



# REQUEST FOR QUOTE (INFORMAL)

**R19-101 PB**

Date issued: 05/15/19

**BUS WASH SERVICE AGREEMENT  
1145 TRANSIT DR**

**THE CITY OF COLORADO SPRINGS**

# SECTION INDEX

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**SECTION I – RFQ INFORMATION**

**Request for Quote (RFQ) – Bus Wash Service Agreement – 1145 Transit Dr.**

Date Issued: 05/15/19  
Project #: R19-101 PB

**QUESTIONS DUE: 05/22/19 at 3:00 PM via email to**  
[TransitContracting@Springsgov.com](mailto:TransitContracting@Springsgov.com)

**QUOTES DUE: 05/29/19 at 3:00 PM via email to** [TransitContracting@Springsgov.com](mailto:TransitContracting@Springsgov.com)  
or mailed/delivered to Mountain Metropolitan Transit,  
Attn: Patty Bailey, 1015 Transit Dr., Colorado Springs, CO 80903

The City of Colorado Springs, DBA Mountain Metropolitan Transit, requests quotes for a Bus Wash Service Agreement for the system located at 1145 Transit Dr.

Final specifications, options and delivery details will be mutually negotiated between the City and the selected Contractor.

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**SUBMIT THIS PAGE ALONG WITH PAGES 9-10, 11, and 12-14**

The City of Colorado Springs intends to award a contract resulting from this solicitation to the lowest, responsive, responsible respondent, whose quote, conforming to the Request for Quote, will be most advantageous to, and in the best interest of, the City of Colorado Springs, cost or price and other factors considered. The City reserves the right to reject any or all quotes and to waive informalities and/or irregularities in the quote.

**ANTI-COLLUSION AFFIDAVIT**

The Offeror by signing their proposal submitted to the City is certifying that the Offeror has not participated in any collusion or taken any action in restraint of free competitive bidding. This statement may also be in the form of an affidavit provided by the City and signed by the Offeror. The original of the signed anti-collusion affidavit, if separately required and provided with the RFQ, shall be submitted with the proposal. The proposal will be rejected if it does not contain the completed anti-collusion affidavit.

DATE OF QUOTE: \_\_\_\_\_ PHONE: \_\_\_\_\_

COMPANY: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

PRINTED NAME & TITLE: \_\_\_\_\_

E-MAIL ADDRESS: \_\_\_\_\_

QUOTE TERM: \_\_\_\_\_

If submitting via email, please request to confirm receipt if you do not receive acknowledgement of receipt.

## CONTACTS

Patty Bailey  
Transit Buyer  
1015 Transit Dr.  
Colorado Springs, CO 80903  
(719) 385-7431  
[TransitContracting@springsgov.com](mailto:TransitContracting@springsgov.com)

Steve White  
Facilities Coordinator  
1015 Transit Dr.  
Colorado Springs, CO 80903  
719-385-7444  
[stwhite@springsgov.com](mailto:stwhite@springsgov.com)

Please do not perform a site visit without coordinating with the Facilities Coordinator.

## **SECTION II – SCOPE OF WORK**

The City of Colorado Springs, DBA Mountain Metropolitan Transit (MMT), would like to receive quotes to repair and perform preventative maintenance services, for an N.S. Systems drive through bus wash and water reclamation system, located at 1145 Transit Dr.

The Service Agreement will be effective for **3** years.

Under this agreement MMT would like the Equipment to be maintained in good working order. Such required level of maintenance services will include periodic inspections that are routine along with scheduled repairs and the replacement of parts on an as needed or requested basis.

1. All equipment shall be inspected and repaired on a regular PM schedule, as suggested by the manufacturer's maintenance manual, supplied by the manufacturer.
2. Contractor shall ensure that all services provided under the terms of this agreement are performed by properly trained and certified technicians.
3. Emergency repairs will be initiated when necessary whenever the Equipment becomes inoperable unexpectedly, within **3** business days.
4. Additional "As Requested" services, modifications and repairs to the system, will be negotiated based upon materials costs and estimated labor hours for such services.

### **1.0 PURCHASE ORDERS**

Each work request will have an assigned purchase order number or task order number and will require the City Project Managers approval. Prior to execution of each repair or service, the Contractor and City Project Manager (PM) shall review the scope of work. The Contractor shall address any issues which may be unforeseen in the execution of the service, at this time. All operations necessary for the implementation of the work shall be per the contract special provisions, technical specifications and negotiated rates.

The Contractor shall furnish all transportation, materials, tools, equipment, labor, disposal, permits, utility locates and supplies necessary to complete the specified work. These costs shall be included in the estimated project costs and covered by the Contractor.

The Contractor shall notify the PM within 24 hours, if services are delayed due to unforeseen circumstances.

The Contractor shall be responsible for all work, including work performed by others under a subcontract agreement.

All work required as described in the contract shall be performed in a careful and orderly manner, with due consideration given to protection of adjoining property, the public and workmen. Any damage to work areas due to the negligence of the Contractor shall be repaired or replaced and restored to its original condition by the Contractor, at their expense to the satisfaction of the PM. The Contractor shall ensure that all areas around the service work area are not disturbed or damaged, during the removal and installation process.

The contract in reference to the specific service, will define the performance period in calendar days or specific completion date.

All proposals submitted by the Contractor, shall utilize the contract unit price offered and/or negotiated and as stated in the awarded contract.

## **2.0 CHANGE ORDERS**

If there is an unforeseen site condition or change required to the project that deviates from the approved bid tab or individual scope of work, a change order must be processed prior to work commencing. The Contractor shall adhere to the following protocol before proceeding with the work included in a change order:

- 1) Contractor shall submit a written change order request to the PM.
- 2) The PM evaluates the request and the need for the change. The PM then creates the official change order and receives the Contractors signature of agreement.
- 3) The PM executes the final change order and provides a final copy to the Contractor.
- 4) The Contractor may then proceed with the work described within the change order.

**NOTE:** This process may take up to 1-2 weeks, or more, before approval to proceed with the change order is granted. No work shall be completed until the change order is approved and finalized.

## **3.0 WARRANTY**

In addition to the requirements covered by the Standard General Conditions of the contract, all materials shall carry a minimum 2 year warranty period, from the date of completion of the project. Warranty period shall include materials, labor and trip charges, directly related to the warranty claim. All materials warranty certificates must be presented to the PM at the time of completion, if applicable.

## **6.1 WARRANTY PROCEDURE**

- (a)** In addition to any warranties in this contract, the Contractor warrants, except as provided in paragraph (i) of this clause, that work performed under this contract conforms to the contract requirements and is free of any defect in material or workmanship performed by the Contractor, or any subcontractor or supplier at any tier.
- (b)** This warranty shall continue for a period of 2 years from the date of the final acceptance and issuance of the certificate of completion for the work – if applicable. If the City takes possession of any part of the work before final acceptance, this warranty shall continue for the period of 2 year from the date the City takes possession.
- (c)** The Contractor shall remedy, at the Contractors expense, any damage to City owned or controlled real or personal property, when that damage is the result of:
  - 1) The Contractors failure to conform to the contract requirements; or
  - 2) Any defect of material or workmanship.

- (d) The Contractor shall restore any work damaged in fulfilling the terms and conditions of this clause. The Service Contractors warranty with respect to work repaired or replaced will run for 2 years from the date of repair or replacement.
- (e) The PM shall notify the Contactor, in writing, within a reasonable time after the discovery of any failure, defect or damage.
- (f) If the Contractor fails to remedy any failure, defect or damage with a reasonable time after receipt of notice, the City may replace, repair or otherwise remedy the failure, defect or damage at the Contractors expense.
- (g) With respect to all warranties, expressed or implied, from subcontractors, manufacturers or suppliers for work performed and materials furnished under this contract, the Contractor shall:
  - 1) Obtain all warranties that would be given in normal commercial practice.
  - 2) Require all warranties to be executed, in writing, for the benefit of the City.
  - 3) Enforce all warranties for the benefit of the City.
- (h) If the Contractor's warranty under paragraph (b) of this clause has expired, the City may bring suit, at its expense, to enforce a subcontractors, manufacturers or suppliers warranty.
- (i) Unless the defect is caused by the negligence of the Contractor, subcontractor or supplier, at any tier, the Contractor is not liable for the repair of any defects of material furnished by the City, nor for the repair of any damage that may result from any defect in City furnished materials.
- (j) This warranty does not limit the City's rights under the Inspection and Acceptance clause of this contract, with respect to latent defects, gross mistakes or fraud.

#### 4.0 INVOICE SUBMITTALS

The Contractor shall provide an invoice submittal containing the following, within 2 weeks of service completion:

- 1) Written confirmation stating that all components were installed, and systems were initialized by individuals authorized under the manufacturer's warranty (if pertinent to the warranty). **An email is sufficient.**
- 2) If engineered drawings, shop drawings, or design were required, the Contractor shall supply a complete as-built drawing, to scale, showing the locations, materials of construction and critical dimensions of all components installed.

The Contractor shall provide, if applicable, the following submittals for all projects within 2 weeks of the new calendar year:

- 1) All sales tax forms, for the review by the City Finance Department.

### **SECTION III – EXHIBITS**

Exhibit 1	Minimum Insurance Requirements
Exhibit 2	Price Sheet
Exhibit 3	Qualification Statement
Exhibit 4	Sample Contract
Exhibit 5	Sample Task Order



## EXHIBIT 1 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.

1.	X	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.
2.	X	Workers’ Compensation and Employers Liability as required by statute. Employers Liability coverage is to be carried for a minimum limit of \$100,000.
3.	X	Automobile Liability covering any auto (including owned, hired, and non-owned autos) with a minimum of \$1,000,000 each accident combined single limit.
4.		Excess Liability for limits not less than \$1,000,000 combined single limit for bodily injury and property damage for each occurrence.
5.		Builders Risk or Installation Floater Insurance: Contractor shall purchase and maintain property
		insurance written on a builder’s risk “all-risk” or equivalent policy form in the amount of the initial Contract Sum, plus value of subsequent Contract Modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made or until no person or entity other than the Owner has an insurable interest in the property.
6.		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.
		<p>a. 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.</p> <p>b. Policy shall contain a waiver of subrogation against the CITY.</p>
7.	X	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.
8.		Technology Errors and Omissions Liability including Network Security and Privacy Liability not less than \$3,000,000 per loss with a \$3,000,000 aggregate.

		<ul style="list-style-type: none"> <li>a. The policy shall provide a waiver of subrogation.</li> <li>b. The insurance shall provide coverage for liability arising from theft, dissemination and/or use of confidential information stored or transmitted in electronic form.</li> <li>c. Network Security Liability arising from the unauthorized access to, use of or tampering to gain access to your services including denial of service, unless caused by a mechanical or electrical failure</li> <li>d. Liability arising from the introduction of a computer virus into, or otherwise causing damage to, a customer's or third person's computer, computer system, network or similar computer related property and the data, software, and programs thereon.</li> </ul>
9.		Employee Crime Coverage shall include employee dishonesty, forgery or alteration and computer fraud. If Contractor is physically located on CITY premises, third party fidelity coverage extension shall apply.
		The policy shall include coverage for all directors, officers, agents and employees of the Contractor. Coverage limit will be not less than \$1,000,000 per loss.
		<ul style="list-style-type: none"> <li>a. The bond or policy shall include coverage for extended theft and mysterious disappearance.</li> <li>b. The bond or policy shall not contain a condition requiring an arrest and conviction.</li> </ul>
10.		<p>Liquor Legal Liability Insurance: If the event producer is a business that manufactures, distributes, sells, or serves alcoholic beverages, and intends to serve or sell alcoholic beverages at an event, they must also submit a Certificate of Insurance providing proof of a liquor legal liability insurance policy or properly endorsed general liability policy.</p> <ul style="list-style-type: none"> <li>a. If this event producer hires a vendor to serve or sell alcoholic beverages, rather than providing the alcohol themselves, they must submit a Certificate of Insurance from the vendor providing proof of a liquor legal liability insurance policy or properly endorsed general liability policy.</li> <li>b. In either case, the minimum acceptable limit of liability per claim and aggregate is \$1,000,000. This requirement applies to the business or group which serves or sells the alcohol.</li> </ul>

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.

All coverage furnished by contractor is primary, and any insurance held by the City of Colorado Springs is excess and non-contributory.

The undersigned certifies and agrees to carry and maintain the insurance requirements indicated above throughout the contract Period of Performance.

\_\_\_\_\_

(Name of Company)

\_\_\_\_\_

(Signature)

(Date)

**EXHIBIT 2 – PRICE SHEET**

**Service Pricing Table**

**Bus Wash Service Agreement**

Non-emergency Hourly Labor 7AM-5PM	
Emergency Hourly Labor 5PM – 7AM	
Holiday Hourly Labor 7AM – 5PM	
Service / Trip Fee (Per Trip)	
Disposal Fees (Per repair order as required)	
Misc "As Requested" Services	TBD as Negotiated

**Supplemental Notes:**

1. A public opening WILL NOT be held for this informal RFQ. However, results will be made available to all interested parties.
2. The City reserves the right to reject any or all quotes, to waive formalities, or irregularities and to award in whole or part, if it deems it to be in the best interest of the City of Colorado Springs.

**COMPANY:** \_\_\_\_\_

**BUSINESS ADDRESS:** \_\_\_\_\_

**CITY/STATE/ZIP:** \_\_\_\_\_

**TELEPHONE:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**EMAIL ADDRESS:** \_\_\_\_\_

### EXHIBIT 3 – QUALIFICATION STATEMENT

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

**(PRINT)**

FIRM NAME: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
CITY STATE ZIP: \_\_\_\_\_  
AUTHORIZED REPRESENTATIVE: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
AUTHORIZED SIGNATURE: \_\_\_\_\_  
PHONE: \_\_\_\_\_ FAX: \_\_\_\_\_  
E-MAIL ADDRESS: \_\_\_\_\_

**1. TYPE OF BUSINESS**

**2. TYPE OF LICENSE & LOCATION**

CORPORATION  INDIVIDUAL   
PARTNERSHIP  JOINT VENTURE  \_\_\_\_\_  
OTHER: \_\_\_\_\_

**3. TYPE OF SERVICE TO BE PROVIDED FOR RFQ:** \_\_\_\_\_  
\_\_\_\_\_

**4. NUMBER OF YEARS IN BUSINESS:** \_\_\_\_\_

**5. ON A SEPARATE SHEET 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.**

**6. WHAT OTHER NAME(S) HAS YOUR COMPANY OPERATED UNDER:** \_\_\_\_\_  
\_\_\_\_\_

**7. HAVE YOU OR YOUR FIRM EVER FAILED TO COMPLETE ANY WORK AWARDED TO YOU? YES  NO  IF "YES", EXPLAIN:**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**8. HAS ANY OFFICER OR PARTNER OF YOUR ORGANIZATION EVER BEEN AN OFFICER OR PARTNER OF ANOTHER ORGANIZATION THAT FAILED TO COMPLETE A CONTRACT WITHIN THE LAST FIVE (5) YEARS? YES  NO**   
IF "YES", EXPLAIN:

**9. HAS YOUR FIRM OR ANY PARTNERS OR OFFICERS EVER BEEN INVOLVED IN ANY**

BANKRUPTCY ACTION? YES  NO  IF "YES", EXPLAIN:

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10. ARE YOU PRESENTLY INVOLVED IN ANY LITIGATION WITH ANY GOVERNMENT AGENCY? YES  NO  IF "YES", EXPLAIN TYPE, KIND, PLAINTIFF, DEFENDANT, ETC., AND STATE THE CURRENT STATUS:

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11. BANK REFERENCE: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
CONTACT: \_\_\_\_\_ PHONE: \_\_\_\_\_

12. LIST THREE (3) SIMILAR PROJECTS (LOCAL OR STATE-WIDE) **FROM LAST FIVE (5) YEARS**-INCLUDE LOCATION OF PROJECT, SIZE OF PROJECT (CONTRACT AMOUNT), CONTACT NAME, ADDRESS, TELEPHONE NUMBERS  
NOTE: DETAILED INFORMATION ON THESE PROJECTS MAY ALSO BE REQUESTED IN THE RFP PACKAGE.

1. Location of Project: \_\_\_\_\_  
Size of Project: \_\_\_\_\_  
Contract Amount: \_\_\_\_\_  
Contact Name and Title: \_\_\_\_\_  
Contract Address: \_\_\_\_\_  
Contact telephone and FAX Numbers: \_\_\_\_\_
2. Location of Project: \_\_\_\_\_  
Size of Project: \_\_\_\_\_  
Contract Amount: \_\_\_\_\_  
Contact Name: \_\_\_\_\_  
Contract Address: \_\_\_\_\_  
Contact telephone and FAX Numbers: \_\_\_\_\_
3. Location of Project: \_\_\_\_\_  
Size of Project: \_\_\_\_\_  
Contract Amount: \_\_\_\_\_  
Contact Name: \_\_\_\_\_  
Contract Address: \_\_\_\_\_  
Contact telephone and FAX Numbers: \_\_\_\_\_

13. LIST **CURRENT** SIMILAR PROJECTS (LOCAL OR STATE-WIDE) UNDER CONTRACT- INCLUDE LOCATION OF PROJECT, SIZE OF PROJECT (CONTRACT AMOUNT) CONTACT NAME, ADDRESS, TELEPHONE NUMBERS.  
NOTE: DETAILED INFORMATION ON THESE PROJECTS MAY ALSO BE REQUESTED IN THE RFP PACKAGE.

1. Location of Project: \_\_\_\_\_  
Size of Project: \_\_\_\_\_  
Contract Amount: \_\_\_\_\_  
Contact Name and Title: \_\_\_\_\_  
Contract Address: \_\_\_\_\_  
  
Contact telephone and FAX Numbers: \_\_\_\_\_
2. Location of Project: \_\_\_\_\_  
Size of Project: \_\_\_\_\_

Contract Amount:
Contact Name and Title:
Contact Address:
Contact telephone and FAX Numbers:

3. Location of Project:

Size of Project:
Contract Amount:
Contact Name and Title:
Contact Address:
Contact telephone and FAX Numbers:

14. LIST OF SUB-CONTRACTORS TO BE USED FOR THIS PROJECT:  
(INCLUDE NAME, ADDRESS, TELEPHONE NUMBER, TYPE OF WORK)

1. Name:
Address:
Telephone Number:
Type of Work:
2. Name:
Address:
Telephone Number:
Type of Work:
3. Name:
Address:
Telephone Number:
Type of Work:

**ADDITIONALLY PLEASE PROVIDE:**

- List of subcontractors and their respective qualifications and experience, if applicable
- State or national register or state historical fund funded projects that were completed by your firm, if available

**IF ADDITIONAL INFORMATION IS PROVIDED ON A SEPARATE SHEET FOR ANY OF THE ITEMS, CLEARLY SPECIFY WHERE IT CAN BE LOCATED IN YOUR PROPOSAL PACKAGE.**

## EXHIBIT 4 SAMPLE CONTRACT

### SERVICES CONTRACT

Contract Number:		Project Name/Title	
Vendor/Contractor			
Contact Name:		Telephone:	
Address:			
Federal Tax ID #		Please check one:	<input type="checkbox"/> Corporation <input type="checkbox"/> Individual <input type="checkbox"/> Partnership <input type="checkbox"/> 501C3
City Contracting Specialist		City Dept Rep	
NOT TO EXCEED Contract Amount:		City Account #	Acct Code (5)    Fund (3)    Dept (4)    Project (7)
Contract Type:		Period of Performance:	
Contract Value Amount:		Contract Funding Amount:	

### 1. INTRODUCTION

THIS TYPE CONTRACT ("Contract") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2019 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: XXXXXXXXXXXXX

The Contractor did on the \_\_\_\_ day of \_\_\_\_\_, 2019 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:

This Contract Document includes:

1. Appendix A – Contractor’s Proposal
2. Appendix B – Statement of Work
3. Appendix C – Cost Proposal

- 4. Appendix D – Insurance Certificate
- 5. Appendix E – Federal Transit Administration (FTA) Clauses

**2. COMPENSATION/CONSIDERATION**

THIS FIXED UNIT PRICE CONTRACT is established at the not-to-exceed amount of \$xx.xxx.xx

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 Appendix C, as proposed by the Contractor. At no time shall the total obligation of the City exceed the not-to-exceed amount of this Contract.

**3. TERM OF CONTRACT**

It is further agreed that the Contractor will start work promptly and continue to work diligently until completed. The Contract Period of Performance shall be as follows:

<u>Performance Period</u>	<u>Dates</u>	<u>Price</u>
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Further, the City shall have the unilateral option of extending services beyond the term of the Contract for a period not to exceed a total of six (6) months if additional time is necessary to solicit and award a new Contract. Options to extend services or renew the contract shall be exercised upon written notification (mailed or otherwise furnished) to the Contractor at least fifteen (15) days prior to the expiration date of the Contract.

The total value of this Contract for the base year shall not exceed \$xx,xxx.xx.

**4. INSURANCE**

The Contractor shall maintain acceptable Insurance Policy(s) which includes Property, Liability and Professional Errors and Omissions coverage, as listed in Appendix xxxxx. 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 Contract 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 SHALL BE SUBMITTED TO THE CITY PROJECT MANAGER 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.

The following provisions shall apply to this Contract and shall take precedence and control in the event of conflict with any other provisions of the Contract:

## **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 was 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, which change order was signed by the authorized City representative. The amount of compensation to be paid, if any, shall be deemed to cover any and all additional general, extended overhead, 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 to this Contract shall be valid unless duly approved and issued in writing by the City Project Manager. 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 Project Manager.

## **12. 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.

### **13. 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.

### **14. 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.

### **15. 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.

### **16. 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.

## **17. 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.

## **18. 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.

## **19. 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.

## **20. 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.

## 21. 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 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, 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.

## **22. 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 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 City's request at either the City's or Contractor's offices, and without expense to the City.

Audit: The Contractor agrees to submit to the City a program audit, as defined in the Statement of Work, conducted by an independent audit firm and at the contractor's expense, by March 15 following the completion of each contract calendar year.

## **23. ILLEGAL ALIENS**

Illegal Aliens - Public Contracts for Services - Compliance with Title 8, Article 17.5, Colorado Revised Statutes: The Contractor acknowledges, understands, agrees, and certifies that: In the performance of any work or the provision of any services by the Contractor under this Contract, the Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract; or enter into a contract with any subcontractor that fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract or under the subcontract to this Contract. The Contractor certifies in accord with Section 8-17.5-102(1) C.R.S. that, on the date the Contractor signs this Contract, the Contractor does not knowingly employ or Contract with an



illegal alien who will perform work under this Contract and that the Contractor shall participate in the e-verify program or Colorado Department of Labor and Employment program in order to confirm the employment eligibility of all employees who are newly hired for employment or to perform work under this Contract. The Contractor is expressly prohibited from using the e-verify program or Colorado Department of Labor and Employment program procedures to undertake pre-employment screening of job applicants while this Contract and any services under this Contract are being performed. If the Contractor obtains actual knowledge that a subcontractor performing work under this Contract for services knowingly employs or contracts with an illegal alien, the Contractor shall notify the subcontractor and the City within three days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien, and terminate the subcontract with the subcontractor if within three days of receiving the notice the subcontractor does not stop employing or contracting with the illegal alien; except that the Contractor shall not terminate the Contract with the subcontractor if during the three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien. The Contractor shall comply with any request by the City, federal government, or the Colorado Department of Labor and Employment made in the course of an investigation. If the Contractor violates or fails to comply with any provision of C.R.S. 8-17.5-101 et seq, the City may terminate this Contract for breach of contract. If this Contract is so terminated, the Contractor shall be liable for any actual and consequential damages to the City.

#### **24. 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.

#### **25. 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 no event shall the City be responsible for overtime pay.

#### **26. 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.

## **27. NON-DISCRIMINATION**

- A. In accord with section 24-34-402, C.R.S., the Contractor will not discriminate against any employee or applicant for employment because of disability, race, creed, color, sexual orientation, religion, age, national origin, or ancestry. But, with regard to a disability, it is not a discriminatory or an unfair employment practice for an employer to take into consideration disability if there is no reasonable accommodation that the employer can make with regard to the disability, the disability actually disqualifies the person from the job, and the disability has a significant impact on the job. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their disability, race, creed, color, sexual orientation, religion, age, national origin, or ancestry. Such actions 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.
- 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, sexual orientation, religion, age, national origin, or ancestry.
- D. Contractor will cooperate with the City in using Contractor's best efforts to ensure that Disadvantaged Business Enterprises are afforded the maximum opportunity to compete for subcontracts or work under this Contract.

## **28. 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. The Statement of Work
- C. Other Appendices, Attachments, Exhibits, or Schedules

## **29. HEADINGS**

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

## **30. DISPUTES**

- A. All administrative and contractual disputes arising from or related to this Contract 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.

### **31. 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.

### **32. PAYMENTS**

All invoices shall be emailed to [transitfinance@springsgov.com](mailto:transitfinance@springsgov.com) by the 10<sup>th</sup> of each month for services provided in the previous month.

The City will pay the Contractor, upon submission of approved 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.

Each invoice must contain at least the following information:

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

### **33. 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.

### **34. 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.

### **35. 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.

### **36. 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.

### **37. 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.

### **38. 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.

### **39. APPENDICES**

The following Appendices are made a part of this Agreement:

1. Appendix A – Contractor's Proposal
2. Appendix B – Statement of Work
3. Appendix C – Cost Proposal
4. Appendix D – Insurance Certificate

## CONTRACT SIGNATURE PAGE

The Contractor certifies in accord with Section 8-17.5-102(1) C.R.S. that, on the date the Contractor signs this Contract, the Contractor does not knowingly employ or Contract with an illegal alien who will perform work under this Contract and that the Contractor shall participate in the e-verify program or Colorado Department of Labor and Employment program in order to confirm the employment eligibility of all employees who are newly hired for employment or to perform work under this Contract. The Contractor is expressly prohibited from using the e-verify program or Colorado Department of Labor and Employment program procedures to undertake pre-employment screening of job applicants while this Contract and any services under this Contract are being performed.

**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:**

**JEFFREY H. GREENE, CHIEF OF STAFF**

**SECOND PARTY:**

Corporate Name

Signature

Date

Title



Contract R00XXXX  
TASK ORDER XXXX-XXX

Task Order Number:		Project Name/Title	
		Date:	
Vendor/Contractor			
Contact Name:		Telephone:	
Email:			
Address:			
Federal Tax ID #		Please check one:	<input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Individual <input type="checkbox"/> Partnership
City Contracting Specialist	Name & Phone#	City Dept Rep/Project Manager	Name & Phone# & Department Name
NOT TO EXCEED Task Order Amount:	\$	City Account #	Acct Code (5) Fund (3) Dept (4) Project (7)
Contract Type:	Fixed Unit Price	Period of Performance:	
Contract Value Amount:	NTE:	Contract Funding Amount:	NTE:

Per the terms and conditions and unit pricing of Contract R00XXX, (Contractor) shall perform \_\_\_\_\_ for the following:

Summary of work

THIS FIXED UNIT PRICE Task Order # is established at the Not to Exceed amount of \_\_\_\_\_. The Contractor is not authorized to expend more than the Not to Exceed amount of \_\_\_\_\_. The City is not liable for any expenditure above the funded amount of \_\_\_\_\_.

Subject to the terms and conditions of the Contract Documents, Contractor agrees to furnish all materials and to perform all work as set forth herein and in Contract R00XXXX.

All pricing is in accordance with the fixed unit prices found in Appendix 3 of Contract R00XXXX. Payment will be made for actual quantities. At no time shall the total obligation of the City exceed the not to exceed amount of this Task Order.

Contractor and City agree that this Task Order is intended to supplement Contract R00XXXX that all terms and conditions of Contract R00XXXX apply to this Task Order and that nothing in this Task Order is intended to waive or modify any terms or conditions of Contract R00XXXX.



**TASK ORDER SIGNATURE PAGE**

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

This Task Order Modification is executed in one (1) original copy.

<b>THE CITY OF COLORADO SPRINGS, COLORADO:</b>
<b>JEFFREY H. GREENE, CHIEF OF STAFF</b>

<b>SECOND PARTY:</b>	
Corporate Name	
Signature	Date
Title	

## **SCHEDULE**

Schedule A – General Construction Terms and Conditions

## **SCHEDULE A – GENERAL CONSTRUCTION TERMS AND CONDITIONS**

General Construction Terms and Conditions can be viewed here:

[https://coloradosprings.gov/sites/default/files/schedule\\_b\\_-\\_general\\_construction\\_terms\\_and\\_conditions\\_-\\_version\\_100316.pdf](https://coloradosprings.gov/sites/default/files/schedule_b_-_general_construction_terms_and_conditions_-_version_100316.pdf)