



**REQUEST FOR QUALIFICATIONS
PROFESSIONAL DESIGN SERVICES**

**MILL LEVY 15 CENTRAL CAPITOL HILL
AT 6TH AVENUE AND 8TH AVENUE**

FOR

DEPARTMENT OF PUBLIC WORKS

PROJECT: PWTES2017-017

DATE OF ISSUANCE:, January 24, 2018

CITY AND COUNTY OF DENVER
DEPARTMENT OF PUBLIC WORKS
NOTICE OF REQUEST FOR QUALIFICATIONS

PROFESSIONAL DESIGN SERVICES
MILL LEVY 15 CENTRAL CAPITOL HILL
AT 6TH AVENUE AND 8TH AVENUE

PROJECT CONTROL NO. PWTES2017-017
EBID DOCUMENT NO. 5510615

The Department of Public Works, City and County of Denver, has issued a Request for Qualifications (the “RFQ”) for professional engineering consultant(s) to assist with the Traffic Signal and Intersection Design. A link to the RFQ documents can be found at www.work4denver.com . RFQ documents will be available for download at www.QuestCDN.com, eBid Document No. **5510615**, at the cost of \$10.00.

Responses are due at 10:00 a.m. MST, March 9, 2018, delivered to Public Works Finance and Administration, Attn: Brenda Hageman, 201 W. Colfax, Ste. 614, Denver, CO 80202.

A Pre-Submittal Meeting will be held at 11:00 a.m., February 5, 2018, in Conference Room 4. I. 5. - Webb Building, 201 West Colfax Avenue, Denver, CO 80202. Interested firms are encouraged to attend. Proposers are responsible for any information conveyed at this meeting.

General Statement of Work:

The 2017 Traffic Signal Upgrade Mill Levy Package #15. The overall objective of this project is the redesign and reconstruction of nineteen (19) traffic signals and intersection within the City and County of Denver, located on 6th and 8th Avenue.

Minority and Women Business Enterprise Participation: The project goal of 25% must be met with certified participants as set forth in Section 28-65, D.R.M.C. or through the demonstration of a sufficient good faith effort under Section 28-62 D.R.M.C. For compliance with good faith requirements under Section 28-62(b), the M/WBE percentage solicitation level required for this project is 100%.

General: As the City’s best interests may appear, the Manager of Public Works reserves the right to waive informalities in, and to reject any or all, proposals.

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Introduction

This Request for Qualifications (“RFQ”) is issued to provide the selection process for Professional Services for the project named above.

Firms submitting a response to the RFQ will be asked at a minimum, to state their qualifications, understanding/experience relating to the required services and offer their methodology for meeting the scope of services defined below. Respondents are required to submit required M/WBE forms with their response.

Tentative Selection Schedule:

Advertise and Issue RFQ	January 24, 25, 26, 2018
Pre-Submittal Meeting 11:00 a.m. – (Conference Room 4. I. 5.)	February 5, 2018
Deadline to Submit Questions 9:00 a.m.....	February 16, 2018
Responses (Submittal) to RFQ Due 10:00 a.m.	March 9, 2018
Shortlist notification.....	April 3, 2018
Tentative Oral Interview.....	April 24, 2018
Notice of Selection	May 15, 2018
Contract Execution/NTP.....	August 2018

The competitive selection process provided for under this RFQ will focus on the qualifications and prior history of performance on similar projects of each prime firm and the members of the prime firm’s proposed team, in accordance with the selection criteria set forth in this RFQ, in addition to the oral interviews. Thoughtful written responses to this RFQ will enable the City to select the most qualified proposers.

SECTION 1 – OVERVIEW AND BACKGROUND

A. Project Description

The goal of the City and County of Denver (City) PW Transportation & Mobility is to improve public safety for all modes of transportation on city streets. The age and poor safety record of nineteen (19) traffic signals on 6th and 8th Avenue, two major roadways that connect Denver to the surrounding metro area, warrant a complete reconstruction to meet safety standards. The 2017 Mill 15 Traffic Signal Upgrade project is programmed to improve traffic safety on these two roadways by redesigning and reconstructing the 19 signals to meet current safety standards. The scope of work will be to replace existing signals with new signals that follow current City standards and MUTCD criteria and also to reconstruct the intersections to comply with latest safety criteria. The locations of these 19 traffic signals are at the following intersections:

- | | |
|------------------------------------|---------------------------------|
| 1. 6 th & Speer/Sherman | 1. 8 th & Grant |
| 2. 6 th & Grant | 2. 8 th & Logan |
| 3. 6 th & Logan | 3. 8 th & Washington |
| 4. 6 th & Washington | 4. 8 th & Clarkson |
| 5. 6 th & Clarkson | 5. 8 th & Corona |

- | | |
|--------------------------------------|---|
| 6. 6 th & Corona | 6. 8 th & Downing |
| 7. 6 th & Downing | 7. 8 th & Williams/High[MB] |
| 8. 6 th & Franklin/Gilpin | 8. 8 th & York |
| 9. 6 th & Columbine | 9. 8 th & Josephine |
| | 10. 8 th & Clayton/Detroit[MB] |

The City is requesting a RFQ to provide professional traffic signal and intersection design for the Mill 15 project. Design of the traffic signals shall be per City standards and MUTCD criteria, and the intersection design will be geometric layout and vertical design of the curb ramps, sidewalk, curb and gutters, and curb returns for enhanced pedestrian and vehicular accesses. Additional civil design may include pavement, utility, roadway, drainage, and striping.

Other civil work such as water quality landscape planters, connects sidewalks, curb extension, bypass medians, and partial intersection rebuilds are also anticipated in this project.

In addition to the traffic signal and the intersection design, traffic signal timing of the 19 signals is included in this project. This will include preparing Synchro models and Tru-Traffic files for each signal by time-of-day plan (AM, PM, All-Other-Times), traffic data collection, before and after run study, and signal timing work orders for each intersection.

B. Summary of Required Services

Justification for Project

The Mill 15 Traffic Signal Upgrade project is to redesign and reconstruct 19 traffic signals on the 6th and 8th Avenue corridors. Based on the agency’s crash data, these 19 aging traffic signals on the two corridors have a poor safety record and the traffic signal upgrade project will improve safety by reconstructing the signals to meet all current City safety standards. All signal upgrades will include the standard mast arm signal poles and mast arms for greater stability, large 12” signal heads per lane and 16” countdown pedestrian signal faces for greater visibility, upgraded controllers and cabinet with standard UPS to keep the signal operating in an event of an electrical blackout, detection camera system for left turns and greater reliability, upgraded emergency preemption system for emergency vehicle services, and enhanced signing and striping package

Budget and Tentative Schedule

- The total project budget is \$700,000.
- The tentative schedule for the construction 2019-2020.

PROJECT TASKS

Project Tasks

There will be a minimum of 13 tasks on this project which include:

1. Survey
2. Utility Coordination
3. Utility Design
4. Conceptual Layout
5. Preliminary Design
6. Final Design Review
7. Final Construction Plan
8. Final Construction Specification & Engineer’s Estimate of Probable Cost
9. Construction Bid Documents (AD Set)
10. Signal Timing
11. Design Progress/Coordination Meeting
12. Construction Services

13. City & County of Denver Team

Task 1 – Survey

This task includes full survey as needed in order to complete the design of the project.

Task Description

- Provide required traffic control for survey activities.
- Depict topography, physical features and utilities on the base mapping along with existing right-of-way and property ownership. Prepare survey control map depicting locations of project monuments. All work of surveying and installation of monuments shall be in accordance with CCD requirements.
- Locate subsurface investigation test holes in association with Task 3.
- Locate utility potholes in association with Task 3.

Produce a planimetric map of the project area. Features located will include, but not limited to surface and subsurface drainage features, irrigation ditches/conduits, lawn irrigation, signs, pavement marking, mailboxes, fences, driveways and/or curb cuts, curbs, sidewalks, and edges of pavements (asphalt and concrete). Grate and invert elevations approximately 100 feet down each leg of every intersection. It should be anticipated that up to 10 range points will need to be reset. Survey services to be provided per the “Guidelines for Survey Control for Design of City Projects” as described on the following webpage: <https://www.denvergov.org/rightofwayservices/RightofWayServices/Survey/GuidelinesSurveyControlDesignofCityProjects/tabid/442349/Default.aspx>

It should be anticipated that 15 legal exhibits for permanent and temporary construction easement (PE)/(TE) will be required. CCD will provide preliminary right-of-way information and digital aerial images via AutoCAD files if desired. Existing right-of-way shall be surveyed and shown on the plans.

- Obtain utility location maps from the Utility Companies, which identify utility facility locations in the project area. The field survey will locate utility poles, manholes, valves, pedestals, guy wires, and other visible utility features. Underground utilities will be shown as marked by utility companies. Obtain invert elevations of manholes and vaults. Utility surveys will be accomplished within the project limits. Show the horizontal and vertical locations in the design plans and cross-sections. “Potholing” of utilities will be performed at critical locations. Attend Utility Coordination meetings as requested.
- Locate storm sewer pipes and inlets and determine invert elevations.
- To provide appraisal services.

Task 2 - Utility Coordination

This task is in support of the City & County of Denver’s efforts to coordinate with utility companies and obtain utility agreements with the affected utility companies for the project described in the overview.

Task Description

- Meet one-on-one with utility companies and jurisdictions to discuss project scope, utility conflicts, and relocation and mitigation strategies. Set up meetings, develop agendas, facilitate meetings, and develop meeting minutes.
- Obtain easements, license agreements, and relocation agreements from Utility companies as applicable and provide to CCD.
- Conduct/Attend utility coordination meetings.
- After 90% plan review, conduct as needed coordination/comment resolution meetings with utility owners on wet and dry utility design.
- Prepare the utility specification

- Prepare, coordinate and obtain utility clearance letters with the affected utility agencies.
- Complete Xcel Energy work order request form. Obtain estimates of probable cost for utility relocations that are a cost to the project.

Task 3 - Utility Design

This task includes potholing, developing existing utility plans and identifying utilities that will be affected by the final design within the project limits, and relocation design of affected wet & dry utilities within the project limits.

Task Description

- Identify potential utility conflicts between existing utilities and proposed improvements for coordination with design team and utility companies.
- Conduct supplemental Utility potholing.
- Create pothole location map and log plan sheet(s).
- Prepare existing utility plan sheets showing existing utility facilities, existing utility easements and conflicts with proposed construction.
- Prepare a summary table of all utilities within the project limits, noting utility adjustments, relocations and / or replacement.
- Create an existing manhole log plan sheet(s).
- Design utility relocations.
- Develop final review and bid plans, specifications and cost estimate for utility relocations.
- Develop utility relocation quantity tabulations for final review and bid.
- Develop tabulation of utility removals and adjustments.
- Check utility clearances and existing utility locations as they relate to proposed grading.

Task 4 – Conceptual Layout

Task Description

- Prepare conceptual design of the 19 locations (30% completion) that consist of the traffic signal and intersection design.
- The conceptual design level will be for an informal review by Transportation & Mobility staff only. At this level only the proposed hard surface sidewalks, geometric intersection changes, ADA ramps, curb returns, and approximate locations of traffic signal poles are needed. At conceptual design level, prepare an informal electronic submittal, in PDF format, of 11x17 sheets of the 19 intersections for Transportation & Mobility staff review.

Task 5 – Preliminary Design

Task 5 is to prepare preliminary design of the 19 locations (60% completion) that consist of the traffic signal and intersection designs per CCD conceptual design review comments. At the preliminary design level (60%), the plans shall consist of:

Title Sheet – shall include title, project name and number, description of project, locations, sheet index, and horizontal and vertical control information.

- CDOT Standards Plans List Sheet
- City and County of Denver Standard Legend and Key Notes Sheet
- General notes sheet detailing the construction, equipment, wiring, signing, utilities, environmental notes and any additional aspects
- Summary of quantities and tabulation of data in CDOT format
- City and County of Denver Standard Removal Sheet for each intersection

- City & County of Denver Civil design of each intersection
- Curb returns, curb/gutter and ADA ramps details per CCD standards
- City and County of Denver Signal Design Sheet for each intersection
- Signals, signs/pavement marking and civil quantities
- City and County of Denver Standard Signing / Pavement Marking Sheet for each intersection

Task 6 – Final Design Review

Task 6 is to prepare the final review plans (90% completion), a draft construction specification, and a draft engineer's estimate of probable cost for the design of the 19 intersections.

Task Description

- Prepare the construction specifications will be formatted to CDOT's Standard Specifications for Road and Bridge Construction, 2017 Edition.
- The cost estimate will be based on bid prices from CCD/CDOT's recent signalization and roadway projects.
- The final review plan will need to include the sheets listed in the preliminary design review plans, as well as address comments and concerns that occurred during the preliminary design review.
- Prepare three sets of final design plans (11x17 hardcopy and electronic), an electronic copy of the construction specifications, the engineer's estimate of probable cost, and the comments matrix will be required and submitted to CCD for Transportation & Mobility and ERA review

Task 7 – Final Construction Plans

Task 7 is to prepare the final construction plans (100% completion) for the intersections and traffic signals at the 19 locations. The final construction plans will address all comments and concerns that occurred during the final design review level and shall include all sheets listed in the preliminary and final review plans, and the submittals to include three sets of final design plans (11x17 hardcopy and electronic), an electronic copy of the construction specifications, the engineer's estimate of probable cost, and the comments matrix will be required and submitted to CCD for Transportation & Mobility and ERA review final constructions plans.

Task 8 – Final Construction Specifications & Engineer's Estimate of Probable Cost

Task 8 will consist of updating the Construction Specifications and the Engineer's Estimate of Probable Cost per any further CCD review comments. The specifications and cost estimate will address all comments and concerns that occurred during the final design review. The Final construction specifications (Project Special Provisions) and cost estimate (Bid Schedule) will be included in the Contract Bid Documents.

Task 9 – Construction Bid Documents (Ad Set)

Task 9 is to prepare the construction bid documents (AD plans, construction specifications, and the Engineer's Estimate of Probable Cost) in accordance with any further review comments that are generated during the final construction plans, and specs and cost estimate review level and submit the entire bid documents to PW Transportation & Mobility for bidding. Also submit to CCD the electronic files of the plans and base files (AutoCAD and PDF), specifications (Word) and engineer's estimate (Excel) to be included in bid package.

Task 10 – Signal Timing

Task 10 is to collect traffic counts, conduct before and after runs and prepare Synchro models and Tru-Traffic files for each time-of-day plan (AM, PM, All-Other-Times).

Task Description

- Prepare Synchro models and Tru-Traffic files for each time-of-day plan (AM, PM, All-Other-Times). Synchro will be used to optimize cycle lengths, phase sequences, phase splits, and intersection offsets. A time-space analysis will be performed using both Synchro and Tru-Traffic and time-space diagrams will be submitted to CCD for comments.
- Signal timing plans will be prepared in TEAMS to be reviewed and approved by Transportation & Mobility and will include additional fine tuning as necessary.

Task 11 – Design Progress / Coordination Meetings

This task covers project management coordination meetings, consultant team coordination meetings and miscellaneous meetings with CCD staff and outside entities.

Task Description

- Attend project management meetings.
- Attend consultant team coordination meetings.
- Attend outside agency coordination meetings as described in other tasks.
- Attend 30% and 90% review meetings.
- Attend 30% and 90% comment resolution meetings.
- Attend final review meeting.
- Prepare agendas, exhibits, handouts, conduct and write minutes for above mentioned meetings. Minutes will be completed within 7 days of the meetings.
- Prepare agendas, exhibits, handouts, conduct and write meeting minutes for 30% and 90% Design Review Meeting. Minutes will be completed within 7 days of the meeting.

Task 12 – Construction Services

This task covers services conducted during the construction phase.

Task Description

- Review submittals as requested.
- Respond to RFI's (Request for Information) within three business days
- Conduct periodic site inspections as requested
- Attend project meetings when requested
- Participate in Substantial Completion walk-through
- Prepare as-built plans based upon redlines by the Contractor and CCD.
- Provide Quality Assurance Materials Testing
 - Moisture/Density field testing of embankment, aggregate base course, utility structures and trench backfill materials using nuclear gauge
 - Laboratory testing of soil and aggregate materials used on site
 - Density testing of placed asphalt
 - Laboratory testing of asphalt per CCD minimum testing frequency requirements
 - Field sampling and testing of Portland Cement Concrete Pavement (PCCP) (including trail and roadway), sidewalk, and curb and gutter
 - Perform compressive strength testing of concrete cylinder samples
 - Perform engineering review of testing reports and prepare for distribution

Miscellaneous Requirements

- All CAD files/designs shall be produced in AutoCAD Civil 3D 2016. CAD files shall be produced according to CCD CAD Standards and templates. The CCD Custom profile, which runs within AutoCAD C3D, will be provided.
- Development of topographic data shall follow CCD CAD Standards.
- The use of MicroStation is acceptable.
- Electronic information shall be organized using CCD's file directory structure.
- Electronic Files shall be transmitted to CCD upon completion of the project organized in accordance with the CCD file directory structure.
- All documents shall be provided in a pdf format in addition to the file created by the original program.
- Plan packages shall be submitted in accordance with CCD's CPEP Plan Requirements T's final PS&E check list (60% through Construction Bid documents will be required).

Work Product

At a minimum, the Consultant work products include:

A Reports

C. Field Inspection Review (30%/ FIR) Plans and Estimates

D. Final Office Review (90% FOR) Plans, Specifications, and Estimates

E. Final/ Construction (100%) Plans, Specifications, Cost Estimate

F. Advertisement/Bid Plans, Specifications, Cost Estimate

G. Project Coordination

H. Schedules

I. Meeting Minutes

J. Environmental permits, Utility, and ROW Clearance Documents

K. Professional Engineer Stamped Record Sets

Progress Meetings

The City and Consultant Project Managers will meet periodically as required (at least monthly intervals during the design phase of the project). These Progress Meetings will be used to coordinate the work effort and resolve problems, and the meetings will be required throughout the duration of the design, and implementation of the project. The meetings will review the following:

- Recording and distributing meeting minutes by the Consultant.
- Activities completed since the last meeting.
- Problems encountered.
- Activities required by the next progress meeting.
- Solutions for unresolved and anticipated problems and any late activities.
- Information or items required from other agencies and discuss agency coordination.
- Other required meetings are described in the following sections.

SECTION 2 - GENERAL GUIDELINES

A. Local Presence:

All firms participating in this project must be licensed in the State of Colorado.

B. Coordination:

Coordination meetings with City agencies, utility companies, other City consultants (including technology consultants) and user groups shall be a continuing work item for the selected Design Consultant from the 'Notice to Proceed' through program review, schematic design, design development, construction documents and through the construction and warranty phases. The Design Consultant shall comply with all provisions of all related codes, standards, City Ordinances and regulations.

- C. **Contract Management**
The City and County of Denver Public Works Transportation & Mobility will manage the Engineering Services contract:

The City's overall Project Manager is:
Department of Public Works
Manager – Transportation & Mobility
201 West Colfax Ave. Denver, CO 80202

In accordance with the City Charter, the City's Executive Director of Public Works is charged with the management and control of public improvement projects. It is the City's expectation that this RFQ and selection process will result in the selection of a Consultant and affiliated team to be retained in a professional capacity for the development and execution of the anticipated professional services described herein.

This RFQ solicitation is issued by the Executive Director of Public Works pursuant to the authority vested in the Manager by the Charter of the City and County of Denver. As its best interests may appear, the Manager of Public Works reserves the right to terminate, modify or suspend the process, reject any or all submittals, modify the terms and conditions of this selection process and/or waive informalities in any submission.

This project will be administered by: Public Works

- D. Manager of the Department of Public Works is the City representative authorized to administer the Agreement and directs and approves all services provided and work performed hereunder.
- E. The Consultant shall be directed by the Project Manager and work closely with the Client Agency, and City regulatory agencies, and other City and Regulatory agencies throughout the project duration. The Project Manager shall have the right to reject inaccurate or substandard work and cause such rejected work to be satisfactorily corrected without additional cost to the City.
- F. **Colorado Open Records Act**
Documents submitted pursuant to this RFQ will be subject to the Colorado Open Records Act, C.R.S. §§ 24-72-201, et. seq. Information clearly marked as confidential and proprietary will be kept confidential by City, unless otherwise provided by law. City will attempt to notify the Submitter if a request is made for pages of documents clearly marked as confidential and proprietary so that the Submitter may take any action it deems necessary to defend the request. The Submitter, not the City, shall be the entity responsible for defending against Colorado Open Records Act disclosures for any records claimed by the Submitter to be confidential and proprietary.
- G. **Submission Ownership, Use and Rights:** The City reserves the option of retaining any or all of the materials and drawings submitted by the Proposers/Respondents to this RFQ. Any unique or exclusive design concepts or features represented in the submission documents shall remain the property of the authoring Design Consultant. They may not be used by the City or other parties to design or construct any facility, in whole or in part, without the further agreement of, and compensation to, the authoring party.
- H. **RFQ Administration:**
The Manager hereby designates Brenda Hageman, Public Works Contract Administration to serve in the capacity of administrator for this selection process and will be responsible for coordination of the procedures and rules specified in this RFQ, managing this process and all other matters related to this process. In conducting the process in a fair and equitable manner, the administrator will serve as the primary intermediary between the design professionals, the City, and the members of the Selection Committee. All inquiries and questions regarding this RFQ shall be directed to Brenda Hageman in the Public Works Department in writing via email at pw.procurement@denvergov.org. Any applicant that

contacts any member of the Selection Committee, other than the designated contact from the date of issuance of the RFQ and prior to the completion of the selection process may be disqualified from further participation in the selection process, at the City's sole discretion.

I. **Addenda:**

As the City may require, addenda may be issued to supplement this RFQ. Any applicant who downloads the RFQ from QuestCDN shall receive automated notification of addenda. It shall be conclusively presumed that the applicant did, before submitting a Response to the RFQ, register and download the RFQ documents from QuestCDN, read all addenda, posted decisions, and other items relevant to the qualifications.

J. **Verification of Information:** Applicants are hereby notified that the City will rely on the accuracy and completeness of all information provided in making its selection. As such, Applicants are urged to carefully review all information provided to ensure the clarity, accuracy and completeness of such information. As the City deems necessary and appropriate in its sole discretion, the City reserves the right to make any inquiries or other follow up required to verify the information provided.

K. **Diversity and Inclusiveness in City Solicitations:**

Effective 1-4-2016, the method in which City and County of Denver collects Diversity and Inclusiveness data has changed from a physical form to a link where all prospective bidders must enter required information. Each proposer shall, **as a condition of responsiveness** to this solicitation, complete and submit via the link below, their response to the "Diversity and Inclusiveness in City Solicitations Information Request Form". Include a copy of the completed form with submittal as indicated in the Submittal Requirements section. <https://fs7.formsite.com/CCDenver/form161/index.html>

The information provided on the "Diversity and Inclusiveness in City Solicitations Information Request Form" will provide an opportunity for City contractors/consultants to describe their own diversity and inclusiveness practices. Contractors are not expected to conduct intrusive examinations of its employees, managers, or business partners in order to describe diversity and inclusiveness measures. Rather, the City simply seeks a description of the contractor/consultant's current practices, if any.

Diversity and Inclusiveness information provided by City contractors in response to City solicitations for services or goods will be collated, analyzed, and made available in reports consistent with City Executive Order No. 101. However, no personally identifiable information provided by or obtained from contractor's will be in such reports. Executive Order 101 is available for review at:

<https://www.denvergov.org/content/denvergov/en/denver-office-of-economic-development/do-business-with-denver/ordinances-executive-orders.html>

L. **Insurance Required:** The selected Consultant for this Project shall be required to strictly comply with the Insurance requirements set forth in the *Sample Design Services Agreement* (Attachment 7). The selected Consultant, all other primary firms and all subconsultant firms performing work or providing services for the Project will be required to obtain insurance coverage in the amounts and under the terms and conditions specified therein. As such, each Submitter shall submit with its Response in the Letter of Transmittal, a statement indicating the firm's intention to comply with the insurance requirements of this section.

M. **No Discrimination In Employment.** In connection with the performance of work under this contract, the Contractor may not refuse to hire, discharge, promote or demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, gender identity or gender expression, marital status, or physical or mental disability. The Contractor shall insert the foregoing provision in all subcontracts.

SECTION 3 – SOLICITATION INFORMATION

- A. The City liability for expenditure of public funds pursuant to this proposal shall be contingent upon and limited to the appropriation of funds for the Agreement to the successful proposer by the Denver City Council and payment of such funds into the Treasury of the City.
- B. Contract Review. Proposers shall undertake a detailed review of the *Sample Design Services Agreement* (Attachment 7) and submit with their proposal a list of all questions, issues, or modifications which the Proposer would like the City to review and address, should they be selected as the top ranked proposer. The City shall assume that the Sample Design Services Agreement has been thoroughly reviewed and discussed with legal counsel prior to submission of the list of issues. Therefore, all proposers are strongly advised to seek legal counsel prior to preparing such a list.
- C. The City anticipates that the final Agreement submitted to the selected firm for execution will be in a form substantially similar to Attachment 7. Consequently, the City will not enter into detailed negotiations of the terms and provisions contained in the sample agreement. Instead, the City will review the list of issues raised by the selected Proposer, address each issue at its sole discretion and provide the selected Proposer with a final executable Agreement for signature.
- D. In the event the City elects to make significant, material changes to the form provided or proceed with another agreement format, the City will provide the selected proposer with an opportunity to review and submit a list of issues regarding the changes or new format. The City will then address the issues raised at its sole discretion and provide the selected Proposer with a final executable Agreement for signature.
- E. Should the firm selected fail to execute this final Agreement, the City reserves the right to negotiate with the firm, terminate further negotiations and initiate negotiations with another ranked firm or reject any or all submissions, as its best interests may appear.

SECTION 4 - SUBMITTAL

Each respondent must comply with the submission requirements as outlined below. Submittals that fail to comply with the requirements as specified may be deemed non-responsive and such determination will result in no further consideration of that respondent or the respondent’s submittal by the City.

A. City Selection Committee:

The Selection Committee is charged with the responsibility of reviewing and evaluating all responsive submittals and other information received in accordance with the requirements of this RFQ, later directives from the City and the official advertisement. In assessing the strengths and weaknesses of each respondent, the Selection Committee may, at its discretion, request clarification of any response to this RFQ or other issue that may arise during the selection process. The City reserves the right to include or allow the Selection Committee to consult with any additional, non-voting “commentators” during the selection process. The Selection Committee for this Project is comprised of:

Alex Kouprivitch	Transportation and Mobility	Engineer
Chris Krook	Transportation and Mobility	Engineer
Laura Wasson	Capital Program Management	Engineer
Amy Rens	Transportation and Mobility	Senior Engineer
Rachael Bronson	Transportation and Mobility	Senior City Planner

The City reserves the right to replace members of the Selection Committee without notice as needed, in the City’s sole discretion.

B. Selection Process Overview:

The RFQ selection process for the project Design Consultant will proceed, under the oversight and direction of the Project Manager in accordance with the following stages:

1. As provided for in the RFQ documents, selected Design teams, as screened by a City Selection Committee, will be invited to participate in the interview phase.
2. In making the selections under this RFQ, the City and the Selection Committee will focus on the submittals and presentations of the applicant’s general qualifications, team make-up and prior history of performance in accordance with the selection criteria set forth in this RFQ. Firms selected to participate in the oral interview process will receive additional information prior to the oral interview.
3. At any stage, the City reserves the right to terminate, suspend or modify this selection process; reject any or all submittals at any time; and waive any informalities, irregularities, or omissions in submittals, all as the best interests of the City may appear.

C. Selection Criteria and Scoring Ranges are for: Shortlist.

1. Qualifications/experience of firm and key personnel in the professional areas listed in this RFP. (0-25 points)
2. Approach to proposed project and issue identification; philosophy and suggested schedule to complete program. (0-30 points)
3. Understanding of the project and project issues. (0-30 points)
4. Ability to communicate - proposal completeness; ability to provide all of the necessary coordination to complete the project, including coordination with various public agencies, utilities, and citizen groups using the public involvement process. (0-13 points)
5. Diversity and Inclusiveness: Firm Demonstrates commitment to Diversity and Inclusiveness. (2 Points)
6. Diversity and Inclusiveness: Consultant provides a copy of the form generated by completing the “Diversity and Inclusiveness in City Solicitations Information Request Form” at the link provided above. (Pass/Nonresponsive)

D. Submittal:

Proposers shall submit one Thumb Drive of their completed RFQ response containing a PDF of the entire proposal. Submittals must be limited to the following prescribed. Pages are to be numbered in sequence and font size will be at least 11pt. font. Sections shall be labeled for easy reference. Graphics or charts that would not present well on 8 ½” x 11” size paper may be presented on 11” x 17” size paper. Submittals shall not exceed 25 single-sided pages in length. This page limit is not affected by: cover pages, comments relating to the Sample Agreements, or any other required forms. Some requested information may overlap; it is at the respondent’s discretion how their information will best be organized and presented among the tab sections. Submittals shall use the following tabulation and numbering:

Tab 1 Letter of Transmittal. Clearly indicate the *single contact* (principal-in-charge), mailing address, telephone, email, and facsimile numbers. Indicate unique features of the organization and the project team that makes the team suited to undertake this specific project.

- Include Certificate of Good Standing from Colorado Secretary of State Website

- Include an affirmative statement indicating willingness to strictly comply with the Insurance and Indemnification requirements set forth in the *Sample Agreement*
- Consultant shall include a copy of the Diversity and Inclusiveness form indicating successful completion and submittal of this required form. (Responsive/Non-Responsive)

Tab 2 Biographical Data. Provide brief *biographical data* of the primary participant(s). List the names and titles of key professional staff that are expected to work on the actual project if awarded the contract for professional services and their qualifications. Indicate the expected contribution of each of these individuals as a percentage of the total effort and also his/her respective workload during the contractual period for the anticipated services. Include major sub-consultants.

Tab 3 Organization and Management of the Project.

- Describe how the project will be organized.
- Indicate what work the consultant will self-perform and what work will be performed by sub-consultants and indicate by name those individuals who will be responsible for specific tasks.
- Indicate how the project will be managed, including management of sub-consultants.
- Indicate approach to achieving schedule and acknowledgement of the budget.

Tab 4 Team Members. List the proposed consultant, subconsultants/subcontractors that will be part of the team with a brief description of services subconsultants will provide. (*Complete Attachment 2*)

Tab 5 Team Qualifications. Describe qualifications and provide a list of Key Personnel and experience of the team (including subconsultants), as indicated by prior successful completion of similar projects.

Tab 6 M/WBE Requirements. All applicable forms must be completed as per the RFQ requirements.

- Complete Attachment 3, Commitment to Meet M/WBE Participation
- Complete Attachment 4, Letter(s) of Intent
- If applicable complete Attachment 5 – Joint Venture Eligibility and Joint Venture Affidavit

Tab 7 Sample Agreement Review. Respondents shall submit with their proposal a list of all questions, issues, or modifications which the Respondent would like the City to review and address, should they be selected as the top ranked respondent. Do not include the entire contract, only comments.

SECTION 5 – MINORITY AND WOMEN BUSINESS ENTERPRISE (M/WBE) REQUIREMENTS:

M/WBE Project Goal of 25%

The prime consultant is required to list its proposed Minority and Women Business Enterprise (M/WBE) participation. All requirements listed below must be followed when submitting a response to this RFQ. Professional design and construction services contracts made and entered into by the City and County of Denver are subject to Article III, Divisions 1 and 3 of Chapter 28 of the Denver Revised Municipal Code, (D.R.M.C.) and the Minority and Women Business Enterprise Program’s Rules and Regulations adopted by the Director of the Division of Small Business Opportunity (DSBO), which will be incorporated into any agreement entered into as part of this selection process. Article III, Division 1 of Chapter 28 D.R.M.C. provides for the adoption of a MBE/WBE Business Enterprise Goals Program to be administered by DSBO. Each submittal must comply with the terms and conditions of the ordinance in submitting its response and, if awarded the Contract, in performing all work thereunder. A proposer’s failure to comply with the ordinance requirements and any Rules or Regulations promulgated pursuant to the ordinance, or any

additional requirements contained in this Request for Qualifications, shall render its submittal non-responsive and may constitute cause for rejection.

In order to comply with the submittal requirements of Article III, Divisions 1 and 3 of Chapter 28 of the Denver Revised Municipal Code, a prime consultant shall either meet the specific MBE/WBE goal for this project or, in the alternative, demonstrate that they have made sufficient good faith efforts to meet the goal in accordance with good faith provisions listed in D.R.M.C. 28-67. In preparing a proposal to comply with D.R.M.C. 28-65 requirements by meeting the Project goals, proposers shall consider the following instructions:

1. The Director of the DSBO has established a project goal for expenditures for professional design services performed for the City and County of Denver. The specific goals for this project are as stated in this Request for Qualifications.
2. In preparing its submittal to meet the goal, each proposer must complete and submit, a List of Proposed MBEs and/or WBEs, sub-consultants and suppliers. At a minimum, this list must contain the following information: the name, the address, a brief description of the supply/service to be performed, the committed level of participation expressed as a percentage and, as applicable, an actual dollar amount and any other required information for each MBE or WBE, of any tier, which the prime consultant intends to utilize in performing services or supplies on this Project. Only the MBEs or WBEs identified on the list and only the precise levels of participation committed to for each MBE or WBE listed on a Consultants participation page at the time the response is submitted and will be considered in determining whether the proposer has met the MBE/WBE goal. Subsequent additions, revisions or corrections to participation will not count towards meeting the Project goal.
3. A MBE or WBE Prime Consultant may count only the value of the work that it self-performs towards the MBE/WBE project goal. In a joint venture with a MBE(s) or WBE(s) only the portion equal to the distinct and clearly defined scope of work performed by the MBE(s) or WBE(s) counts in meeting the MBE/WBE project goal.
4. If a prime consultant is participating in a joint venture with a certified M/WBE firm, complete the Joint Venture Eligibility form and Joint Venture Affidavit contained in this RFP/RFQ. Submit the aforementioned forms with the firm's Joint Venture Agreement, to the DSBO Director, at least 10 working days prior to the submittal due date. The Joint Venture must be approved prior to the bid opening or proposal submittal by the DSBO Director. Approval by the DSBO Director includes determining the amount the Joint Venture will count towards meeting the project goal.
5. All MBE or WBE firms listed within the submittal document must be properly certified by the City on or before the submittal due date in order to count towards meeting the goal. The City maintains a MBE/and WBE Directory, which contains currently certified firms. The DSBO MBE/WBE Directory can be accessed on its website at: www.denvergov.org/dsbo
Prime consultants are encouraged to use this list to assist in locating MBEs and/or WBEs for the services/supplies required on the Project. Changes may be made to the list at any time and the most current certification list must always be used in preparing a submittal. MBE or WBE certification does not, however, constitute a representation or warranty by the City as to the qualifications of any listed MBE or WBE firm.
6. In accordance with D.R.M.C. 28-69, DSBO will evaluate each submittal to determine the responsiveness of the proposal to the MBE/WBE requirements. In determining if a proposer identified MBEs and/or WBEs and committed levels of participation comply with the Divisions 1 and 3 of Article III of Chapter 28, D.R.M.C. requirements and, more specifically, met or exceed the stated MBE/WBE goal; DSBO shall base its determination solely on the information provided in the submittal document.
 - a. In reviewing committed levels of participation to determine whether or not the stated commitments meet the goal, DSBO will evaluate and total the levels presented using the following process. If the City requests a lump sum or maximum fee amount as part of the submittal process, DSBO will total the actual dollar amount and corresponding percentage

amount of participation stated for each M/WBE firm listed. If the City does not require a lump sum or maximum fee amount as part of the submittal document, DSBO will total only the percentage amount of participation stated for each MBE or WBE firm listed.

- b. If actual dollar amounts are required, DSBO will determine the exact commitment percentage for each listed MBE or WBE firm by dividing the dollar amount listed for each firm by the lump sum or maximum fee dollar amount submitted. These individual percentages, when totaled for all listed MBEs and WBEs will establish the total committed percentage level of MBE/WBE participation that the submitter must comply with during the life of the Agreement. In all cases, the committed percentage level of MBE/WBE participation must equal or exceed the assigned MBE/WBE goal in order to comply with the Divisions 1 and 3 of Article III of Chapter 28, D.R.M.C.
- c. When calculating participation levels, percentages or dollar amounts for each listed MBE or WBE to ensure compliance with the goal, a submitter must never round up in determining whether or not the total of these amounts meets or exceeds the particular percentage goal. The goal must be met or exceeded in percentage amounts and, where applicable, in actual dollar amounts for DSBO to determine that the proposer has met or exceeded the goal.
- d. On submittals where a MBE or WBE supplier is listed for participation, its participation will count one hundred percent (100%) of the value of the commercially useful function performed on contracts of less than Five Million Dollars (\$5,000,000). However, on contracts of more than Five Million Dollars (\$5,000,000) a supplier's participation will count for only sixty percent (60%) toward satisfaction of the Project goal.
- e. Unless otherwise specified in a request for qualifications, request for proposal, or other proposal solicitation, all proposals for the provision of on-call services for a period of time and with no delineation of the dollar amount for specific on-call projects, the proposer need list only the anticipated percentage level of committed participation for each listed MBE or WBE, rather than specific dollar amounts.

7. In addition to the above referenced list, each submitter is required to fully complete, have executed and submitted a "Letter of Intent" for each MBE or WBE listed in their submittal document as a subconsultant or supplier. A MBE or WBE Prime Consultant needs to submit a Letter of Intent for itself. The MBE or WBE Prime must list itself and its level of participation on the page the submitter has designated for MBE/WBE participation within its submittal package. A Letter of Intent form is attached hereto. This Letter of Intent is a written communication from the Proposer to the City evidencing an understanding that the prime consultant has or will enter into a contractual relationship with each named MBE or WBE subconsultant and supplier. Each Letter of Intent shall be accompanied by a copy of the City and County of Denver's MBE certification letter for the named MBE/WBE. Prime consultants are urged to carefully review each Letter of Intent before submission to ensure that it is properly completed and executed by the appropriate parties. All MBE/WBE Letter/Letters of Intent shall be submitted with the proposer's submittal.

8. In preparing a submittal, which seeks to comply with D.R.M.C. 28-67 by demonstrating a good faith effort, submitters should consider the following instructions relating to compliance with the MBE/WBE requirements:

- a. If any prime consultant is unable to meet the designated Project goal at the time of submission or elects to present a good faith effort in lieu of or in addition to attempting to meet the goal, that firm must submit, with or before the submission of the submittal document, a detailed statement, including supporting documentation, demonstrating its good faith efforts to meet the established MBE/WBE goal in accordance with D.R.M.C 28-67. This statement shall address each of the items identified in the good faith effort.
- b. A prime consultant who fails to meet the Project goal and cannot show to the Director's satisfaction that it made an adequate good faith effort to meet the goal shall be considered non-responsive.

c. The statement of good faith efforts shall include a specific response to each of the following criteria, as further defined by rule or regulation. In addition, a prime consultant may supplement its responses to include any additional information they believe may be relevant. Failure of a prime consultant to demonstrate adequate good faith efforts as to any one (1) of the following categories shall render the overall good faith showing insufficient and the submittal non-responsive. The required MBE/WBE good faith efforts are set forth below:

(1) If pre-submittal meetings are scheduled by the City at which MBEs and WBEs may be informed of subconsulting or joint venture opportunities under a proposed negotiated professional design and construction services contract, attendance at such pre-submittal meetings is not mandatory; however, prime consultants are responsible for the information provided at these meetings.

(2) The prime consultant must solicit through all reasonable and available means the interest of all MBEs and WBEs certified in the scopes of work of the contracts. The prime consultant must solicit the interest of such MBE's and WBEs within sufficient time, prior to the date of the final project-specific submittal, to allow such MBEs and WBEs to respond to the solicitation. The prime consultant must determine with certainty if the MBEs and WBEs are interested by demonstrating appropriate steps to follow up initial solicitations.

(3) The prime consultant must select the portions of the services of the contract to be performed by MBEs and WBEs in order to increase the likelihood that the project goal will be achieved. This includes, where appropriate, using best efforts to break out contract services into economically feasible units to facilitate MBE and WBE participation as subconsultants or joint venturers, and for proposer self-performed work, as suppliers, manufacturers, manufacturer's representatives and brokers, all reasonably consistent with industry and professional practice, even when the prime consultant would otherwise prefer to perform these with its own staff. The prime consultant must identify what portions of the contract will be self-performed and what portion of the contract were selected for solicitation of statements of qualification or proposals from MBEs and WBEs. All portions of the contract not self-performed must be solicited for MBE and WBE participation. The ability or desire of a prime consultant to perform the services of a contract with its own staff does not relieve the proposer of the responsibility to meet the project goal or demonstrate good faith efforts to do so.

(4) The prime consultant, consistent with industry and professional practice, must provide MBEs and WBEs at a clearly stated location with timely, adequate access to and information about the plans specification, and requirements of the contract, including insurance requirements, if any, to assist them in responding to a solicitation.

(5) The prime consultant must negotiate in good faith with interested MBEs or WBEs and provide written documentation of such negotiation with each such MBE or WBE.

(6) For each MBE or WBE contacted, or which the prime consultant contacts or attempted to subconsultant or joint venture with consistent with industry and professional practice, the proposer must supply a statement giving the reasons why the proposer and the MBE or WBE did not succeed in negotiating a subconsultant, supplier, manufacturer, manufacturer's representative, broker or joint venture agreement, as applicable.

(7) The prime consultant must provide verification that it rejected each non-utilized MBE and WBE because the MBE or WBE was not qualified. Such verification shall include a verified statement of the proposals received from potential or utilized subconsultants,

suppliers, manufacturers, manufacturer's representatives or brokers on the contract, whether or not they are MBEs or WBEs. In making such a determination of not being qualified, the prime consultant shall be guided by the definition of qualified in section 28-54(42). For each MBE or WBE found not to be qualified by the prime consultant, the verification shall include a statement giving the prime consultant's reasons for its conclusion. A prime consultant's industry or professional standing or group membership may not be the cause of rejection of an MBE or WBE. A prime consultant may not reject an MBE or WBE as being unqualified without sound reasons based on a reasonably thorough investigation and assessment of the MBE's or WBE's capabilities and expertise.

(8) If requested by a solicited MBE or WBE, the prime consultant must make reasonable effort to assist interested MBEs and WBEs in obtaining alternative payment or performance guarantees or insurance as required by the City or by the prime consultant, provided that the prime consultant need not provide financial assistance toward this effort.

(9) If requested by a solicited MBE or WBE, the prime consultant must make reasonable efforts to assist interested MBEs and WBEs in obtaining necessary and competitively priced equipment, supplies, materials, or related assistance or services for performance under the contract, provided that the prime consultant need not provide financial assistance toward this effort.

(10) The prime consultant must use the DSBO MBE/WBE directories to identify, recruit and place MBEs and WBEs.

d. In determining whether a prime consultant has satisfied good faith efforts as to a project goal, the success or failure of other prime consultants on the contract in meeting such project goal may be considered.

9. In accordance with the provisions of Divisions 1 and 3 of Article III of Chapter 28, D.R.M.C., the prime consultant agrees that it is committed to meeting either the MBE/WBE participation goal or the MBE/WBE participation set forth in its statement of good faith efforts. If a Good Faith Effort was performed, that documentation must be submitted in the prime consultant's proposal at the time of proposal submission. The prime consultant must indicate either commitment on a page it designates as the "Commitment to MBE/WBE Participation". This fully executed statement of commitment must be included with the proposal and must address and confirm the following understandings:

- a. The Consultant understands it must maintain the designated MBE/WBE goal or good faith commitments throughout the life of the Agreement, in accordance with the requirements set out in D.R.M.C. 28-72.
- b. The Consultant understands that it must establish and maintain records and submit regular reports, as required, which will allow the City to assess progress in satisfying the MBE/WBE participation goal.
- c. The Consultant understands that if amendments or any other agreement modifications are issued under the Agreement, the Consultant shall have a continuing obligation to immediately inform DSBO, in writing, of any agreed upon increase or decrease in the scope of work of such Agreement, regardless of whether such increase or decrease in scope of work has been reduced to writing at the time of notification.
- d. The Consultant understands that if amendments or other Agreement modifications are issued under the Agreement and such changes result in an increase in scope of services in an Agreement or otherwise increase the dollar value of the Agreement, whether or not such change is within the scope of work designated for performance by a MBE or WBE at the time of contract award, such changes shall be contemporaneously submitted to DSBO. Those changes, of any kind or nature, that involve a changed scope of work that cannot be performed by existing project subconsultants

or by the consultant, shall be subject to goals for MBEs or WBEs equal to the original goals on the Agreement. The consultant must satisfy such goals as respects to such changed scope of work by soliciting new MBEs or WBEs as applicable pursuant to D.R.M.C. 28-73, or must show each element of a modified good faith effort pursuant to D.R.M.C. 28-75(c). The consultant shall supply to the Director for approval, the modified good faith effort documentation as required by D.R.M.C. 28-75(c).

10. All prime consultants are charged with knowledge of and are solely responsible for complying with each and every provision of Divisions 1 and 3 of Article III of Chapter 28, D.R.M.C., in submitting a proposal and, if awarded, in performing the services or supplies described in the Agreement. Failure to comply with these provisions may constitute cause for rejection of a proposal or subject the selected Consultant to sanctions. These instructions are intended only to generally assist the prime consultant in preparing and submitting a compliant proposal, should any questions arise regarding compliance under specific circumstances, prime consultants must consult Divisions 1 and 3 of Article III of Chapter 28, D.R.M.C., and its accompanying Rules and Regulations and are encouraged to contact the designated DSBO project representative at (720) 913-1999.

~ END OF RFQ ~

APPENDED MATERIAL

- Attachment 1 – Firm Responsibilities
- Attachment 2 – Consultant Team Members
- Attachment 3 – Commitment to M/WBE Participation
- Attachment 4 – Letter of Intent
- Attachment 5 – Joint Venture Affidavit
- Attachment 6 – Joint Venture Eligibility Form
- Attachment 7 – Sample Professional Engineering Services Agreement

Attachment 1

FIRM RESPONSIBILITIES

Prime Consultant: _____

SERVICES PROVIDED	NAME OF FIRM	PERCENT PARTICIPATION	%	M/WBE?
_____	_____	_____	%	_____
_____	_____	_____	%	_____
_____	_____	_____	%	_____
_____	_____	_____	%	_____
_____	_____	_____	%	_____
_____	_____	_____	%	_____
_____	_____	_____	%	_____
_____	_____	_____	%	_____
_____	_____	_____	%	_____
_____	_____	_____	%	_____
_____	_____	_____	%	_____
_____	_____	_____	%	_____
_____	_____	_____	%	_____
_____	_____	_____	%	_____
_____	_____	_____	%	_____
_____	_____	100	%	_____

ATTACHMENT 2

CONSULTANT TEAM MEMBERS

PRIME CONSULTANT: _____

List **ALL** potential firm personnel titles/classification that may be utilized under the Agreement, and their respective hourly rate. Do not list names of personnel, only titles (i.e. Project Manager). Provide additional sheets as necessary.

Title/Classification	Responsibilities	Rate/Hr.

Multiplier, which when multiplied by the direct labor rate yields the above hourly billing rate: _____.

The City will not compensate the Consultant for expenses such as postage, mileage, parking, or telephone costs. Reproduction, if requested by the City, shall be reimbursed at actual cost if approved in advance by Project Manager. Such costs are, in all such instances, included in the hourly rates paid by the City. Reproduction of submittals requested by the City including such items as end-of-phase reports, drawings, bid documents, record drawing reproducibles, etc. are not included in the hourly rates, and will be itemized as a not-to-exceed reproducible expense and will be reimbursed at actual cost.

REIMBURSABLE EXPENSES

Prime Consultant: _____

(Consultant may copy this page or modify it to conform to the services being offered.)

The additional expenses of the Consultant reimbursable by the City shall include:

1. Actual cost of reproduction of drawings and specifications, requested by the city.
2. Travel/transportation costs shall not be reimbursable by the City for Prime Consultants.

Actual Costs

<u>Item</u>	<u>Charge Rate</u>
Copies (8 1/2 x 11")	\$_____/ each
Copies (8 1/2 x 14")	\$_____/ each
Red-line copies	\$_____/ S.F.
Reproducibles	\$_____/ page

SUB-CONSULTANT TEAM MEMBERS

Firm Name: _____

List **ALL** potential firm personnel titles/classifications that may be utilized under the Agreement, and their respective hourly rate. Do not list names of personnel, only titles (i.e. Project Manager). Provide additional sheets as necessary.

Title/Classification	Responsibilities	Rate/Hr.

Multiplier, which when multiplied by the direct labor rate yields the above hourly billing rate: _____.

The City will not compensate the Consultant for expenses such as postage, mileage, parking, or telephone costs. Reproduction costs, if requested by the City, shall be reimbursed at actual cost if approved in advance by Project Manager. Such costs are, in all such instances, included in the hourly rates paid by the City. Reproduction of submittals requested by the City including such items as end-of-phase reports, drawings, bid documents, record drawing reproducibles, etc. are not included in the hourly rates, and will be itemized as a not-to-exceed reproducible expense and will be reimbursed at actual cost.

REIMBURSABLE EXPENSES

Consultant: _____

(Consultant may copy this page or modify it to conform to the services being offered.)

The additional expenses of the Consultant reimbursable by the City shall include:

- 3. Actual cost of reproduction of drawings and specifications, requested by the city.
- 4. Travel/transportation costs shall not be reimbursable by the City for sub consultants.

Actual Costs

<u>Item</u>	<u>Charge Rate</u>
Copies (8 1/2 x 11")	\$_____/ each
Copies (8 1/2 x 14")	\$_____/ each
Red-line copies	\$_____/ S.F.
Reproducibles	\$_____/ page

ATTACHMENT 3



DENVER
OFFICE OF ECONOMIC
DEVELOPMENT

Office of Economic Development
Division of Small Business Opportunity
Compliance Unit
201 W. Colfax Ave. Dept. 907
Denver, CO 80202
Phone: 720-913-1999
DSBO@denvergov.org

**COMMITMENT TO MWBE
PARTICIPATION**

*The undersigned has satisfied the MWBE participant requirements in the following manner
(Please check the appropriate box):*

The Bidder/Proposer is committed to the minimum _____% **MWBE** utilization on the project, and will submit Letters of Intent (LOI) for each subcontractor/subconsultant listed in the Bid Forms as follows:
Hard Bids: Three (3) business days after the bid opening.
Request for Proposals/Qualifications: With the proposal when due.
Compliance Plans: With each task/work order

The Bidder/Proposer is unable to meet the project goal of _____% **MWBE**, but is committed to a minimum of _____% **MWBE** utilization on the project. The Bidder/Proposer understands that they must submit a detailed statement of their good faith effort under sealed bid procedures, as a matter of responsiveness, or with initial proposals, under contract negotiation procedures; or no later than **three (3)** days after bid opening as a matter of responsibility as in accordance with DRMC Section 28-62 and 28-67 of Ordinance 85 to the Division of Small Business Opportunity.

The Bidder/Proposer is a certified **MWBE** in good standing with the City and is committed to self-perform a minimum of _____% of the work on the contract.

Bidder/Proposer (Name of Firm):

Firm's Representative (Please print):

Signature (Firm's Representative):

Title:

Address:

City:

State:

Zip:

Phone:


Fax:

Email:

A copy of the MWBE Certification letter must be attached to each Letter of Intent (LOI).

ATTACHMENT 4

Letter of Intent

 <p>DENVER OFFICE OF ECONOMIC DEVELOPMENT</p> <p>Office of Economic Development Division of Small Business Opportunity Compliance Unit 201 West Colfax Ave., Dept. 907 Denver, CO 80202 Phone: 720-913-1999</p>	<p style="text-align: center;">LETTER OF INTENT (LOI) INSTRUCTIONS FOR COMPLETION & SUBMISSION:</p> <ul style="list-style-type: none"> All lines must be completed or marked N/A for Not Applicable Certification Letter must be submitted with LOI Submit the attached completed checklist with this letter Email to dsbo@denvergov.org FOR RFPs and RFQs: LOIs should be included with Submittal
---	---

Contract No.:	Project Name:						
A. The Following Section is To Be Completed by the Bidder/Consultant This Letter of Intent Must be Signed by the Bidder/Consultant and MWBE, SBE, EBE or DBE							
Name of Bidder/Consultant:				Self-Performing: <input type="checkbox"/> Yes <input type="checkbox"/> No		Phone:	
Contact Person:			Email:			Fax:	
Address:			City:		State:	Zip:	
B. The Following Section is To Be Completed by the MWBE, SBE, EBE or DBE, at any Tier This Letter of Intent Must be Signed by the MWBE, SBE, EBE or DBE and Bidder/Consultant							
Name of Certified Firm:					Phone:		
Contact Person:			Email:			Fax:	
Address:			City:		State:	Zip:	
Please check the designation which applies to the certified firm.		MWBE (✓)	SBE (✓)	EBE (✓)	DBE (✓)		
Indirect Utilization: If this MWBE, SBE, EBE or DBE is not a direct first tier subcontractor/subconsultant, supplier or broker to the Bidder/Consultant, please indicate the name of the subcontractor/subconsultant, supplier or broker which is utilizing the participation of this firm:							
A Copy of the MWBE, SBE, EBE or DBE Letter of Certification must be Attached							
Identify the scope of the work to be performed or supply item that will be provided by the MWBE/SBE/DBE. <u>On unit price bids only, identify which bid line items the MWBE/SBE/EBE/DBEs scope of work or supply corresponds to.</u>							
Subcontractor/Subconsultant (✓)		Supplier (✓)			Broker (✓)		
Bidder Intends to utilize the aforementioned MWBE, SBE, EBE or DBE for the Work/Supply described above. The cost of the work and percentage of the total subcontractor MWBE, SBE, EBE or DBE bid amount is:							
\$					%		
Consultant Intends to utilize the aforementioned MWBE, SBE, EBE or DBE for the Work/Supply described above. The percentage of the work of the total sub consultant MWBE, SBE, EBE or DBE will perform is:							
					%		
If the fee amount of the work to be performed is requested, the fee amount, is:							
					\$		
Bidder/Consultant's Signature:					Date:		
Title:							
MWBE, SBE, EBE or DBE or Self-Performing Firm's Signature:					Date:		
Title:							
If the above named Bidder/Consultant is not determined to be the successful Bidder/Consultant, this Letter of Intent shall be null and void.							

Letter of Intent (LOI) Checklist


*All lines must be completed or marked N/A for Not Applicable
Submit the attached completed checklist with this letter.*

Completed ✓	
<input type="checkbox"/>	Project Number & Project Name
<input type="checkbox"/>	Section A: Name of Bidder/Consultant, Contact Person, Address, City, State, Zip, Phone, Email
<input type="checkbox"/>	Section B: Name of Certified Firm, Contact Person, Address, City, State, Zip, Phone, Email
<input type="checkbox"/>	Designation checked for MBE/WBE, SBE, EBE or DBE
<input type="checkbox"/>	Indirect Utilization: Name of subcontractor/subconsultant, supplier or broker is indicated if using the participation of a 2 nd tier subcontractor/subconsultant, supplier or broker.
<input type="checkbox"/>	Scope of work performed or item supplied by MWBE, SBE, EBE or DBE
<input type="checkbox"/>	Line items performed, if line-item bid.
<input type="checkbox"/>	Copy of MWBE, SBE, EBE or DBE Letter of Certification Attached
<input type="checkbox"/>	Designation checked for Subcontractor/Subconsultant, Supplier or Broker
	If project is a hard bid...
<input type="checkbox"/>	Bidder has indicated dollar amount for value of work going to Subcontractor/ Subconsultant, Supplier or Broker
<input type="checkbox"/>	Bidder has indicated percentage for value of work going to Subcontractor/ Subconsultant, Supplier or Broker
	If project is an RFP/RFQ...
<input type="checkbox"/>	Consultant has indicated percentage for value of work going to Subcontractor/ Subconsultant, Supplier or Broker Name & contact name for MWBE.
<input type="checkbox"/>	Fee amount if fee amount of work to be performed is requested.
<input type="checkbox"/>	Bidder/Consultant's Signature, Title & Date
<input type="checkbox"/>	MWBE, SBE, EBE or DBE Firm's Signature, Title and Date


Select One ✓	SUBMITTED VIA... For Construction Hard Bids ONLY, Bidders are strongly urged to deliver the LOI via one of the methods below. (The preferred method is to scan/email completed forms to email address below. Delivery to any other point cannot be guaranteed timely delivery.)
<input type="checkbox"/>	Email to DSBO@denvergov.org

The complete and accurate information that is required for the Letter of Intent is based on the following sections of the Ordinance 85: Section 28-63 and Section 28-68. Failure to complete this information on the Letter of Intent (LOI) may automatically deem a bid or proposal non-responsive.

ATTACHMENT 5

 <p>DENVER OFFICE OF ECONOMIC DEVELOPMENT</p>	<p>Joint Venture Affidavit</p>	<p>Office of Economic Development Division of Small Business Opportunity Compliance Unit 201 W. Colfax Ave. Dept. 907 Denver, CO 80202 Phone: 720-913-1999 DSBO@denvergov.org</p>
<p>The <u>Undersigned</u> swears that the foregoing statements are correct and include all material information necessary to identify and explain the terms and operation of our joint venture and the intended participation by each joint venturer in the undertaking. Further, the <u>Undersigned</u> covenant and agree to provide the City current, complete, and accurate information regarding actual joint venture work and the payment thereof and any proposed changes in any of the joint venture arrangements and to permit the audit and examination of the books, records, and files of the joint venture, by authorized representatives of the City or Federal funding agency, if applicable. Any material misrepresentation will be grounds for terminating any contract which may be awarded and for initiating action under Federal or State laws concerning false statements.</p>		
<p>Name of Firm: _____</p>		
<p>Print Name: _____</p>		<p>Title _____</p>
<p>Signature: _____</p>		<p>Date: _____</p>
<p>Notary Public</p>		
<p>County of _____</p>	<p>State of _____</p>	<p>My Commission Expires: _____</p>
<p>Subscribed and sworn before me this _____ day of _____, 20____</p>		<p>Notary Seal</p>
<p>Notary Signature: _____</p>		
<p>Notary Commission #: _____</p>		
<p>Address: _____</p>		
<p>Name of Firm: _____</p>		
<p>Print Name: _____</p>		<p>Title _____</p>
<p>Signature: _____</p>		<p>Date: _____</p>
<p>Notary Public</p>		
<p>County of _____</p>	<p>State of _____</p>	<p>My Commission Expires: _____</p>
<p>Subscribed and sworn before me this _____ day of _____, 20____</p>		<p>Notary Seal</p>
<p>Notary Signature: _____</p>		
<p>Notary Commission #: _____</p>		
<p>Address: _____</p>		

ATTACHMENT 6

 <p>DENVER OFFICE OF ECONOMIC DEVELOPMENT</p>	<p>JOINT VENTURE ELIGIBILITY FORM</p>	<p>Office of Economic Development Division of Small Business Opportunity Compliance Unit 201 W. Colfax Ave. Dept. 907 Denver, CO 80202 Phone: 720-913-1999 DSBO@denvergov.org</p>
<p>Joint Venture means an association of two (2) or more business enterprises to constitute a single business enterprise to perform a City construction or professional design and construction services contract for which purpose they combine their property, capital, efforts, skills and knowledge, and in which each joint venturer is responsible for a distinct, clearly defined portion of the work of the contract, performs a commercially useful function, and whose share in the capital contribution, control, management responsibilities, risks and profits of the joint venture are equal to its ownership interest. Joint ventures must have an agreement in writing specifying the terms and conditions of the relationships between the joint venturers and their relationship and responsibility to the contract.</p> <p>The Division of Small Business Opportunity (DSBO) requires the following information be provided from participants of a prospective joint venture, to assist DSBO in evaluating the proposed joint venture. This Joint Venture Eligibility form and the Joint Venture Affidavit apply if SBEs, EBEs, MBEs, WBEs or DBEs participate in this joint venture.</p> <p>Please return this form, the Joint Venture Affidavit, and a copy of your Joint Venture Agreement to: Division of Small Business Opportunity, 201 West Colfax Avenue, Denver, CO 80202, at least ten (10) working days prior to bid opening or proposal.</p> <p>If you have questions regarding this process, please contact DSBO at 720-913-1999.</p>		
Joint Venture Information		
Name:		Contact Person:
Address:		
City:	State:	Zip: Phone:
Joint Venture Participants		
Name:		Contact Person:
Address:		
City:	State:	Zip: Phone:
% Ownership:	Certifying Entity:	Type Certification & Date: (S/E/M/W or DBE)
Type of Work for which Certification was granted:		
Name:		Contact Person:
Address:		
City:	State:	Zip: Phone:
% Ownership:	Certifying Entity:	Type Certification & Date: (S/E/M/W or DBE)
Type of Work for which Certification was granted:		
General Information		
SBE/EBE/MBE/WBE/DBE Initial Capital Contributions: \$		%
Future capital contributions (explain requirements) (attach additional sheets if necessary):		
Source of Funds for the SBE/EBE/MBE/WBE/DBE Capital Contributions:		
Describe the portion of the work or elements of the business controlled by the SBE/EBE/MBE/WBE or DBE: (attach additional sheets if necessary)		

Describe the portion of the work or elements of the business controlled by non-SBE/EBE/MBE/WBE or DBE: (attach additional sheets if necessary)
JOINT VENTURE ELIGIBILITY FORM
General Information
Describe the SBE/EBE/MBE/WBE or DBE's involvement in the overall management of the joint venture (e.g., participation on a management committee or managing board voting rights, etc.) (attach additional sheets if necessary)
Describe the SBE/EBE/MBE/WBE or DBE's share in the profits of the joint venture:
Describe the SBE/EBE/MBE/WBE or DBE's share in the risks of the joint venture:
Describe the roles and responsibilities of each joint venture participant with respect to managing the joint venture (use additional sheets if necessary):
a. SBE/EBE/MBE/WBE or DBE joint venture participant:
b. Non- SBE/EBE/MBE/WBE or DBE joint venture participant:
Describe the roles and responsibilities of each joint venture participant with respect to operation of the joint venture (use additional sheets if necessary):
a. SBE/EBE/MBE/WBE or DBE joint venture participant:
b. Non- SBE/EBE/MBE/WBE or DBE joint venture participant:

Which firm will be responsible for accounting functions relative to the joint venture's business?

Explain what authority each party will have to commit or obligate the other to insurance and bonding companies, financing institutions, suppliers, subcontractors, and/or other parties?

Please provide information relating to the approximate number of management, administrative, support and non-management employees that will be required to operate the business and indicate whether they will be employees of the SBE/MWBE/DBE, non-SBE/MWBE/DBE or joint venture:

	Non-SBE/EBE/MWBE/DBE	SBE/EBE/MWBE/DBE	Joint Venture
Management			
Administrative			
Support			
Hourly Employees			

JOINT VENTURE ELIGIBILITY FORM

General Information

Please provide the name of the person who will be responsible for hiring employees for the joint venture.

Who will they be employed by?

Are any of the proposed joint venture employees currently employees of any of the joint venture partners? Yes (✓) No (✓)

If yes, please list the number and positions and indicate which firm currently employs the individual(s), (use additional sheets if necessary)

Number of employees	Position	Employed By

Attach a copy of the proposed joint venture agreement, promissory note or loan agreement (if applicable), and any and all written agreements between the joint venture partners.

List all other business relationships between the joint venture participants, including other joint venture agreements in which the parties are jointly involved.

If there are any significant changes in or pertaining to this submittal, the joint venture members must immediately notify the Division of Small Business Opportunity.

COMP-FRM-015

**ATTACHMENT 7
DESIGN SERVICES AGREEMENT**

THIS AGREEMENT is entered into between the **CITY AND COUNTY OF DENVER** (the "City"), a municipal corporation of the State of Colorado, and _____ (the "Design Consultant" or "Consultant"), a Colorado Corporation, whose address is _____, _____ Denver, Colorado _____.

SECTION 1 – ENGAGEMENT

1.01 Engagement. The City engages the Design Consultant to furnish professional design services for the Project as set forth in this Agreement. The Design Consultant accepts such engagement upon, subject to and in accordance with the terms, conditions and provisions of this Agreement.

1.02 Line of Authority for Contract Administration. The City's Executive Director of Public Works ("Director" or "Manager") is the City's representative responsible for authorizing and approving the work performed under this Agreement. The Director hereby designates the Director of Transportation as the Director's authorized representative for the purpose of designating a Project Manager, for the purpose of issuing a written Notice to Proceed and for purposes of administering, coordinating and finally approving the work performed by the Design Consultant under this Agreement. The Project Manager shall be responsible for the day-to-day administration, coordination and approval of work performed by the Design Consultant, except for approvals which are specifically identified in this Agreement as requiring the Director's approval. The Director expressly reserves the right to designate another authorized representative to perform on the Director's behalf by written notice to the Design Consultant.

1.03 Independent Contractor. The Design Consultant is an independent contractor retained to perform professional or technical services for limited periods of time. Neither the Design Consultant nor any of its employees are employees or officers of the City under Chapter 18 of the Denver Revised Municipal Code, or for any purpose whatsoever.

1.04 Scope of Design Consultant's Authority. The Design Consultant shall have no authority to act on behalf of the City other than as expressly provided in this Agreement. The Design Consultant is not authorized to act as a general agent for or to undertake, direct or modify any contracts on behalf of the City. The Design Consultant lacks any authority to bind the City on any contractual matters. Final approval of all contractual matters that purport to obligate the City must be executed by the City in accordance with the City's Charter and the D.R.M.C.

SECTION 2 – DESIGN CONSULTANT'S SERVICES

2.01 General. The Design Consultant shall provide professional design services for the Project in accordance with the terms and conditions of this Agreement. The Design Consultant's basic services shall consist of all of those services described in this Agreement and in **Exhibit A**.

2.02 Professional Responsibility.

- (a) All of the work performed by the Design Consultant under this Agreement shall be performed in accordance with the standards of care, skill and diligence provided by competent professionals who perform work of a nature similar to the Work described in this Agreement.
- (b) The Design Consultant agrees to strictly conform to and be bound by written standards, criteria, budgetary considerations and memoranda of policy

furnished to it by the City and further agrees to design each project in compliance with applicable laws, statutes, codes, ordinances, rules and regulations, and industry standards.

- (c) All professional services, plans and specifications and other work, or deliverables provided under this Agreement for the Project shall be adequate and sufficient for the proper construction of the Project and its intended purpose.
- (d) All drawings, specifications and other products shall be prepared so the Project, when constructed in accordance with such drawings and specifications, is in compliance with all applicable laws, statutes, codes, ordinances, and rules and regulations of the City, the State and the Federal government.
- (e) Any design changes required by changes in such applicable laws, statutes, codes, ordinances or rules and regulations of the City, the state or the federal government, which are enacted after the City's acceptance of Construction Documents, defined herein, will be outside the scope of the Design Consultant's basic services and basic fee, and will be compensated for approval as an additional service, subject to the additional services budget for that project.
- (f) The Design Consultant shall prepare the plans, specifications and other materials for the Project in a format that complies with all City requirements as well as all state and federal requirements for the Project. No funds will be paid to the Design Consultant for the preparation of contract documents in a form other than that considered usual and customary by the Department of Public Works. It shall be the responsibility of the Design Consultant to contact the reviewing agencies and determine the acceptable format for the final documents. No documents will be considered final until approved by the City, even though any responsible federal and state agencies have approved such documents.
- (g) The City reserves the right to proceed with the construction of the Project using either the City's standard general contractor bidding approach, on call contractors or using construction management techniques. The Design Consultant agrees to organize its Contract Documents for either construction technique and to coordinate the construction documents into selected bid packages, as appropriate. The City will notify the Design Consultant prior to the completion of the Design Development Design Phase which method will be used and the amount of work or the limits of construction to be included in the proposed bid package(s).
- (h) The reports, studies, drawings and specifications and other products prepared by the Design Consultant under this Agreement, when submitted by the Design Consultant to the Director and the user agency for any identified phase of the Project, must represent a thorough study and competent solution for the project as per usual and customary professional standards and shall reflect all architectural and engineering skills applicable to that phase of the project.
- (i) The responsibilities and obligations of the Design Consultant under this Agreement shall not be relieved or affected in any respect by the presence on the site of any agent, consultant or subconsultant, or an employee of the City.
- (j) The Design Consultant shall provide all professional services required by the City in defending all claims against the City, which relate in any way to alleged

default hereunder, errors or omissions of the Design Consultant or its subconsultants, without additional compensation.

2.03 Program and Budget.

- (a) The Design Consultant agrees to review the City's program and budget for the Project and further agrees, unless it has timely notified the City that the Project cannot be accomplished within such budget, to accomplish the Project within the intent of the program and established budget. Should the Design Consultant determine that The Project cannot be accomplished within the established budget, the Design Consultant shall immediately notify the City, in writing, so that the project scope or project budget can be reviewed and modified if necessary.
- (b) The term "Project Construction Cost" shall mean the estimated cost to the City of actually constructing the Project, but such cost shall not include any Design Consultant's or special consultant's fees or reimbursements or the cost of equipment installed by the City under separate contract, unless the Design Consultant is required by the City to prepare drawings and specifications for such equipment. The initial Project Construction Cost has been provided to the Design Consultant.
- (c) The Design Consultant agrees to design the Project within the estimated Project Construction Cost for the Project. Should all responsive bids or proposal received for the Project work provided for in the design exceed such cost, the Design Consultant agrees to redesign the Project at no additional cost to City and, in a manner acceptable to the City.

2.04 Coordination and Cooperation.

- (a) The Design Consultant agrees to perform under this Agreement in such a manner and at such times that the City or any Contractor who has work to perform, or contracts to execute, can do so without unreasonable delay.
- (b) Coordination with the City and other involved agencies shall be a continuing work item through all phases of each assigned project. Such coordination shall consist of regular progress and review meetings with the City, work sessions with the City's Public Works, and other user agencies or as otherwise directed by the City. Such coordination may also include field and office reviews of plans and documents as required during the development of the design for any specific project. The Design Consultant shall document all such conferences and distribute notes to the City.

2.05 Personnel Assignments.

- (a) The key professional personnel identified in **Exhibit B** will be assigned by the Design Consultant or its subconsultants to perform the services required under this Agreement, as appropriate.
- (b) The Design Consultant's services shall be diligently performed by the regular professional and technical staff of the Design Consultant. In the event the Design Consultant does not have as part of its regular staff certain professional consultants, then such consulting services shall be performed, with City approval, by practicing professional consultants outside of the employ of the Design Consultant.

- (c) The Design Consultant agrees, at all times during the term of this Agreement, to maintain on its payroll or to have access to through outside subconsultants, professional design personnel and technicians in sufficient strength to meet the requirements of the City. Such personnel and technicians shall be of the classifications referenced in **Exhibit B**. The hourly rates specified therein include all costs except those specifically referenced as reimbursables in the appropriate hourly rate schedule.
- (d) Prior to designating an outside professional to perform subconsultant work, the Design Consultant shall submit the name of such subconsultant, together with a resume of training and experience in work of like character and magnitude of the project being contemplated, to the City and receive prior approval in writing.
- (e) It is the intent of the Parties hereto that all key professional personnel be engaged to perform their specialty for all such services required by this Agreement and that the Design Consultant's and the subconsultant's key professional personnel be retained for the life of this Agreement to the extent practicable and to the extent that such services maximize the quality of work performed hereunder.
- (f) If the Design Consultant or a subconsultant decides to replace any of its key professional personnel, the Design Consultant shall notify the Director in writing of the desired change. No such changes shall be made until replacement personnel are recommended by the Design Consultant and approved in writing by the Director, which approval shall not be unreasonably withheld.
- (g) If, during the term of this Agreement, the Director determines that the performance of approved key personnel or a subconsultant is not acceptable, she shall notify the Design Consultant and give the Design Consultant the time which the Director considers reasonable to correct such performance. Thereafter, she may require the Design Consultant to reassign or replace such key personnel. If the Director notifies the Design Consultant that certain of its key personnel or a subconsultant should be replaced, Design Consultant will use its best efforts to replace such key personnel or a subconsultant within ten (10) days from the date of the Director's notice.
- (h) Neither the Design Consultant nor any subconsultant shall have other interests which conflict with the interests of the City, including being connected with the sale or promotion of equipment or material which may be used on a project to which they may be assigned, and the Design Consultant shall make written inquiry of all of its subconsultants concerning the existence of a potential for such conflict. In unusual circumstances, and with full disclosure to the City of such conflict of interest, the City, in its sole discretion, may grant a written waiver for the particular consultant or subconsultant.
- (i) Actions taken by the City under this Article shall not relieve the Design Consultant of its responsibility for contractual or professional deficiencies, errors or omissions.
- (j) The Design Consultant shall submit to the Director a list of any additional key professional personnel who will perform work under this Agreement within thirty (30) days after this Agreement has been executed, together with complete resumes and other information describing their ability to perform the tasks which may be assigned. Such additional personnel must be recommended by

the Design Consultant and approved by the Director before they are assigned to a specific project.

- (k) The Director shall respond to the Design Consultant's written notice regarding replacement of key professional personnel within fifteen (15) days after the Director receives the list of changes. If the Director or his designated representative does not respond within that time, the changes shall be deemed to be approved.

2.06 Basic Services – General.

- (a) These services shall be diligently performed by the regular professional and technical staff of the Design Consultant. In the event the Design Consultant does not have as part of its regular staff certain professional consultants, then such consulting services shall be performed, with City approval, by practicing professional consultants outside of the employ of the Design Consultant.
- (b) Prior to designating an outside professional to perform work or services under this Agreement, the Design Consultant shall submit the name of such professional, together with a resume of training and experience in work of like character and magnitude as the project being contemplated, to the City and receive prior approval in writing.
- (c) All professional consultants and subconsultants must be retained for the life of the Project to the extent practicable, except that acceptable replacements may be substituted with prior written approval from the City as set out in Section 2.05.
- (d) The Design Consultant's basic services for the Project shall consist of the phases described below and shall include, but not be limited to, architectural, structural, mechanical, civil and electrical engineering services appropriate to each Project for each phase.
- (e) The Design Consultant shall obtain written authorization from the City before proceeding with each phase.
- (f) Nothing in this Agreement shall be construed as placing any obligation on the City to proceed with any phase beyond the latest phase authorized in writing by City.
- (g) The responsibilities and obligations of the Design Consultant under this Agreement shall not be relieved or affected in any respect by the presence on the site of any agent, consultant, subconsultant, or employee of the City.

2.07 Basic Services - Phase Specific. In the interest of tracking progress towards completion of all work items necessary to complete the Project specified herein, the required Basic Services tasks which must be performed on each Project have been separated into phases. As applicable for the Project, the Design Consultant shall satisfactorily complete all work necessary to complete each phase as specifically set out in **Exhibit A**.

2.08 Additional Services.

- (a) If the Design Consultant performs services in addition to its Basic Services, as a result of material changes in the Project or due to other circumstances beyond the Design Consultant's control, and if such services (1) are pre-approved in writing; (2) will not cause the total compensation payable to the Design

Consultant to exceed the Maximum Contract Amount; and (3) are not occasioned by any neglect, breach or default of the Design Consultant, then the Design Consultant will be reimbursed its pre-approved cost for performance of such service(s).

- (b) Before providing any such services, the Design Consultant first shall file with the City, and secure the City's written approval of, a complete description of the proposed services including an estimate of the maximum cost of any and all such services, on the basis set out in **Exhibits A and B**, of rates per hour, per day, or other basis of cost. Such description shall also include a statement from the Design Consultant that the maximum cost of such services will not cause the total amount payable to the Design Consultant under this Agreement to exceed the maximum contract amount. In no event shall any form of authorization or pre-approval of additional services be deemed valid or binding upon either the City or the Design Consultant if the maximum cost of such services would cause the aggregate amount payable under this Agreement to exceed the maximum contract amount. Payment for additional services shall not, in any event, exceed the cost estimated by the Design Consultant and approved in writing by the City.
- (c) The cost of such additional service shall be deemed to be the lesser of the estimated maximum cost or:
 - 1. The actual time card cost of all design personnel including principal designer's time at the rates as set out in **Exhibit B**;
 - 2. The actual cost to the Design Consultant for other necessary outside services, such as structural, mechanical or electrical engineering performed by independent consultants; and
 - 3. The Design Consultant's actual reproduction cost for drawings.
- (d) The Design Consultant shall maintain an accurate and acceptable cost accounting as to all such additional expenses and shall make available to the City all records, canceled checks and other disbursement media to substantiate any and all requests for payment for additional services.
- (e) Payment to the Design Consultant for such additional services shall not, in any event, exceed the maximum additional services amount set forth in Section 3.

2.09 Surveying and Testing.

- (a) The Design Consultant shall obtain all necessary surveying, tests and reports to properly design and administer the construction of each project, including, but not limited to, soils and hazardous materials testing. The Design Consultant shall be responsible for the accuracy, adequacy and content of such tests, surveying and reports.
- (b) The Design Consultant and its appropriate subconsultant shall review all survey and test results reports and shall follow the recommendation of the soils engineer or other subconsultant unless, in the exercise of appropriate professional judgment, the Design Consultant or appropriate subconsultant discovers, or should in the exercise of professional judgment discover, factors indicating the report or results are not reliable.

- (c) If any such inadequacy or any inconsistency, based upon such exercise of professional judgment, is noted the Design Consultant and/or its appropriate subconsultant shall report such inconsistency or inadequacy promptly to the City and require such inadequacy or inconsistency to be addressed by the soils engineer, testing laboratory or land surveyor before any further use is put to the data.
- (d) The Design Consultant shall require all surveying, engineering and testing entities it selects to carry and maintain Comprehensive Auto Liability and Property Damage Insurance, General Commercial Liability and Property Damage Insurance and Professional Errors and Omissions coverage as required by the City's Office of Risk Management which will adequately protect the interests of the City and third parties from the acts and omissions of the testing entity.
- (e) The amount of surveying or testing, the cost, and the types of reports required must be approved by the Director prior to the Design Consultant actually ordering any such work to be accomplished. Such approvals by the City shall be for purposes of compensation only and shall not relieve the Design Consultant of any responsibility for determining the scope and amount of surveying and testing necessary for the design of the project.
- (f) It is understood and agreed that this Agreement does not include the investigation, sampling, testing, planning, abatement design, and remediation management of asbestos or other hazardous waste material. Should the presence of asbestos or other hazardous waste material be known to exist on a specific project or if the Design Consultant shall observe the presence of asbestos or hazardous waste material on any project site during its performance of services under this Agreement, the Design Consultant shall notify the City in writing immediately.
- (g) Payment to the Design Consultant for such surveying, testing, and abatement shall not exceed the surveying and testing budget set forth in the project specific proposal for each project.

2.10 Compliance with M/WBE Requirements.

- (a) This Agreement is subject to Article III, Divisions 1 and 3 of Chapter 28, Denver Revised Municipal Code (D.R.M.C.), designated as Sections 28-31 to 28-36 and 28-52 to 28-90 D.R.M.C. (the "M/WBE Ordinance") and any Rules or Regulations promulgated pursuant thereto. The Design Consultant identified in its Proposal MBE and/or WBE firms with which it intends to subcontract under this Agreement, with a total participation level by such firms of **XX%**. The project goal for M/WBE participation established for this Agreement by the Division of Small Business Opportunity (DSBO) is 100%.
- (b) Under § 28-72 D.R.M.C., the Design Consultant has an ongoing, affirmative obligation to maintain for the duration of this Agreement, at a minimum, compliance with its originally achieved level of MBE and WBE participation upon which this Agreement was awarded, unless the City initiates a material alteration to the scope of work affecting MBEs or WBEs performing on this Agreement through change order, contract amendment, force account, or as otherwise described in § 28-73 D.R.M.C. The Design Consultant acknowledges that: (1) It must establish and maintain records and submit

regular reports, as required, which will allow the City to assess progress in achieving the M/WBE participation goal.

- (c) If change orders or any other contract modifications are issued under the Agreement, the Design Consultant shall have a continuing obligation to immediately inform DSBO in writing of any agreed upon increase or decrease in the scope of work of such contract, upon any of the bases discussed in § 28-73, D.R.M.C., regardless of whether such increase or decrease in scope of work has been reduced to writing at the time of notification.
- (d) If change orders or other contract modifications are issued under the contract, that include an increase in scope of work of this Agreement, whether by amendment, change order, force account or otherwise which increases the dollar value of the contract, whether or not such change is within the scope of work designated for performance by an M/WBE at the time of contract award, such change orders or contract modification shall be immediately submitted to DSBO for notification purposes. Those amendments, change orders, force accounts or other contract modifications that involve a changed scope of work that cannot be performed by existing project subconsultants or by the Design Consultant shall be subject to a goal for M/WBEs equal to the original goal on the contract which was included in the proposal. The Design Consultant shall satisfy such goal with respect to such changed scope of work by soliciting new M/WBEs in accordance with § 28-73, D.R.M.C., as applicable, or the Design Consultant must show each element of modified good faith set out in § 28-75(c) D.R.M.C. The Design Consultant shall supply to the director the documentation described in § 28-75-(c) D.R.M.C. with respect to the increased dollar value of the contract.
- (e) Failure to comply with these provisions may subject the Design Consultant to sanctions set forth in the M/WBE Ordinance. Should any questions arise regarding specific circumstances, the Design Consultant must consult the M/WBE Ordinance or contact the Project's designated DSBO representative at (720) 913-1999

Section 3 – Compensation, Payment, And Funding

The City shall compensate the Design Consultant for its service performed and expenses incurred under this Agreement as follows.

3.01 Fee for basic services. The City agrees to pay the Design Consultant, as full compensation for its basic services rendered hereunder, a fee not to exceed _____ **DOLLARS AND ZERO CENTS** (\$____,____.00), in accordance with the billing rates and project budget stated in **Exhibits A and B**. The amounts budgeted for phases may be increased or decreased, and the amounts allocated for services and expenses adjusted, upon written approval of the Director or his designee, and subject to the Maximum Contract Amount stated in this Section 3.

3.02 Reimbursable Expenses. Except for those reimbursable expenses specifically identified in **Exhibit A**, or approved in writing by the City as reasonably related to or necessary for the Design Consultant's services, all other expenses shall be included in the Design Consultant's fee and will not be reimbursed hereunder. The maximum amount to be paid for all reimbursable expenses under this Agreement is _____ **DOLLARS AND ZERO CENTS** (\$____,____.00) unless an additional amount is approved by the Director or his designee in writing, subject to the Maximum Contract Amount stated herein. Unless this Agreement is amended in writing according to its terms to increase the Maximum Contract

Amount, any increase in the maximum amount of reimbursable expenses will reduce the Design Consultant's maximum fee amount accordingly.

3.03. Additional Services. If pre-approved additional services are performed by the Design Consultant, the City agrees to pay the Design Consultant for such additional services in accordance with Section 2.08. The maximum amount to be paid by the City for all additional services under this contract is _____ **DOLLAR AND ZERO CENTS (\$ __,000.00).**

3.04 Invoicing and Payment. The City will make monthly progress payments for all services performed under this Agreement based upon the Design Consultant's monthly invoices. Such invoices shall be in a form acceptable to the City and shall include detail of the time worked by the Design Consultant's own personnel, billings from subcontractors, and all other information necessary to assess the Design Consultant's progress. Invoices shall be accompanied by documentation of expenses for which reimbursement is sought, and all other supporting documentation required by the City. The City's Prompt Payment Ordinance, §§ 20-107 to 20-118, D.R.M.C., applies to invoicing and payment under this Agreement. Final Payment to the Design Consultant shall not be made until after the Project is accepted, and all certificates of completion, record drawings and reproducible copies are delivered to the City, and the Agreement is otherwise fully performed by the Design Consultant. The City may, at the discretion of the Director, withhold reasonable amounts from billing and the entirety of the final payment until all such requirements are performed to the satisfaction of the Director. However, no deductions shall be made from the Design Consultant's compensation on account of penalty, liquidated damages or other sums withheld from payments to contractor(s).

3.05 Maximum Contract Amount.

- (a) Notwithstanding any other provision of the Agreement, the City's maximum payment obligation will not exceed _____ **DOLLARS AND ZERO CENTS (\$ __, __, __.00)** (the "Maximum Contract Amount"). The City is not obligated to execute an Agreement or any amendments for any further services, including any services performed by Design Consultant beyond that specifically described in **Exhibit A**. Any services performed beyond those set forth therein are performed at Design Consultant's risk and without authorization under the Agreement.
- (b) The City's payment obligation, whether direct or contingent, extends only to funds appropriated annually by the Denver City Council, paid into the Treasury of the City, and encumbered for the purpose of the Agreement. The City does not by the Agreement irrevocably pledge present cash reserves for payment or performance in future fiscal years, and the Agreement does not and is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the City.
- (c) The Design Consultant understands and agrees that the provision of any services by the Design Consultant, which would cause the total amount payable to the Design Consultant to exceed the amount of previously appropriated and encumbered funds, is strictly prohibited. In the event the continuation of services by the Design Consultant would cause the amount payable to the Design Consultant to exceed such amounts, the Design Consultant agrees to give to the Project Director at least two (2) weeks notice of the exhaustion of available funds. In the event additional funds are not made available within such two (2) week period, the Design Consultant agrees to stop providing services until such time as additional funds are appropriated and encumbered for the purposes of the this

Agreement, and amounts which remain available for payment to the Design Consultant

SECTION 4 – TERM AND TERMINATION

4.01 Term.

The Agreement will commence on execution of this Agreement and expire, unless sooner terminated, upon final completion of the Project.

4.02 Termination.

- (a) Nothing herein shall be construed as giving the Design Consultant the right to perform the services contemplated under this Agreement beyond the time when its services become unsatisfactory to the Director.
- (b) The Director may terminate this Agreement for cause at any time if the Design Consultant's services become unsatisfactory, in the sole discretion of the Director. The City shall have the sole discretion to permit the Design Consultant to remedy the cause of a contemplated termination for cause without waiving the City's right to terminate the Agreement.
- (c) In the event of a termination for cause, or in the event the Design Consultant becomes unable to serve under this Agreement, the City may take over work to be done under this Agreement and prosecute the work to the completion by contract or otherwise, and the Design Consultant shall be liable to City for all reasonable cost in excess of what the City would have paid the Design Consultant had there been no termination for cause.
- (d) The City may, for convenience, cancel and terminate this Agreement by giving not less than thirty (30) days' prior written notice to the Design Consultant, which notice shall state the date of cancellation and termination.
- (e) If the Design Consultant's services are terminated, postponed or revised, or if the Design Consultant shall be discharged before all the work and services contemplated have been completed, or if the project is, for any reason, stopped or discontinued, the Design Consultant shall be paid only for the portion of work or services which has been satisfactorily completed at the time of such dismissal, termination, cancellation, postponement, revision or stoppage.
- (f) All drawings, specifications, and other documents relating to the design or administration of work completed or partially completed shall be delivered by the Design Consultant to the City in the event of any dismissal, termination, cancellation, postponement, revision or stoppage.
- (g) In the event of any dismissal, termination, cancellation, postponement, revision or stoppage, the Design Consultant shall cooperate in all respects with the City. Such cooperation shall include, but not be limited to, delivery of drawings, specifications, and other documents referred to herein, and assisting the City during a transition to another Design Consultant, if applicable.

SECTION 5 – GENERAL PROVISIONS

5.01 City’s Responsibilities.

- (a) The City shall provide available information regarding its requirements for each project, including related budgetary information, and shall cooperate fully with the Design Consultant at all times. However, the City does not guarantee the accuracy of any such information and assumes no liability therefore. The Design Consultant shall notify City in writing of any information or requirements provided by the City which the Design Consultant believes to be inaccurate or inappropriate to the design or construction of the project.
- (b) If the City observes or otherwise becomes aware of any fault or defect in the project or non-conformance with Contract Documents, it shall give prompt notice thereof to Design Consultant.

5.02 Ownership of Documents.

- (a) The City shall have title and all intellectual and other property rights, in and to all phased and final Design documents, and all data used in the development of the same, including the results of any tests, surveys or inspections at the Project site, and all photographs, drawings, drafts, studies, estimates, reports, models, notes and any other materials or work products, whether in electronic or hard copy format, created by the Design Consultant pursuant to this Agreement, in preliminary and final forms and on any media whatsoever (collectively, the "Documents"), whether the Project for which the Documents were created is executed or not. The Design Consultant shall identify and disclose, as requested, all such Documents to the City.
- (b) To the extent permitted by the U.S. Copyright Act, 17 USC § 101 et seq., as the same may be amended from time to time, the Documents are a “work made for hire,” and all ownership of copyright in the Documents shall vest in the City at the time the Documents are created. To the extent that the Documents are not a “work made for hire,” the Design Consultant hereby assigns and transfers all right, title and interest in and to the Documents to the City, as of the time of the creation of the Documents, including the right to secure copyright, patent, trademark, and other intellectual property rights throughout the world and to have and to hold such copyright, patent, trademark, and other intellectual property rights in perpetuity.
- (c) The Design Consultant shall provide (and cause its employees and subcontractors to provide) all assistance reasonably requested in securing for the City’s benefit any patent, copyright, trademark, service mark, license, right or other evidence of ownership of such Documents, and shall provide full information regarding the Documents and execute all appropriate documentation in applying for or otherwise registering, in the City’s name, all rights to such Documents.
- (d) The Design Consultant agrees to allow the City to review any of the procedures used in performing the work and services hereunder, and to make available for inspection the field notes and other documents used in the preparation for and performance of any of the services performed hereunder.

- (e) The Design Consultant shall be permitted to retain reproducible copies of all of the Documents for the information and reference, and the originals of all of the Documents, including all CAD disks, shall be delivered to the City promptly upon completion thereof, or if authorized by the City's Project Manager, upon termination or expiration of this Agreement.

5.03 Taxes and Licenses. The Design Consultant shall promptly pay, when they are due, all taxes, excises, license fees and permit fees of whatever nature applicable to the work and services which it performs under this Agreement, and shall take out and keep current all required municipal, county, state or federal licenses required to perform its services under this Agreement. The Design Consultant shall furnish the Director, upon request, duplicate receipts or other satisfactory evidence showing or certifying to the proper payment of all required licenses and/or registrations and taxes. The Design Consultant shall promptly pay all owed bills, debts and obligations it incurs performing work under this Agreement and shall not allow any lien, verified claim, mortgage, judgment or execution to be filed against land, facilities or improvements owned or beneficially owned by the City as a result of such bills, debts or obligations.

5.04 Design Consultant's Records. Records of the Design Consultant's direct personnel, consultant and reimbursable expenses pertaining to this Project and records of accounts between the City and the Design Consultant shall be kept on a generally recognized accounting basis. The Design Consultant agrees that any duly authorized representative of the City, including the City Auditor, shall, until the expiration of three (3) years after the final payment under this Agreement, have access to and the right to examine any books, documents, papers and records of the Design Consultant, involving transactions related to this Agreement.

5.05 Assignment and Subcontracting. The City is not obligated or liable under this Agreement to any party other than the Design Consultant named herein. The Design Consultant understands and agrees that it shall not assign or subcontract with respect to any of its rights, benefits, obligations or duties under this Agreement except upon prior written consent and approval of the City to such assignment or subcontracting. Any attempt by the Design Consultant to assign or subcontract its rights hereunder without such prior written consent of the City shall, at the option of the City, automatically terminate this Agreement and all rights of the Design Consultant hereunder. Such consent may be granted or denied at the sole and absolute discretion of the City. In the event any such subcontracting shall occur, with the City's approval, such action shall not be construed to create any contractual relationship between the City and such subcontractor, and the Design Consultant named herein shall in any and all events be and remain responsible to the City according to the terms of this Agreement.

5.06 No Discrimination in Employment. In connection with the performance of work under this contract, the Contractor may not refuse to hire, discharge, promote or demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, gender identity or gender expression, marital status, or physical or mental disability. The Contractor shall insert the foregoing provision in all subcontracts.

5.07 Insurance.

- (a) **General Conditions:** Contractor agrees to secure, at or before the time of execution of this Agreement, the following insurance covering all operations, goods or services provided pursuant to this Agreement. Contractor shall keep the required insurance coverage in force at all times during the term of the Agreement, or any extension thereof, during any warranty period, and for eight (8) years after termination of the Agreement. The required insurance shall be underwritten by an

insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as "A-"VIII or better. Each policy shall contain a valid provision or endorsement requiring notification to the City in the event any of the required policies be canceled or non-renewed before the expiration date thereof. Such written notice shall be sent to the parties identified in the Notices section of this Agreement. Such notice shall reference the City contract number listed on the signature page of this Agreement. Said notice shall be sent thirty (30) days prior to such cancellation or non-renewal unless due to non-payment of premiums for which notice shall be sent ten (10) days prior. If such written notice is unavailable from the insurer, contractor shall provide written notice of cancellation, non-renewal and any reduction in coverage to the parties identified in the Notices section by certified mail, return receipt requested within three (3) business days of such notice by its insurer(s) and referencing the City's contract number. If any policy is in excess of a deductible or self-insured retention, the City must be notified by the Contractor. Contractor shall be responsible for the payment of any deductible or self-insured retention. The insurance coverages specified in this Agreement are the minimum requirements, and these requirements do not lessen or limit the liability of the Contractor. The Contractor shall maintain, at its own expense, any additional kinds or amounts of insurance that it may deem necessary to cover its obligations and liabilities under this Agreement.

- (b) **Proof of Insurance:** Contractor shall provide a copy of this Agreement to its insurance agent or broker. Contractor may not commence services or work relating to the Agreement prior to placement of coverages required under this Agreement. Contractor certifies that the certificate of insurance attached as Exhibit C, preferably an ACORD certificate, complies with all insurance requirements of this Agreement. The City requests that the City's contract number be referenced on the Certificate. The City's acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Agreement shall not act as a waiver of Contractor's breach of this Agreement or of any of the City's rights or remedies under this Agreement. The City's Risk Management Office may
- (c) **Additional Insureds:** For Commercial General Liability, Auto Liability and Excess Liability/Umbrella (if required), Contractor and subcontractor's insurer(s) shall include the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured.
- (d) **Waiver of Subrogation:** For all coverages required under this Agreement, Contractor's insurer shall waive subrogation rights against the City.
- (e) **Subcontractors and Subconsultants:** All subcontractors and subconsultants (including independent contractors, suppliers or other entities providing goods or services required by this Agreement) shall be subject to all of the requirements herein and shall procure and maintain the same coverages required of the Consultant. Consultant shall include all such subconsultants as additional insured under its policies (with the exception of Workers' Compensation) or shall ensure that all such subcontractors and subconsultants maintain the required coverages. Consultant agrees to provide proof of insurance for all such subcontractors and subconsultants upon request by the City.
- (f) **Workers' Compensation/Employer's Liability Insurance:** Consultant shall maintain the coverage as required by statute for each work location and shall

maintain Employer's Liability insurance with limits of \$100,000 per occurrence for each bodily injury claim, \$100,000 per occurrence for each bodily injury caused by disease claim, and \$500,000 aggregate for all bodily injuries caused by disease claims. Consultant expressly represents to the City, as a material representation upon which the City is relying in entering into this Agreement, that none of the Consultant's officers or employees who may be eligible under any statute or law to reject Workers' Compensation Insurance shall effect such rejection during any part of the term of this Agreement, and that any such rejections previously effected, have been revoked as of the date Consultant executes this Agreement.

- (g) **Commercial General Liability:** Contractor shall maintain a Commercial General Liability insurance policy with limits of \$1,000,000 for each occurrence, \$1,000,000 for each personal and advertising injury claim, \$2,000,000 products and completed operations aggregate, and \$2,000,000 policy aggregate.
- (h) **Business Automobile Liability:** Contractor shall maintain Business Automobile Liability with limits of \$1,000,000 combined single limit applicable to all owned, hired and non-owned vehicles used in performing services under this Agreement.
- (i) **Professional Liability (Errors & Omissions):** Contractor shall maintain limits of \$1,000,000 per claim and \$1,000,000 policy aggregate limit.
- (j) **Additional Provisions:**
 - (a) For Commercial General Liability, the policy must provide the following:
 - (i) That this Agreement is an Insured Contract under the policy;
 - (ii) Defense costs are outside the limits of liability;
 - (iii) A severability of interests or separation of insureds provision (no insured vs. insured exclusion); and
 - (iv) A provision that coverage is primary and non-contributory with other coverage or self-insurance maintained by the City.
 - (b) For claims-made coverage:
 - (i) The retroactive date must be on or before the contract date or the first date when any goods or services were provided to the City, whichever is earlier
 - (c) Contractor shall advise the City in the event any general aggregate or other aggregate limits are reduced below the required per occurrence limits. At their own expense, and where such general aggregate or other aggregate limits have been reduced below the required per occurrence limit, the Contractor will procure such per occurrence limits and furnish a new certificate of insurance showing such coverage is in force.

5.08 Defense & Indemnification.

- (a) To the fullest extent permitted by law, the Consultant agrees to defend, indemnify, reimburse and hold harmless City, its appointed and elected officials, agents and employees for, from and against all liabilities, claims, judgments, suits or demands for damages to persons or property arising out of, resulting from, or related to the work performed under this Agreement that are attributable to the negligence or fault of the Consultant or the Consultant's agents, representatives, subcontractors, or

suppliers (“Claims”). This indemnity shall be interpreted in the broadest possible manner consistent with the applicable law to indemnify the City.

- (b) Consultant’s obligation to defend and indemnify may be determined after Consultant’s liability or fault has been determined by adjudication, alternative dispute resolution, or otherwise resolved by mutual agreement between the parties. Consultant’s duty to defend and indemnify City shall relate back to the time written notice of the Claim is first provided to City regardless of whether suit has been filed and even if Consultant is not named as a Defendant.
- (c) Consultant will defend any and all Claims which may be brought or threatened against City and will pay on behalf of City any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to enforce this indemnity obligation. Such payments on behalf of City shall be in addition to any other legal remedies available to City and shall not be considered City’s exclusive remedy.
- (d) Insurance coverage requirements specified in this Agreement shall in no way lessen or limit the liability of the Consultant under the terms of this indemnification obligation. The Consultant shall obtain, at its own expense, any additional insurance that it deems necessary for the City’s protection.
- (e) This defense and indemnification obligation shall survive the expiration or termination of this Agreement.

5.09 Colorado Governmental Immunity Act. The parties hereto understand and agree that the City is relying upon, and has not waived, the monetary limitations (presently \$150,000 per person, \$600,000 per occurrence) and all other rights, immunities and protection provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*

5.10 Contract Documents; Order of Precedence. This Agreement consists of Sections 1 through 5, which precede the signature page, and the following attachment, which is incorporated herein and made a part hereof by reference:

Exhibit A	Scope of Work/Rates
Exhibit B	Key Personnel
Exhibit C	ACORD Certificate of Insurance

In the event of an irreconcilable conflict between a provision of Sections 1 through 5 and the listed attachments, or between provisions of any attachments, such that it is impossible to give effect to both, the order of precedence to determine which provision shall control to resolve such conflict, is as follows:

- Sections 1 through 5
- Exhibit A
- Exhibit B
- Exhibit C

5.11 When Rights and Remedies Not Waived. In no event shall any payment by the City constitute a waiver of any breach of covenant or default which may then exist on the part of the Design Consultant. No assent, expressed or implied, to any breach of the Agreement shall be held to be a waiver of any later or other breach.

5.12 Governing Law; Venue. This Agreement shall be construed and enforced in accordance with the laws of the State of Colorado, the Charter and Revised Municipal Code of the

City and County of Denver, and the ordinances, regulations and Executive Orders enacted or promulgated pursuant to the Charter and Code, including any amendments. The Charter and Revised Municipal Code of the City and County of Denver, as the same may be amended from time to time, are hereby expressly incorporated into this Agreement. Venue for any action arising hereunder shall be in the City and County of Denver, Colorado.

5.13 Conflict of Interest.

- (a) The parties agree that no employee of the City shall have any personal or beneficial interest in the services or property described herein, and the Design Consultant further agrees not to hire or contract for services with any employee or officer of the City which would be in violation of the Revised Municipal Code Chapter 2, Article IV, Code of Ethics or Denver City Charter provisions 1.2.9 and 1.2.12.
- (b) The Design Consultant agrees that it will not engage in any transaction, activity or conduct that would result in a conflict of interest under this Agreement. The Design Consultant represents that it has disclosed any and all current or potential conflicts of interest. A conflict of interest shall include transactions, activities or conduct that would affect the judgment, actions or work of the Design Consultant by placing the Design Consultant's own interests, or the interests of any party with whom the Design Consultant has a contractual arrangement, in conflict with those of the City. The City, in its sole discretion, shall determine the existence of a conflict of interest and may terminate this Agreement in the event such a conflict exists after it has given the Design Consultant written notice which describes the conflict. The Design Consultant shall have thirty (30) days after the notice is received to eliminate or cure the conflict of interest in a manner that is acceptable to the City.

5.14 No Third Party Beneficiaries. Enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the City and the Design Consultant, and nothing contained in this Agreement shall give or allow any claim or right of action by any other or third person under this Agreement. It is the express intention of the parties that any person other than the City or the Design Consultant receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

5.15 Time is of the Essence. The parties agree that in the performance of the terms, conditions and requirements of this Agreement by the Design Consultant, time is of the essence.

5.16 Taxes, Charges and Penalties. The City and County of Denver shall not be liable for the payment of taxes, late charges, or penalties of any nature except as provided in the City's Prompt Payment Ordinance.

5.17 Proprietary or Confidential Information.

- (a) City Information: The Design Consultant acknowledges and accepts that, in performance of its work under the terms of this Agreement, the Design Consultant may have access to Proprietary Data or confidential information which may be owned or controlled by the City and that the disclosure of such data or information may be damaging to the City or third parties. As such, the Design Consultant agrees that all information provided or otherwise disclosed by the City to the Design Consultant be held in confidence and used only in the performance of its obligations under this Agreement. The Design Consultant shall exercise the same standard of care to protect such information

as a reasonably prudent Design Consultant would to protect its own proprietary or confidential data. "Proprietary Data" shall mean geographic materials or Geographic Information Systems ("GIS") data owned by the City and County of Denver including but not limited to maps, computer programs, aerial photography, methodologies, software, diagnostics and documents; or any other materials or information which may be designated or marked "Proprietary" or "Confidential" and provided to or made available to the Design Consultant by the City. Such Proprietary Data may be in hardcopy, printed, digital or electronic format.

- (b) Design Consultant's Information: The parties understand that all the material provided or produced under this Agreement may be subject to the Colorado Open Records Act, C.R.S. 24-72-201, et seq., and that in the event of a request to the City for disclosure of such information, the City shall advise the Design Consultant of such request in order to give the Design Consultant the opportunity to object to the disclosure of any of its proprietary or confidential material. In the event of the filing of a lawsuit to compel such disclosure, the City will tender all such material to the court for judicial determination of the issue of disclosure and the Design Consultant agrees to intervene in such lawsuit to protect and assert its claims of privilege and against disclosure of such material or waive the same. The Design Consultant further agrees to defend, indemnify and save and hold harmless the City, its officers, agents and employees, from any claim, damages, expense, loss or costs arising out of the Design Consultant's intervention to protect and assert its claim of privilege against disclosure under this Article including, but not limited to, prompt reimbursement to the City of all reasonable attorney fees, costs and damages that the City may incur directly or may be ordered to pay by such court.

5.18 Use, Possession or Sale of Alcohol or Drugs. The Design Consultant, its officers, agents, and employees shall cooperate and comply with the provisions of Executive Order 94 and Attachment A thereto concerning the use, possession or sale of alcohol or drugs. Violation of these provisions or refusal to cooperate with implementation of the policy can result in the City's barring the Design Consultant from City facilities or participating in City operations.

5.19 No Employment of Illegal Aliens to Perform Work Under the Agreement.

- (a) This Agreement is subject to Division 5 of Article IV of Chapter 20 of the Denver Revised Municipal Code, and any amendments (the "Certification Ordinance").
- (b) The Consultant certifies that:
- (1) At the time of its execution of this Agreement, it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement.
 - (2) It will participate in the E-Verify Program, as defined in § 8-17.5-101(3.7), C.R.S., to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.
- (c) The Consultant also agrees and represents that:
- (1) It shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.
 - (2) It shall not enter into a contract with a subconsultant or subcontractor that fails to certify to the Consultant that it shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.

- (d) It has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement, through participation in the E-Verify Program.
- (e) It is prohibited from using the E-Verify Program procedures to undertake pre-employment screening of job applicants while performing its obligations under the Agreement, and that otherwise requires the Consultant to comply with any and all federal requirements related to use of the E-Verify Program including, by way of example, all program requirements related to employee notification and preservation of employee rights.
- (f) If it obtains actual knowledge that a subconsultant or subcontractor performing work under the Agreement knowingly employs or contracts with an illegal alien, it will notify such subconsultant or subcontractor and the City within three (3) days. The Consultant will also then terminate such subconsultant or subcontractor if within three (3) days after such notice the subconsultant or subcontractor does not stop employing or contracting with the illegal alien, unless during such three-day period the subconsultant or subcontractor provides information to establish that the subconsultant or subcontractor has not knowingly employed or contracted with an illegal alien.
- (g) It will comply with any reasonable request made in the course of an investigation by the Colorado Department of Labor and Employment under authority of § 8-17.5-102(5), C.R.S, or the City Auditor, under authority of D.R.M.C. 20-90.3.
- (h) The Consultant is liable for any violations as provided in the Certification Ordinance. If Consultant violates any provision of this section or the Certification Ordinance, the City may terminate this Agreement for a breach of the Agreement. If the Agreement is so terminated, the Consultant shall be liable for actual and consequential damages to the City. Any such termination of a contract due to a violation of this section or the Certification Ordinance may also, at the discretion of the City, constitute grounds for disqualifying Consultant from submitting bids or proposals for future contracts with the City.

5.20 Disputes. All disputes between the City and Design Consultant regarding this Agreement shall be resolved by administrative hearing pursuant to the procedure established by D.R.M.C. § 56-106(b), *et seq.* For the purposes of that procedure, the City official rendering a final determination shall be the Director.

5.21 Waiver of C.R.S. 13-20-802, et seq. The Design Consultant specifically waives all the provisions of Chapter 8 of Article 20 of Title 13, Colorado Revised Statutes (also designated C.R.S. 13-20-802 *et seq.*) relating to design defects in the Project under this Agreement.

5.22 Survival of Certain Contract Provisions. The parties understand and agree that all terms and conditions of this Agreement, together with the exhibits and attachments hereto, which, by reasonable implication, contemplate continued performance or compliance beyond the termination of this Agreement, (by expiration of the term or otherwise), shall survive such termination and shall continue to be enforceable as provided herein. Without limiting the generality of the foregoing, the Design Consultant's obligations for the provision of insurance and to indemnify the City shall survive for a period equal to any and all relevant statutes of limitation, plus the time necessary to fully resolve any claims, matters, or actions begun within that period."

5.23 Advertising and Public Disclosure. The Design Consultant shall not include any reference to this Agreement or to services performed pursuant to this Agreement in any of its advertising or public relations materials without first obtaining the written approval of the Director,

which will not be unreasonably withheld. Any oral presentation or written materials related to services performed under this Agreement shall include only services that have been accepted by the City. The Director shall be notified in advance of the date and time of any such presentation. Nothing in this provision shall preclude the transmittal of any information to officials of the City, including without limitation the Mayor, the Director, City Council or the Auditor.

5.24 Legal Authority. Design Consultant represents and warrants that it possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution or action passed or taken, to enter into this Agreement. Each person signing and executing this Agreement on behalf of Design Consultant represents and warrants that he has been fully authorized by Consultant to execute this Agreement on behalf of Design Consultant and to validly and legally bind Design Consultant to all the terms, performances and provisions of this Agreement. The City shall have the right, in its sole discretion, to either temporarily suspend or permanently terminate this Agreement if there is a dispute as to the legal authority of either Design Consultant or the person signing the Agreement to enter into this Agreement.

5.25 Notices. Notices, bills, invoices or reports required by this Agreement shall be sufficiently delivered if sent in the United States mail, postage prepaid, to the Parties at the following addresses:

to the City: Executive Director of Public Works
201 West Colfax Avenue, Dept. 601
Denver, Colorado 80202

to the Design Consultant: _____
_____ Street
Denver, Colorado 80205

The addresses may be changed by the Parties by written notice.

5.26 Severability. It is understood and agreed by the parties hereto that, if any part, term, or provision of this Agreement, except for the provisions of this Agreement requiring prior appropriation and limiting the total amount to be paid by the City, is by the courts held to be illegal or in conflict with any law of the State of Colorado, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term or provision held to be invalid.

5.27 Agreement as Complete Integration-Amendments. This Agreement is intended as the complete integration of all understandings between the parties. No prior or contemporaneous addition, deletion or other amendment shall have any force or effect, unless embodied herein in writing. No subsequent novation, renewal, addition, deletion or other amendment hereto shall have any force or effect unless embodied in a written amendatory or other agreement executed by the parties and signed by the signatories to the original Agreement. This Agreement and any amendments shall be binding upon the parties, their successors and assigns.

5.28 Electronic Signatures and Electronic Records. Design Consultant consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

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Exhibit A
Scope of Work

Exhibit B
Key Personnel

Exhibit C
Acord Insurance Certificate



**City and County of Denver
Contractor
Certificate of Insurance**

Contractors, please provide this sample certificate to your insurance agent or broker
Certificates must mirror this sample

Note the Additional Insured special instructions below

***The 'description' box must only contain project/contract detail such as the contract name and number and "As required by written contract, the City and County of Denver, its Elected and Appointed Officials, Employees and Volunteers are included as Additional Insured" with regards to the appropriate policies ONLY.**

QUALIFYING LANGUAGE SUCH AS "SUBJECT TO THE TERMS AND CONDITIONS OF THE POLICY" and "IF REQUIRED PER WRITTEN CONTRACT" CAN NOT BE ADDED.

DO NOT ATTACH ADDITIONAL INSURED ENDORSEMENTS OR POLICIES

If any additional language is added to this section, the certificate will be rejected. If the requirements can not be complied with, we reserve the option to move on to another contractor

