract price to reflect the reduced value of the work or services performed.
- C. If the Contractor fails to promptly perform the defective work or services again or to take the necessary action to ensure future performance is in conformity with Contract requirements, the City may (1) by Contract or otherwise, perform the services and charge to the Contractor any cost incurred by the City that is directly related to the performance of such work or service or (2) terminate the Contract for breach of contract.

7. SUBCONTRACTORS, ASSOCIATES, AND OTHER CONTRACTORS

- A. Any subcontractor, outside associates, or other contractors used by the Contractor in connection with Contractor's work under this Contract shall be limited to individuals or firms that are specifically identified by the Contractor in the Contractor's proposal and agreed to by the City. The Contractor shall obtain the City's Project Manager's written consent before making any substitution of these subcontractors, associates, or other contractors.
- B. The Contractor shall include a flow down clause in all of its subcontracts, agreements with outside associates, and agreements with other contractors. The flow down clause shall cause

all of the terms and conditions of this Contract, including all of the applicable parts of the Contract Documents, to be incorporated into all subcontracts, agreements with outside associates, and agreements with other contractors. The flow down clause shall provide clearly that there is no privity of contract between the City and the Contractor's subcontractors, outside associates, and other contractors.

8. KEY PERSONNEL

The key personnel listed in the proposal and/or below will be the individuals used in the performance of the work. If any of the listed key personnel leave employment or are otherwise not utilized in the performance of the work, approval to substitute must be obtained by the Contractor from the City's Project Manager. Any substitute shall have the same or a higher standard of qualifications that the key personnel possessed at the time of Contract award.

9. START AND CONTINUANCE OF WORK

It is further agreed that the Contractor will start work promptly and continue to work diligently until this Contract is completed.

10. APPROPRIATION OF FUNDS

This Contract is expressly made subject to the limitations of the Colorado Constitution and Section 7-60 of the Charter of the City of Colorado Springs. Nothing herein shall constitute, nor be deemed to constitute, the creation of a debt or multi-year fiscal obligation or an obligation of future appropriations by the City Council of Colorado Springs, contrary to Article X, § 20, Colo. Const., or any other constitutional, statutory, or charter debt limitation. Notwithstanding any other provision of this Contract, with respect to any financial obligation of the City which may arise under this Agreement in any fiscal year after the year of execution, in the event the budget or other means of appropriation for any such year fails to provide funds in sufficient amounts to discharge such obligation, such failure (i) shall act to terminate this Contract at such time as the then-existing and available appropriations are depleted, and (ii) neither such failure nor termination shall constitute a default or breach of this Contract, including any sub-agreement, attachment, schedule, or exhibit thereto, by the City. As used herein, the term "appropriation" shall mean and include the due adoption of an appropriation ordinance and budget and the approval of a Budget Detail Report (Resource Allocations) which contains an allocation of sufficient funds for the performance of fiscal obligations arising under this Contract.

11. CHANGES

The Contractor and the City agree and acknowledge as a part of this Contract that no change order or other form or order or directive may be issued by the City which requires additional compensable work to be performed, which work causes the aggregate amount payable under the Contract to exceed the amount appropriated for this Contract as listed above, unless the Contractor has been given a written assurance by the City that lawful appropriations to cover the costs of the additional work have been made or unless such work is covered under a remedy-granting provision of this Contract. The Contractor and the City further agree and acknowledge as a part of this Contract that no change order or other form or order or directive which requires additional compensable work to be performed under this Contract shall be issued by the City unless funds are available to pay such additional costs, and, regardless of any remedy-granting provision included within this Contract, the Contractor shall not be entitled to any additional compensation for any change which increases or decreases the Contract completion date, or for

any additional compensable work performed under this Contract, and expressly waives any rights to additional compensation, whether by law or equity, unless, prior to commencing the additional work, the Contractor is given a written change order describing the change in Contract completion date or the additional compensable work to be performed, and setting forth the amount of compensation to be paid, and such change order is signed by the authorized City representative, as defined below. The amount of compensation to be paid, if any, shall be deemed to cover any and all additional, direct, indirect or other cost or expense or profit of the Contractor whatsoever. It is the Contractor's sole responsibility to know, determine, and ascertain the authority of the City representative signing any change order under this Contract.

No change, amendment, or modification to this Contract shall be valid unless duly approved and issued in writing by the City of Colorado Springs Procurement Services Division. The City shall not be liable for any costs incurred by the Contractor resulting from work performed for changes not issued in writing by the City of Colorado Springs Procurement Services Division.

The following personnel are authorized to sign changes, amendments, or modifications to this Contract.

The City Department Head: Changes up to \$150,000.00
The City Deputy Chief of Staff: Changes up to \$499,999.99
The City Chief of Staff: Changes up to \$1,999,999.99
The Mayor of the City of Colorado Springs: Unlimited

12. ECONOMIC PRICE ADJUSTMENT

- A. The Contractor shall notify the City of Colorado Springs Procurement Services Division if, at any time during contract performance, the rate of pay for labor or the unit prices for material shown in Schedule A experiences a significant increase. A change in price shall be considered significant when the unit price of an item increases by 10% from the execution date of this Contract. The Contractor shall furnish notice of this increase within 60 days after the increase, or within any additional period that the City Procurement Services Division may approve in writing, but not later than the date of final payment under this Contract. The notice shall include the Contractor's proposal for an adjustment in the Contract unit prices to be negotiated under paragraph (b) of this clause, and shall include, in the form required by the City Procurement Services Division, supporting data explaining the cause, effective date, and amount of the increase and the amount of the Contractor's adjustment proposal.
- B. Promptly after the City Procurement Services Division receives the notice and data under paragraph (a) of this clause, the City Procurement Services Division and the Contractor shall negotiate a price adjustment in the contract unit prices and its effective date. However, the City Procurement Services Division may postpone the negotiations until an accumulation of increases in the labor rates (including fringe benefits) and unit prices of material shown in Schedule A results in an adjustment allowable under paragraph (c)(3) of this clause. The City Procurement Services Division shall modify this contract (1) to include the price adjustment and its effective date and (2) to revise the labor rates (including fringe benefits) or unit prices of material as shown in Schedule A to reflect the increases resulting from the adjustment. The Contractor shall continue performance at current rates pending agreement on, or determination of, any adjustment and its effective date.
- C. Any price adjustment under this clause is subject to the following limitations:

1. Any adjustment shall be limited to the effect on unit prices of the increases in the rates of pay for labor (including fringe benefits) or unit prices for material shown in Schedule A. There shall be no adjustment for:
 - (i) Supplies or services for which the production cost is not affected by such changes;
 - (ii) Changes in rates or unit prices other than those shown in Schedule A; or
 - (iii) Changes in the quantities of labor or material used from those shown in Schedule A for each item.
2. No upward adjustment shall apply to supplies or services that are required to be delivered or performed before the effective date of the adjustment, unless the Contractor's failure to deliver or perform according to the delivery schedule results from causes beyond the Contractor's control and without its fault or negligence, within the meaning of the Default clause.
3. There shall be no adjustment for any change in rates of pay for labor (including fringe benefits) or unit prices for material which would not result in a net change of at least 3 percent of the then-current total contract price. This limitation shall not apply, however, if, after final delivery of all line items, either party requests an adjustment under paragraph (b) of this clause.
4. The aggregate of the increases in any contract unit price made under this clause shall not exceed 10 percent of the original unit price.

13. ASSIGNMENT

No assignment or transfer by the Contractor of this Contract or any part thereof or of the funds to be received thereunder by the Contractor will be recognized unless such assignment has had the prior written approval of the City and the surety has been given due notice of such assignment. Such written approval by the City shall not relieve the Contractor of the obligations under the terms of this Contract. In addition to the usual recitals in assignment contracts, the following language must be included in the assignment:

It is agreed that the funds to be paid to the assignee under this assignment are subject to a prior lien for services rendered or materials supplied for the performance of the work called for in said contract in favor of all persons, firms, or corporations rendering such services or supplying such materials.

14. CHOICE OF LAW

This Contract is subject to and shall be interpreted under the law of the State of Colorado, and the Charter, City Code, Ordinances, Rules and Regulations of the City of Colorado Springs, Colorado, a Colorado home rule city. Court venue and jurisdiction shall be exclusively in the Colorado District Court for El Paso County, Colorado. The Parties agree that the place of performance for this Contract is deemed to be in the City of Colorado Springs, El Paso County, State of Colorado. The Contractor shall ensure that the Contractor and the Contractor's employees, agents, officers and subcontractors are familiar with, and comply with, applicable Federal, State, and Local laws and regulations as now written or hereafter amended.

15. WORKERS' COMPENSATION INSURANCE

Contractor shall take out and maintain during the Period of Performance, Colorado Worker's Compensation Insurance for the Contractor and all employees of the Contractor. If any service is sublet by the Contractor, the Contractor shall require the subcontractor to provide the same

coverage for the subcontractor and subcontractor's employees. Workers' Compensation Insurance shall include occupational disease provisions covering any obligations of the Contractor in accord with the provisions of the Workers' Compensation Act of Colorado.

16. INDEMNIFICATION

Contractor agrees that the Contractor shall indemnify, defend and hold harmless the City, its officers, employees and agents, from and against any and all loss, damage, injuries, claims, cause or causes of action, or any liability whatsoever resulting from, or arising out of, or in connection with the Contractor's obligations or actions under this Contract caused by any willful or negligent error, omission or act or a failure to observe any applicable standard of care by the Contractor or any person employed by it or anyone for whose acts the Contractor is legally liable. In consideration of the award of this Contract, to the extent damages are covered by insurance, the Contractor agrees to waive all rights of subrogation against the City, its subsidiary, parent, associated and/or affiliated entities, successors, or assigns, its elected officials, trustees, employees, agents, and volunteers for losses arising from the work performed by the Contractor for the City. The indemnification obligation shall survive the expiration or termination of this Contract

17. INDEPENDENT CONTRACTOR

In the performance of the Contractor's obligations under this Contract, it is understood, acknowledged and agreed between the parties that the Contractor is at all times acting and performing as an independent contractor, and the City shall neither have nor exercise any control or direction over the manner and means by which the Contractor performs the Contractor's obligations under this Contract, except as otherwise stated within the Contract terms. The City shall not provide any direction to the Contractor on the work necessary to complete the project. Contractor understands that it is an independent contractor responsible for knowing how to perform all work or tasks necessary to complete project. The Contractor understands and agrees that the Contractor and the Contractor's employees, agents, servants, or other personnel are not City employees. The Contractor shall be solely responsible for payment of salaries, wages, payroll taxes, unemployment benefits or any other form of compensation or benefit to the Contractor or any of the Contractor's employees, agents, servants or other personnel performing services or work under this Contract, whether it is of a direct or indirect nature. Further in that regard, it is expressly understood and agreed that for such purposes neither the Contractor nor the Contractor's employees, agents, servants or other personnel shall be entitled to any City payroll, insurance, unemployment, worker's compensation, retirement or any other benefits whatsoever.

18. APPLICABLE LAW AND LICENSES

In the conduct of the services or work contemplated in this Contract, the Contractor shall ensure that the Contractor and all subcontractors comply with all applicable state, federal and City and local law, rules and regulations, technical standards or specifications. The Contractor shall qualify for and obtain any required licenses prior to commencement of work.

19. PRIOR AGREEMENTS

This is a completely integrated Contract and contains the entire agreement between the parties. Any prior written or oral agreements or representations regarding this Contract shall be of no effect and shall not be binding on the City. This Contract may only be amended in writing and executed by duly authorized representatives of the parties hereto.

20. INTELLECTUAL PROPERTY

The Parties hereby agree, and acknowledge, that all products, items writings, designs, models, examples, or other work product of the Contractor produced pursuant to this Contract are works made for hire, and that the City owns, has, and possesses any and all ownership rights and interests to any work products of the Contractor made under this Contract, including any and all copyright, trademark, or patent rights, and that compensation to the Contractor for Agreement and acknowledgment of this intellectual property right section of this Contract is included in any compensation or price whatsoever paid to the Contractor under this Contract. It is the intent of the parties that the City shall have full ownership and control of the Contractor's work products produced pursuant to this Contract, and the Contractor specifically waives and assigns to the City all rights which Contractor may have under the 1990 Visual Artists Rights Act, federal, and state law, as now written or later amended or provided. In the event any products, items writings, designs, models, examples, or other work product produced pursuant to this Contract is deemed by a court of competent jurisdiction not to be a work for hire under federal copyright laws, this intellectual property rights provision shall act as an irrevocable assignment to the City by the Contractor of any and all copyrights, trademark rights, or patent rights in the Contractor's products, items writings, designs, models, examples, or other work product produced pursuant to this Contract, including all rights in perpetuity. Under this irrevocable assignment, the Contractor hereby assigns to the City the sole and exclusive right, title, and interest in and to the Contractor's products, items writings, designs, models, examples, or other work product produced pursuant to this Contract, without further consideration, and agrees to assist the City in registering and from time to time enforcing all copyrights and other rights and protections relating to the Contractor's products, items writings, designs, models, examples, or other work product in any and all countries. It is the Contractor's specific intent to assign all right, title, and interest whatsoever in any and all copyright rights in the Contractor's products, items writings, designs, models, examples, or other work product produced pursuant to this Contract, in any media and for any purpose, including all rights of renewal and extension, to the City. To that end, the Contractor agrees to execute and deliver all necessary documents requested by the City in connection therewith and appoints the City as Contractor's agent and attorney-in-fact to act for and in Contractor's behalf and stead to execute, register, and file any such applications, and to do all other lawfully permitted acts to further the registration, prosecution, issuance, renewals, and extensions of copyrights or other protections with the same legal force and effect as if executed by the Contractor; further, the parties expressly agree that the provisions of this intellectual property rights section shall be binding upon the parties and their heirs, legal representatives, successors, and assigns.

21. WAIVERS

No waiver of default by the City of any of the terms, covenants, and conditions hereof to be performed, kept, and observed by the Contractor shall be construed, or shall operate, as a waiver of any subsequent default of any of the terms, covenants, or conditions herein contained to be performed, kept, and observed by the Contractor.

22. THIRD PARTIES

It is expressly understood and agreed that enforcement of the terms and conditions of this Contract, and all rights of action relating to such enforcement, shall be strictly reserved to the Parties hereto, and nothing contained in this Contract shall give or allow any such claim or right of action by any other or third person or entity on such Contract. It is the express intention of the

Parties hereto that any person or entity, other than the Parties to this Contract, receiving services or benefits under this Contract shall be deemed to be incidental beneficiaries only.

23. TERMINATION

A. Termination for Convenience.

By signing this Contract, Contractor represents that it is a sophisticated business and enters into the Contract voluntarily, has calculated all business risks associated with this Contract, and understands and assumes all risks of being terminated for convenience, whether such risks are known or not known. Contractor agrees that the City may terminate this Contract at any time for convenience of the City, upon written notice to the Contractor. Contractor expressly agrees to and assumes the risk that the City shall not be liable for any costs or fees of whatsoever kind and nature if termination for convenience occurs before Contractor begins any work or portion of the work. Contractor further expressly agrees and assumes the risks that the City shall not be liable for any unperformed work, anticipated profits, overhead, mobilizations costs, set-up, demobilization costs, relocation costs of employees, layoffs or severance costs, administrative costs, productivity costs, losses on disposal of equipment or materials, cost associated with the termination of subcontractors, costs associated with purchase orders or purchases, or any other costs or fees of any kind and nature, if Contractor has started or performed portions of the Contract prior to receiving notice from the City. The City shall be liable only for the portions of work Contractor actually satisfactorily completed up to the point of the issuance of the Notice of Termination for convenience. Upon receipt of this notice the Contractor shall immediately: discontinue all services affected (unless the notice directs otherwise), and deliver to the City all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this Contract, whether completed or in process.

B. Termination for Cause: The occurrence of any one or more of the following events ("Event of Default") will justify termination for cause:

- (i) Contractor's failure to perform the work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the progress schedule as adjusted from time to time.
- (ii) Contractor's disregard of the laws or regulations of any public body having jurisdiction.
- (iii) Contractor's disregard of the authority of Project Manager.
- (iv) Contractor's violation in any material provision of the Contract Documents.
- (v) Contractor's failure to make prompt payments to its subcontractors, and suppliers of any tier, or laborers or any person working on the work by, through, or under the Contractor or any of them, any all of their employees, officers, servants, members, and agents.
- (vi) Contractor files a petition commencing a voluntary case under the U.S. Bankruptcy Code, or for liquidation, reorganization, or an arrangement pursuant to any other U.S. or state bankruptcy Laws, or shall be adjudicated a debtor or be declared bankrupt or insolvent under the U.S. Bankruptcy Code, or any other federal or state laws relating to bankruptcy, insolvency, winding-up, or adjustment of debts, or makes a general assignment for the benefit of creditors, or admits in writing its inability to pay its debts generally as they become due, or if a petition commencing an involuntary case under the U.S. Bankruptcy Code or an answer proposing the adjudication of Contractor as a debtor or bankrupt or proposing its liquidation or reorganization pursuant to the Bankruptcy Code or any other U.S. federal or state bankruptcy laws is filed in any court and Contractor consents to or acquiesces in the filing of that pleading or the petition or answer is not discharged or denied within sixty (60) Calendar Days after it is filed.

- (vii) A custodian, receiver, trustee or liquidator of Contractor, all or substantially all of the assets or business of Contractor, or of Contractor's interest in the Work or the Contract, is appointed in any proceeding brought against Contractor and not discharged within sixty (60) Calendar Days after that appointment, or if Contractor shall consent to or acquiesces in that appointment.
- (viii) Contractor fails to commence correction of defective work or fails to correct defective work within a reasonable period of time after written notice.

If one or more of the events identified in Paragraphs i-viii above occur, City may give Contractor written notice of the event and direct the event be cured. Any such Notice to Cure will provide Contractor a minimum of ten (10) calendar days to prepare and submit to the Project Manager a plan to correct the Event of Default. If such plan to correct the Event of Default is not submitted to the Project Manager within ten (10) days after the date of the written notice or such plan is unacceptable to the City, the City may, give Contractor (and the Surety, if any) written notice that Contractor's services are being terminated for cause. Upon delivery of the termination notice, City may terminate the services of Contractor in whole or in part, exclude Contractor from the site, and take possession of the work and of all Contractor's tools, appliances, construction equipment, and machinery at the project site, and use the same to the full extent they could be used by Contractor (without liability to Contractor for trespass or conversion), incorporate in the work all materials and equipment stored at the site or for which City has paid Contractor but which are stored elsewhere, and finish the work as City may deem expedient. In such case, Contractor shall not be entitled to receive any further payment until Certificate of Completion of the work. In the event City terminates this Contract for Cause and the cost of completing the work exceeds the unpaid balance of the Contract price, Contractor shall pay City for any costs of completion which exceed the Contract price when combined with all amounts previously paid to Contractor. When exercising any rights or remedies under this paragraph City shall not be required to obtain the lowest price for the work performed. Should the cost of such completion, including all proper charges, be less than the original Contract price, the amount so saved shall accrue to the City. Neither the City nor any officer, agent or employee of the City shall be in any way liable or accountable to the Contractor or the Surety for the method by which the completion of the said work, or any portion thereof, may be accomplished or for the price paid.

Where Contractor's services have been so terminated by City, the termination will not affect any rights or remedies of City against Contractor or Surety then existing or which may thereafter accrue. Any retention or payment of moneys due Contractor by City will not release Contractor from liability.

- C. Termination Notice. Upon receipt of a termination notice, whether for convenience or cause, the Contractor shall immediately: discontinue all services affected (unless the notice directs otherwise), and deliver to the City all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this Contract, whether completed or in process.
- D. Removal of Equipment. Except as provided above, in the case of termination of this Contract before completion from any cause whatever, the Contractor, if notified to do so by the City, shall promptly remove any part or all of Contractor's equipment and supplies from the property of the City, failing which the City shall have the right to remove such equipment and supplies at the expense of the Contractor.

24. BOOKS OF ACCOUNT AND AUDITING

The Contractor shall make available to the City if requested, true and complete records, which support billing statements, reports, performance indices, and all other related documentation. The City's authorized representatives shall have access during reasonable hours to all records, which are deemed appropriate to auditing billing statements, reports, performance indices, and all other related documentation. The Contractor agrees that it will keep and preserve for at least seven years all documents related to the Contract which are routinely prepared, collected or compiled by the Contractor during the performance of this Contract.

The City's Auditor and the Auditor's authorized representatives shall have the right at any time to audit all of the related documentation. The Contractor shall make all documentation available for examination at the Auditor's request at either the Auditor's or Contractor's offices, and without expense to the City.

25. COMPLIANCE WITH IMMIGRATION REFORM AND CONTROL ACT OF 1986

Contractor certifies that Contractor has complied with the United States Immigration Reform and Control Act of 1986. All persons employed by Contractor for performance of this Contract have completed and signed Form I-9 verifying their identities and authorization for employment.

26. LABOR

The Contractor shall employ only competent and skilled workmen and foremen in the conduct of work on this Contract. The Contractor shall at all times enforce strict discipline and good order among Contractor's employees. The Project Manager shall have the authority to order the removal from the work of any person, including Contractor's or any subcontractor's employees, who refuses or neglects to observe any of the provisions of these Plans or Specifications, or who is incompetent, abusive, threatening, or disorderly in conduct and any such person shall not again be employed on the Project.

In accord with the Keep Jobs in Colorado Act, codified at sections 8-17-101, et seq., C.R.S., Colorado labor shall be employed to perform the work to the extent of not less than eighty percent (80%) of each type or class of labor in the several classifications of skilled and common labor employed on this Project et seq.; provided however, that this paragraph shall not apply if the Project receives federal funding.

In no event shall the City be responsible for overtime pay.

27. GRATUITIES

- A. This Contract may be terminated if the Mayor, the Mayor's designee, and/or the Procurement Services Manager determine, in their sole discretion, that the Contractor or any officer, employee, agent, or other representative whatsoever, of the Contractor offered or gave a gift or hospitality to a City officer, employee, agent or Contractor for the purpose of influencing any decision to grant a City contract or to obtain favorable treatment under any City contract.
- B. The terms "hospitality" and "gift" include, but are not limited to, any payment, subscription, advance, forbearance, acceptance, rendering or deposit of money, services, or anything of value given or offered, including but not limited to food, lodging, transportation, recreation or entertainment, token or award.

- C. Contract termination under this provision shall constitute a breach of contract by the Contractor, and the Contractor shall be liable to the City for all costs of reletting the contract or completion of the project. Further, if the Contractor is terminated under this provision, or violates this provision but is not terminated, the Contractor shall be subject to debarment under the City's Procurement Regulations. The rights and remedies of the City provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

28. NON-DISCRIMINATION

- A. In accord with section 24-34-402, C.R.S., Title VII of the Civil Rights Act of 1964, Americans with Disabilities Act of 1990 as amended, all applicable federal and state laws, the Contractor will not discriminate against any employee or applicant for employment because of disability, race, creed, color, sex, sexual orientation, gender identity, gender expression, religion, age, national origin, or ancestry.
- B. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- C. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to disability, race, creed, color, sex, sexual orientation, gender identity, gender expression, religion, age, national origin, or ancestry.

29. ORDER OF PRECEDENCE

Any inconsistency in this Contract shall be resolved by giving precedence in the following order:

- A. This Contract document with its terms and conditions
- B. Specific Construction Terms and Conditions
- C. General Construction Terms and Conditions
- D. The Statement of Work
- E. Specific Specifications
- F. General Specifications
- G. Other Appendices, Attachments, Exhibits, or Schedules

30. HEADINGS

The section headings contained in this Contract are for reference purposes only and shall not affect the meaning or interpretation of this Contract.

31. DISPUTES

- A. All administrative and contractual disputes arising from or related to this Contract other than those arising under Unanticipated Circumstances provisions (in section 107.27 of Schedule B General Construction Terms and Conditions) shall be addressed in the following manner:
 - (i) If either Party disputes or disagrees with a Contract term or the other Party's interpretation of a Contract term or has any other administrative or contractual dispute not addressed in

the Unanticipated Circumstances provisions, such Party shall promptly give the other Party written notice of said dispute.

- (ii) The Parties shall hold a meeting as soon as reasonably possible, but in no event later than thirty (30) calendar days from the initial written notice of the dispute, attended by persons with decision-making authority regarding the dispute, to attempt in good faith to negotiate a resolution of the dispute; provided, however, that no such meeting shall be deemed to vitiate or reduce the obligations and liabilities of the Parties or be deemed a waiver by a Party of any remedies to which such Party would otherwise be entitled unless otherwise agreed to by the Parties in writing.
- (iii) If, within thirty (30) calendar days after such meeting, the Parties have not succeeded in negotiating a resolution of the dispute, they agree to submit the dispute to non-binding mediation and to bear equally the costs of the mediation.
- (iv) The Parties will jointly appoint a mutually acceptable mediator. If they fail to do so within twenty (20) calendar days from the conclusion of the negotiation period, they shall each select a mediator. The two mediators will then appoint a third mediator who shall conduct mediation for the Parties as the sole mediator.
- (v) The Parties agree to participate in good faith in the mediation and negotiations for a period of thirty (30) calendar days. The substantive and procedural law of the State of Colorado shall apply to the proceedings. If the Parties are not successful in resolving the dispute through mediation, then the Parties shall be free to pursue any other remedy afforded by the laws of the State of Colorado.
- (vi) Until final resolution of any dispute hereunder, the Contractor shall diligently proceed with the performance of this Contract as directed by the City. For purposes of this Contract, termination for convenience shall not be deemed a dispute. The City of Colorado Springs and the Contractor agree to notify each other in a timely manner of any claim, dispute, or cause of action arising from or related to this Contract, and to negotiate in good faith to resolve any such claim, dispute, or cause of action. To the extent that such negotiations fail, the City of Colorado Springs and the Contractor agree that any lawsuit or cause of action that arises from or is related to this Contract shall be filed with and litigated only by the Colorado District Court for El Paso County, CO.

32. DELIVERY

The City may cancel this Contract or any portion thereof if delivery is not made when and as specified, time being of the essence in this Contract. Contractor shall pay the City for any loss or damage sustained by the City because of failure to perform in accordance with this Contract.

33. PAYMENTS

All invoices shall be sent to the Project Manager identified in this Contract.

The City will pay the Contractor, upon submission of proper invoices, the prices stipulated in the Contract for services rendered and accepted, less any deductions provided in this Contract within 30 days (Net 30). The City will not pay late fees or interest. Any discount payment terms offered on the invoice may be taken by the City.

All payments for Construction will be made in accordance with the Payment provisions found in Schedule B – General Construction Terms and Conditions.

Each invoice must contain at least the following information:

Contract number, issued purchase order number, invoice number, invoice date, timeframe covered by invoice, type and amount of labor and materials used for that time period, dollar amount in unit price, extended price, and total value of invoice.

34. INSPECTION OF SERVICES

The Contractor is responsible for performing or having performed all inspections and tests necessary to substantiate that the services furnished under this Contract conform to Contract requirements, including any applicable technical requirements for specified manufacturers' parts. This clause takes precedence over any City inspection and testing required in the Contract's specifications, except for specialized inspections or tests specified to be performed solely by the City.

- A. Definition of "services", as used in this clause, includes services performed, workmanship, and material furnished or utilized in the performance of services.
- B. The Contractor shall provide and maintain an inspection system acceptable to the City covering the services under this Contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the City during Contract performance and for as long afterwards as the Contract requires.
- C. The City has the right to inspect and test all services called for by the Contract, to the extent practicable at all times and places during the term of the Contract. The City will perform inspections and tests in a manner that will not unduly delay the work.
- D. If the City performs inspections or test on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in Contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties.

35. SECURITY

The City maintains security requirements regarding access to City buildings and other City workplaces and worksites on City property. All Contractor personnel accessing City buildings, workplaces, or worksites, may be required to produce a valid, Government issued picture identification. Contractor personnel lacking such identification may not be allowed access to such sites. No costs incurred by the Contractor due to City security requirements shall be allowable or payable under this Contract.

36. TIME IS OF THE ESSENCE

In as much as the Contract concerns a needed or required service, the terms, conditions, and provisions of the Contract relating to the time of performance and completion of work are of the essence of this Contract. The Contractor shall begin work on the day specified and shall prosecute the work diligently so as to assure completion of the work within the number of calendar days or date specified, or the date to which the time for completion may have been extended.

37. EMPLOYMENT OF LABOR

The Contractor shall comply with, and defend and hold the City harmless from any violation of all laws and lawful rules and regulations, both of the State of Colorado and of the United States,

relating to Workmen's Compensation, unemployment compensation, Social Security, payment for overtime, and all other expenses and conditions of employment under this Contract.

38. SALES TAX

The Contractor must have a tax-exemption certificate from the Colorado Department of Revenue for this project. The certificate does not apply to City of Colorado Springs Sales and Use Tax which shall be applicable. The tax exempt project number and the exemption certificate only applies to County, PPRTA (Pikes Peak Rural Transportation Authority), and State taxes when purchasing construction and building materials **to be incorporated into this project**.

Furthermore, the exemption **does not** include or apply to the purchase or rental of equipment, supplies or materials that **do not become a part of the completed project or structure**. Such purchases and rentals are subject to full applicable taxation.

All contracts with subcontractors must include the City of Colorado Springs Sales and Use Tax on the work covered by the Contract, and other taxes as applicable.

Note: For all equipment, materials and supplies incorporated into the work purchased from vendors or suppliers not licensed to collect City Sales Tax (i.e. out of state suppliers, etc.), City Use Tax is due and payable to the City. The Contractor shall execute and deliver, and shall cause the Contractor's subcontractors to execute and deliver to the City Sales Tax Office, ST forms as designated by the City Sales Tax Office. These forms shall list all said equipment, materials and supplies and the corresponding use tax due, along with payment for said taxes. Any outstanding taxes due may be withheld from the final payment due the Contractor and may result in suspension of Contractor from bidding on City projects.

Forms and instructions can be downloaded at <https://coloradosprings.gov/sales-tax>. Questions can be directed to the City Sales Tax Division at (719) 385-5903 or Construction_SalesTax@coloradosprings.gov.

Our Registration Numbers are as follows:
City of Colorado Springs
Federal I.D.: 84-6000573
Federal Excise: A-138557
State Sales Tax: 98-03479

The Contractor's payment or exemption of State of Colorado, El Paso County and City Sales and Use Taxes shall be as specified herein.

39. SEVERABILITY

If any terms, conditions, or provisions of this Contract shall be held unconstitutional, illegal, or void, such finding shall not affect any other terms, conditions, or provisions of this Contract.

40. LIABILITY OF CITY EMPLOYEES

All authorized representatives of the City are acting solely as agents and representatives of the City when carrying out and exercising the power or authority granted to them under the Contract. There shall not be any liability on them either personally or as employees of the City.

41. USE OF CITY NAME OR LOGO

Except as otherwise provided in this Contract, the Contractor shall not refer to this Contract or the City of Colorado Springs in any advertising or promotions in such a manner as to state or imply that the product or service provided is endorsed or preferred by the City of Colorado Springs, its employees, or its Departments, or is considered by these entities to be superior to other products or services. Any use of the name or logo of the City of Colorado Springs in advertising or promotions must be approved in writing by the City of Colorado Springs Contracts Specialist assigned to the Contract prior to such use.

42. TRAVEL

If travel expenses are included as a line item in this Contract, all travel expenses incurred and billable by the Contractor are subject to City approval. Air travel shall be limited to the round trip "economy coach" fare. Travel from the Colorado Springs Airport is encouraged. Unless there are extenuating circumstances, the Contractor should take advantage of lower airfares by purchasing tickets more than 14 days in advance of travel. In-state travel by air must be more economical than travel by private vehicle. Use of a private vehicle may be reimbursed per mile at the current rate published by the IRS annually. Short-term parking, long-term parking or cab fare associated with airport departure and arrival may be allowable expenses. Valet parking will not be allowed unless it is the least expensive or only option. Car rental rates may be reimbursed for car rentals no greater than the intermediate or standard classification. The City will not reimburse any other travel methods or expenses. The City will pay for lodging, meals, and miscellaneous expenses on a per diem basis only, in accordance with the current per diem rates published by the IRS annually. The City will not pay for Contractor expenses exceeding the per diem rates. Receipts for all reimbursable expenses must be provided with the Contractor's invoice.

43. ELECTRONIC SIGNATURES

This Agreement and all other documents contemplated hereunder may be executed using electronic signatures with delivery via facsimile transmission, by scanning and transmission of electronic files in Portable Document Format (PDF) or other readily available file format, or by copy transmitted via email, or by other electronic means and in one or more counterparts, each of which shall be (i) an original, and all of which taken together shall constitute one and the same agreement, (ii) a valid and binding agreement and fully admissible under state and federal rules of evidence and (iii) enforceable in accordance with its terms.

44. APPENDICES

The following Appendices are made a part of this Agreement:

1. Appendix A – Additional Terms and Conditions
2. Appendix B – Contractor's Proposal,
3. Appendix C – Statement of Work.
4. Schedule A – Proposal Price Sheet
5. Schedule B – General Construction Terms and Conditions
6. Schedule C – Special Construction Terms and Conditions
7. Schedule D – General Specifications
8. Schedule E – Special Specifications
9. Schedule F – Minimum Insurance Requirements

- 10. Exhibit 1 – Performance, Labor and Material Payment, and Maintenance Bonds
- 11. Exhibit 2 – Notification of Utilities
- 12. Exhibit 3 – Project Schedule

CONTRACT SIGNATURE PAGE

IN WITNESS WHEREOF, the parties have caused these presents to be executed on the day and the year first above written.

This Contract is executed in one (1) original copy.

THE CITY OF COLORADO SPRINGS, COLORADO:

SECOND PARTY: SAMPLE CONTRACT-DO NOT SIGN	
Corporate Name	
Signature	Date
Title	

**EXHIBIT 2 – QUALIFICATIONS DOCUMENTS
FOLLOWS THIS PAGE**



SOLICITATION QUALIFICATIONS DOCUMENTS

Please complete all sections of this document including the Solicitation Certification, Representations and Certifications, Qualification Statement, Exceptions, Minimum Insurance Requirements, and Signature Page.

Please submit all completed documents with your bid/ proposal and sign the Minimum Insurance Requirements and Signature Page.

Solicitation:

Solicitation Number:

Firm Name:

Date:

Address:

Federal Tax ID #:

Tax Classification:

Sole Proprietorship

Partnership

C Corporation

S Corporation

LLC

Nonprofit

DUNS Number:

OFFEROR REPRESENTATIVE

Offeror has appointed the following as the offeror's representative and contact for all questions or clarifications in regard to this offeror.

Name:

Telephone:

E-mail:



SOLICITATION CERTIFICATION

PLACE OF BUSINESS

Company's Principal Place of Business

Does Offeror Have an established office or facility in Colorado Springs? YES NO

If Yes, Indicate address below if different from principal place of business.

Year Facility Was Established

Percent of Work to be performed from principal place of business.

Percent of Work to be performed from Colorado Springs Facility

INSURANCE

Indicate your ability to provide a certificate of insurance evidencing the required coverage types and limits specified in Minimum Insurance Requirements Exhibit. (The certificate of insurance must reflect the City of Colorado Springs as an Additional Insured, as applicable.)

Initial Here

Indicate your Ability to Comply with the following requirements:

The City shall be added as an Additional Insured to all liability policies

YES

NO



Your property and liability insurance company is licensed to do business in Colorado

YES

NO

Your property and liability insurance company has an AM best rating of not less than B+ and/or VII

YES

NO

Worker's Compensation Insurance is carried for all employees and covers work done in Colorado.

YES

NO

Provide the name of your property and liability insurance company here:

FINANCIAL STATEMENTS

Current Financial Statements are not required for this solicitation.

Current Financial Statements are required for this solicitation. Please include financial statements as a separate document with your proposal.

Initial Here

COMPLETED PROPOSAL

Provide the completed and signed proposal. (Proposals must be identified as specified in this RFP document). All required Exhibits are attached.

Initial Here



ACKNOWLEDGE ADDENDUM

Offeror hereby acknowledges receipt of the following amendments, if applicable Offeror agrees that it is bound by all Amendments identified herein.

Addendum #1 *Initial Here* Dated:

Addendum #2 *Initial Here* Dated:

Addendum #3 *Initial Here* Dated:

Additional Addendum, if issued *Initial Here* Dated:



REPRESENTATIONS AND CERTIFICATIONS

1. INSURANCE REQUIREMENTS

Offeror shall comply with all insurance requirements and will submit the Insurance Certificates prior to performance start date. If limits are different from the stated amounts, Offeror shall explain variance. Certain endorsements and “additionally insured” statements may require further clarification and specific statements on a project specific basis and should have been described in the Offeror’s proposal.

Initial Here #1

2. ETHICS VIOLATIONS

- a) The Offeror shall have in place and follow reasonable procedures designed to prevent and detect possible violations described in this clause in its own operations and direct business relationships.
- b) Offeror certifies the Offeror has not violated or caused any person to violate, and shall not violate or cause any person to violate, the City’s Code of Ethics contained in Article 3, of Chapter 1 of the City Code and in the City’s Procurement Rules and Regulations
- c) When the Offeror has reasonable grounds to believe that a violation described in this clause may have occurred, the Offeror shall promptly report the possible violation to the City Contracts Specialist in writing.
- d) The Offeror must disclose with the signing of this proposal, the name of any officer, director, or agent who is also an employee of the City and any City employee who owns, directly or indirectly, an interest of ten percent (10%) or more in the Offeror’s firm or any of its branches.
- e) In addition, the Offeror must report any conflict or apparent conflict, current or discovered during the performance of the Contract, to the City Contracts Specialist.
- f) The Offeror shall not engage in providing gifts, meals or other amenities to City employees. The right of the Offeror to proceed may be terminated by written notice issued by City Contracts Specialist if Offeror offered or gave a gratuity to an officer, official, or employee of the City and intended by the gratuity to obtain a contract or favorable treatment under a contract.
- g) The Offeror shall cooperate fully with the City or any agency investigating a possible violation on behalf of the City. If any violation is determined, the Offeror will properly compensate the City.
- h) The Offeror agrees to incorporate the substance of this clause (after substituting “Contractor” for “Offeror”) in all subcontracts under this offer.

Initial Here #2



3. COOPERATION WITH OTHER CONTRACTORS

Other City activities/contracts may be in progress or start during the performance of this contract. The Offeror shall coordinate the work harmoniously with the other contractors or City personnel, if applicable.

Initial Here #3

4. INTERNET USE

Should the Offeror require access to City Internet resources in the performance of this requirement, a "Contractor's Internet Use Agreement" form must be separately signed by each individual having access to the City Network. The completed Contractor's Internet Use Agreement will be maintained with this agreement. Inappropriate use of the City Network will be grounds for immediate termination of any awarded contact.

Initial Here #4

5. LITIGATION

If awarded a contract, Offeror shall notify the City within five (5) calendar days after being served with a summons, complaint, or other pleading in any matter which has been filed in any federal or state court or administrative agency. The Offeror shall deliver copies of such document(s) to the City's Procurement Services Manager. The term "litigation" includes an assignment for the benefit of creditors, and filings of bankruptcy, reorganization and/or foreclosure.

Initial Here #5

6. CONTRACTOR'S REGISTRATION INFORMATION

Offeror's firm verifies and states that they are (check all that apply):

Large Business (i.e. do not qualify as a small business or non-profit)

Nonprofit

Small Business

Minority Owned Business/Small Disadvantaged Business

Woman Owned Business



Veteran Owned Business

Service-Disabled Veteran Owned Business

HUBZone Business

Note: The City accepts self-certification for these categories in accordance with Small Business Administration (SBA) standards. The SBA size standards are found on the SBA website <https://www.sba.gov/content/am-i-small-business-concern>.

Initial Here #6

7. CONTRACTOR PERSONNEL

- a) The Offeror shall appoint one of its key personnel as the “Authorized Representative” who shall have the power and authority to interface with the City and represent the Offeror in all administrative matters concerning this proposal and any awarded contract, including without limitation such administrative matters as correction of problems modifications, and reduction of costs.
- b) The Authorized Representative shall be the person identified in the Offeror’s proposal, unless the Offeror provides written notice to the City naming another person to serve as its Authorized Representative. Communications received by the City Contracts Specialist from the Authorized Representative shall be deemed to have been received from the Offeror.

Name:

Telephone:

E-mail:

Initial Here #7

8. OFFEROR’S CERTIFICATION

The undersigned hereby affirms that:

- a) He/She is a duly authorized agent of the Offeror;
- b) He/She has read and agrees to the City’s standard terms and conditions attached.
- c) The offer is presented in full compliance with the collusive prohibitions of the City of Colorado Springs. The Offeror certifies that no employee of its firm has discussed, or



compared the offer with any other offeror or City employee and has not colluded with any other offeror or City employee.

- d) The Offeror certifies that it has checked all of its figures, and understands that the City will not be responsible for any errors or omissions on the part of the Offeror in preparing its proposal.
- e) By submitting an offer the Offeror certifies that it has complied and will comply with all requirements of local, state, and federal laws, and that no legal requirements have been or will be violated in making or accepting this solicitation.

I hereby certify that I am submitting the proposal based on my company's capabilities to provide quality products and/or services on time.

Initial Here #8

9. OFFEROR CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS:

- 1. The Offeror certifies to the best of its knowledge and belief, that (i) the Offeror and/or any of its Principals

Are Are Not

Presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency.

Have Have Not

Within a three year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, local) contract or subcontract; violation of Federal or state antitrust statutes relation to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statement, tax evasion, or receiving stolen property; and

Are Are Not

presently indicated for, or otherwise criminally or civilly charged by a governmental entity with commission of any of the offenses enumerated in any paragraphs above.

- 2. The Offeror shall provide immediate written notice to the City Contracts Specialist if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reasons of changed circumstances.
- 3. The certification in paragraph 1. above, is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the City, the



City Contracts Specialist may terminate the contract resulting from this solicitation for default. Termination for default may result in additional charges being levied for the costs incurred by the City to initiate activities to replace the awarded Contractor.

Initial Here #9

10. ACCEPTANCE OF CITY CONTRACTS SPECIALIST'S SOLE AUTHORITY FOR CHANGES

Unless otherwise specified in the Contract, the Offeror hereby agrees that any changes to the scope of work, subsequent to the original contract signing, shall be generated in writing and an approval signature shall be obtained from the City Contracts Specialist prior to additional work performance.

Initial Here #10

11. CITY CONTRACTOR SAFETY PROGRAM

The Offeror hereby agrees to adhere to a worker safety program for contractor employees on a City job site or location. By initialing below, the Offeror has reviewed the information and will abide by the City Policy which is available for review:

<https://coloradosprings.gov/finance/page/procurement-regulations-and-documents>

Initial Here #11

12. ACCEPTANCE OF CITY ENVIRONMENTALLY PREFERRED PURCHASING (EPP) POLICY

The City of Colorado Springs is committed to buying more environmentally preferable goods and services, as long as they meet performance needs, are available within a reasonable time and at a reasonable cost. The Offeror hereby acknowledges review of this policy by initialing below.

<https://coloradosprings.gov/finance/page/procurement-regulations-and-documents>

Initial Here #12



13. FRAUD, WASTE, AND ABUSE

Everyone has a duty to report any suspected unlawful act impacting the City of Colorado Springs operations and its enterprises. Anyone who becomes aware of the existence or apparent existence of fraud, waste, and abuse in City of Colorado Springs is encouraged to report such matters to the City Auditor's Office in writing or on the telephone hotline 385-2387 (ADTR). Written correspondence can be mailed to:

City Auditor

P.O. Box 2241

Colorado Springs CO 80901

Or via email FraudHotline@ColoradoSprings.gov. Any of these mechanisms allow for anonymous reporting. For more information, please go to the website <https://coloradosprings.gov/cityfraud>.

Initial Here #13



QUALIFICATION STATEMENT

This statement will provide information which will enable the City to evaluate the qualifications of your firm and staff with regard to the requirements of this solicitation. Please complete this form in its entirety. If a request in the Qualification Statement is contained in the proposal, indicate the section in the proposal where that information can be found.

1. TYPE OF LICENSE(S) HELD

2. TYPE OF SERVICE TO BE PROVIDED FOR THIS SOLICITATION

3. NUMBER OF YEARS IN BUSINESS

4. FIRM HISTORY & STAFF QUALIFICATIONS

In your proposal provide a brief history of your firm, staff size, and experience. Submit a resume for the project manager and each key personnel assigned to this project.

5. WHAT OTHER NAME(S) HAS YOUR COMPANY OPERATED UNDER

My Firm has not operated under any other names

6. HAVE YOU OR YOUR FIRM EVER FAILED TO COMPLETE ANY WORK AWARDED TO YOU?

Yes No

If Yes, Please Explain



7. HAS ANY OFFICER OF PARTNER OF YOUR ORGANIZATION EVER BEEN AN OFFICER OR PARTNER OF ANOTHER ORGANIZATION THAT FIALED TO COMPLETE A CONTRACT WITHIN THE LAST FIVE (5) YEARS?

Yes No

If Yes, Please Explain

8. HAS YOUR FIRM OR ANY PARTNERS OR OFFICERS EVER BEEN INVOLVED IN ANY BANKRUPTCY ACTION?

Yes No

If Yes, Please Explain

9. ARE YOU PRESENTLY INVOLVED IN ANY LITIGATION WITH ANY GOVERNMENT AGENCY?

Yes No

If Yes, Please Explain Type, Kind, Plaintiff, Defendant, etc. and state the current status:

10. BANK REFERENCE

Bank Name:

Address:

Contact:

Phone #:

E-mail:



11. SIMILAR PROJECTS

List Three similar projects (local or state-wide) from the last five (5) years. Include the location of the project, size of project (contract amount), contract name and information.

NOTE: Detailed information on these projects may also be requested in the solicitation package

Indicate here if this information is provided within your proposal and identify where in the proposal it is located.

1. Company:

Location of Project:

Contract Amount:

Contract Period of Performance:

Company Representative:

Representative's Title:

Representative's Address:

Representative's Phone #:

Representative's E-mail:

Brief Description of service/goods provided and how your firm was successful carrying out the scope of work of the contract.

2. Company:

Location of Project:

Contract Amount:

Contract Period of Performance:

Company Representative:



Representative's Title:

Representative's Address:

Representative's Phone #:

Representative's E-mail:

Brief Description of service/goods provided and how your firm was successful carrying out the scope of work of the contract.

3. Company:

Location of Project:

Contract Amount:

Contract Period of Performance:

Company Representative:

Representative's Title:

Representative's Address:

Representative's Phone #:

Representative's E-mail:

Brief Description of service/goods provided and how your firm was successful carrying out the scope of work of the contract.



12. SIMILAR PROJECTS CURRENTLY UNDER CONTRACT

list three projects currently under contract and in progress (local or state-wide) from the last five (5) years. Include the location of the project, size of project (contract amount), contract name and information. NOTE: Detailed information on these projects may also be requested in the solicitation package

Indicate here if this information is provided within your proposal and identify where in the proposal it is located.

1. Company:

Location of Project:

Contract Amount:

Contract Period of Performance:

Company Representative:

Representative's Title:

Representative's Address:

Representative's Phone #:

Representative's E-mail:

Brief Description of service/goods provided.

2. Company:

Location of Project:

Contract Amount:

Contract Period of Performance:

Company Representative:



Representative's Title:

Representative's Address:

Representative's Phone #:

Representative's E-mail:

Brief Description of service/goods provided.

3. Company:

Location of Project:

Contract Amount:

Contract Period of Performance:

Company Representative:

Representative's Title:

Representative's Address:

Representative's Phone #:

Representative's E-mail:

Brief Description of service/goods provided.



13. ADDITIONAL QUALIFICATION REQUIREMENTS

There are no additional qualification requirements for this solicitation.

There are additional qualification requirements as follows:



EXCEPTIONS

Please Indicate below if there are any exceptions taken to any of the terms, conditions, or specifications of these proposal documents or contract.

If there are exceptions taken to any of the terms, conditions, or specifications of the proposal document or contract, they must be clearly stated on an additional document attached to this exhibit and returned with your proposal.

NOTE: All potential Offerors are hereby advised that exceptions taken may be considered during the evaluation phase which may affect the final scoring of proposals. Offerors stipulating that the City must use their contract or agreement may be determined non-responsive and their Proposal determined unacceptable.

Please indicate below:

My Firm has no exceptions.

My Firm does have exceptions. (Attach Exceptions to this exhibit)



MINIMUM INSURANCE REQUIREMENTS

The following listed minimum insurance requirements shall be carried by all contractors and consultants unless otherwise specified in the City's solicitation package, Special Provisions or Standard Specifications.

- Commercial General Liability for limits not less than \$1,000,000 combined single limit with \$2,000,000 aggregate for bodily injury and property damage for each occurrence. Coverage shall include blanket contractual, broad form property damage, products and completed operations.
- Workers' Compensation and Employers Liability as required by statute. Employers Liability coverage is to be carried for a minimum limit of \$1,000,000.
- Automobile Liability covering any auto (including owned, hired, and non-owned autos) with a minimum of \$1,000,000 each accident combined single limit.
- Professional Liability Insurance covering any damages caused by an error, omission or any negligent acts with limits of not less than \$2,000,000 per occurrence and in the aggregate.
 - In the event that any professional liability insurance required by this Contract is written on a claims-made basis, Consultant warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of three (3) years beginning at the time work under this Contract is completed
 - Policy shall contain a waiver of subrogation against the CITY.
- Pollution Legal Liability Insurance shall apply to sudden and gradual pollution conditions resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids, or gases, natural gas, waste materials, or other irritants, contaminants, or pollutants (including asbestos). If the coverage is written on a claims-made basis, the Contractor warrants that any retroactive date applicable to coverage under the policy precedes the effective date of this Contract; and that continuous coverage will be maintained or an extended discovery period will be exercised for a period of three (3) years beginning from the time that work under this contract is completed. Policy limits shall be no less than \$1,000,000 per loss with \$2,000,000 aggregate coverage.

Except for workers' compensation and employer's liability insurance and Professional Liability, the City of Colorado Springs must be named as an additional insured. Certificates of Insurance must be submitted before commencing the work and provide 30 days' notice prior to any cancellation, non-renewal, or material changes to policies required under the contract.

Name of Company

Signature

Date



SIGNATURE PAGE

By signing below, the Offeror certifies that no person or firm other than the Offeror or as otherwise indicated has any interest whatsoever in this offer or any Contract that may be entered into as a result of this offer and that in all respects the offer is legal and firm, submitted in good faith without collusion or fraud.

The undersigned additionally declares that it has carefully examined the Bid/Proposal information and the complete Solicitation prior to submitting a Bid / Proposal. The Offeror's signature will be considered the Offeror's acknowledgement of understanding and ability to comply with all items in the solicitation.

The undersigned acknowledges and understands the terms, conditions, Specifications and all Requirements contained and/or referenced and are legally authorized by the Offeror to make the above statements or representations.

Signature

Name (Printed)

Company Name

Title

Date

EXHIBIT 3 – CITY OF COLORADO SPRINGS BID BOND

1. KNOW ALL MEN BY THESE PRESENTS, THAT:

(Name) _____ As Principal, hereinafter called Principal, and

(Address)

(SURETY Name) _____ a corporation organized and existing under
the laws of the State of:

(SURETY Address)
and AUTHORIZED TO DO BUSINESS IN THE STATE OF COLORADO, as Surety, hereinafter called Surety, are
held firmly bound to the CITY OF COLORADO SPRINGS, COLORADO, as Obligee, hereinafter called the Obligee,
in the sum of: (Insert Bid Amount in Words) _____ (\$ _____ DOLLARS),

lawful money of the United States of America, for payment of which sum well and truly to be made, the Principal and
the Surety bind themselves, their heirs, executors, successors, and assigns, jointly and severally, firmly by these
presents.

2. WHEREAS, the Principal has submitted to the Obligee,
a contract bid dated the _____ day of _____ For the following contract:

3. NOW THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH THAT, If the Principals bid is accepted
by the Obligee and the Principal is awarded the contract in whole or in part, and the Principal shall enter into the
contract with the Obligee in accordance with the terms of such bid, and give such Payment, Performance, and
Maintenance bond or bonds as may be specified in the bidding or contract documents with good and sufficient
surety for the faithful performance of such Contract and for the prompt payment of labor and material furnished in
the prosecution thereof, or in the event of the failure of the Principal to enter such contract and give such bond or
bonds, if the Principal shall promptly pay to the Obligee the amount of this bond as set forth herein above, then
this obligation shall be null and void, otherwise this obligation to remain in full force and effect.

Signed and sealed on the dates set forth below:

(Witness) FOR: _____
(Principals Name)

BY: _____
ITS: _____
(Seal) This _____ day of _____

(Witness) FOR: _____
(Surety's Name)

BY: _____
ITS: _____
(Seal) This _____ Day of _____

Bond # _____ This Bond (is) ___ (is not) a SBA Guaranteed Bond.

EXHIBIT 4 – FEDERAL EXHIBITS

CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS

The undersigned duly authorized official of the proposer certifies to the best of its knowledge and belief, that it and its principals:

- A. Are not presently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency.
- B. Have not within a three-year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements or receiving stolen property.
- C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (B) of this certification; and
- D. Have not within a three-year period preceding this application/proposal had one or more public transaction (federal, state or local) terminated for cause or default.
- E. Are not on the Comptroller General's List of Ineligible Bidders or any similar list maintained by any other governmental entity.

Where the proposer is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

(Check One)

I DO CERTIFY (____)

I DO NOT CERTIFY (____)

Date: _____

Signature: _____

Title: _____

RESTRICTIONS ON LOBBYING CERTIFICATION

Pursuant to United States Public Law 101-121, Section 319, the undersigned duly authorized official of the proposer hereby certifies, to the best of her/his knowledge and belief, that:

1. No Federal appropriated funds have paid or will be paid, by or on behalf of the undersigned, to any person for the purpose of influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person or agency for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit a Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
3. The undersigned duly authorized official shall require and ensure that the language of this certification be included in any award documents for subcontracts, grants, loans, and cooperative agreements, and that all subcontractors shall so certify and disclose accordingly.

This Certification is a material representation of fact, upon which reliance was placed when this transaction was made or entered into. The submission of this Certification is a prerequisite for making or entering into this transaction, imposed by Title 31 USC Section 1352. Any proposer (person) who fails to file the required certification shall be subject to civil penalty of not less than ten thousand dollars (\$10,000) and not more than one hundred thousand dollars (\$100,000) for each such failure to file.

Proposer: _____

Signature: _____

Title: _____

Date: _____

NON-COLLUSION AFFIDAVIT

The undersigned duly authorized official of the proposer hereby certifies, to the best of her/his knowledge and belief, that:

1. That I am an officer or employee of the _____ (proposing entity) having the authority to sign on behalf of the corporation, and,

2. That the prices in the attached proposal were arrived at independently by _____ (proposing entity) without collusion, consultation, communication, or any agreement, for the purpose of restricting competition as to any matter relating to such prices with any other proposer or with any other competitor regarding an understanding, or planned common course of action with any other vendor of materials, supplies, equipment, or service described in the RFP/IFB designed to limit independent proposals or competition; and

3. That unless otherwise required by law, the contents and prices contained in the proposal have not been communicated by _____(proposing entity) or its employees or agents to any person not an employee or agent of _____ (proposing entity), or its surety on any bond furnished with the proposal, and will not be communicated to any such person prior to the official opening of the proposal; and,

4. That I have fully informed myself regarding the accuracy of the statements made in this affidavit.

Proposer: _____

Signature: _____

Title: _____

Date: _____

EQUAL EMPLOYMENT STATUS REPORT

Contractor's Name _____

Street Address _____

City _____ State _____ Zip Code _____

This firm is:

<input type="checkbox"/>	Independently owned and operated
<input type="checkbox"/>	An affiliate parent company
<input type="checkbox"/>	A subsidiary of address
<input type="checkbox"/>	A division City and State

#	Statement	Has	Has Not
1	Developed and has on file an affirmative action program in conformance with 41 CFR 60-2		
2	Participated in any previous contract or subcontract subject to the equal opportunity clause either with the City of any Federal Agency		
3	Filed with the City, or where applicable, joint Reporting Committee, or other Federal Agency, all reports due under the applicable contract(s) or subcontract(s)		
4	Contractor's Equal Employment Opportunity Program been subject to a Federal Equal Opportunity Compliance Review, If so state date of Review: _____		

Signature _____

Date _____

Title _____

BUILD AMERICA, BUY AMERICA (BABAA) (if applicable)

The undersigned certifies, to the best of their knowledge and belief, that:

The Build America, Buy America Act (BABAA) requires that no federal financial assistance for “infrastructure” projects is provided “unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States.” Section 70914 of Public Law No. 117-58, §§ 70901-52.

The undersigned certifies that for the _____ (Project Name and Location) _____ the iron, steel, manufactured products, and construction materials used in this contract are in full compliance with the BABAA requirements including:

1. All iron and steel used in the project are produced in the United States. This means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
2. All manufactured products purchased with federal financial assistance must be produced in the United States. For a manufactured product to be considered produced in the United States, the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55% of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation.
3. All construction materials are manufactured in the United States. This means that all manufacturing processes for the construction material occurred in the United States.

“The, _____ [Contractor or Subcontractor] ____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the [Contractor or Subcontractor] understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.”

Signature of [Contractor’s or Subcontractor’s] Authorized Official

Name and Title of [Contractor’s or Subcontractor’s] Authorized Official

Date