

City of Aurora

Finance/Purchasing & Contracts
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Request for Proposal: R-2448

Class/Item: 90664, 90666, 91812, 91832, 91842, 91892, 91894, 91896, 92517, 92533, 92536, 92593

Date: April 7, 2025

Proposal Deadline: May 1, 2025 by 3:00 p.m. MT uploaded electronically only to the Rocky Mountain e-purchasing system website.

REQUEST FOR PROPOSAL

The City of Aurora ("City") is requesting proposals from qualified consultants to provide professional design services for 13th Avenue Multimodal Design Project.

Proposal Submittals

Proposals will only be accepted electronically through the Rocky Mountain e-purchasing system (BidNet) at www.bidnetdirect.com/colorado. **Proposals received using another method such as email, mail, or hand delivery will not be accepted or considered.**

Proposals shall be submitted no later than **3:00 P.M. MT, May 1, 2025**. Late proposals WILL NOT be accepted. File size limit is 25 MB. Proposals received shall be retained by the City and cannot be returned. If assistance is needed regarding BidNet registration or proposal uploading, please contact BidNet's vendor support at 1.800.835.4603 or email e-procurementssupport@bidnet.com.

Proposals shall consist of: **13th Avenue Multimodal Design Project**

Award Funding

This project is being supported, in whole or in part, by DRCOG federal funds awarded to the City of Aurora through Colorado Department of Transportation (CDOT). The contract must follow all applicable Federal, State and local regulations and restrictions.

Disadvantage Business Enterprise (DBE) Goal

Every federally funded contract requires a DBE Goal. The DBE goal for this project is 6%. The Proposer commits to the requirements for DBE participation. For additional information refer to <https://www.codot.gov/business/civilrights/compliance/prof-services>

Exhibit 2– Affidavit of Small Business Participation shall be submitted with a firm's proposal response. Failure of the proposer to submit the affidavit will result in the consultant being deemed non- responsive and ineligible for award. If DBE goal is 0% the Affidavit is still required. The City of Aurora, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for any award.

SAM.gov Requirement

In accordance with Code of Federal Regulations, Title 2, Subtitle A, Part 25 – Appendix A, the successful consultant will be required to provide its Unique Entity Identifier to the City of Aurora before an award will be made. This may be obtained by registering on the System for Award Management (SAM.gov) website.

Pre-Proposal Conference

A non-mandatory pre-proposal conference will be held online using **Microsoft Teams on April 15, 2024 at 1:00 p.m. MT**. The purpose of the pre-proposal conference is to aid prospective Consultants in the interpretation of

the Request for Proposal (RFP), Scope of Services, Design Services Agreement, insurance requirements, and any other technical and contractual matters. Attendance at the pre-proposal conference is not mandatory but highly recommended.

Interested parties may join the event using the following link:

Microsoft Teams [Need help?](#)

[Join the meeting now](#)

Meeting ID: 220 216 054 767

Passcode: eU3tu9bK

Dial in by phone

[+1 720-388-8447,,989965863#](#) United States, Aurora

[Find a local number](#)

Phone conference ID: 989 965 863#

Tentative Schedule of Key Dates

April 7, 2025	RFP Publication (BidNet)
April 15, 2025 at 1:00 PM MT	Pre-Proposal Conference
April 18, 2025 at 3:00 PM MT	Deadline for written questions
April 24, 2025	Response to Questions and Addendum Issued, if necessary
May 1, 2025 at 3:00 PM MT	Proposals Submittal Deadline
Week of May 12, 2025 (estimated)	Selection of Short-list or Top-ranked consultant(s)
Week of May 19, 2025	Interviews with short-listed consultants, if necessary
Week of May 26, 2025 (estimated)	Selection of Top-ranked Consultant
June, 2025 (estimated)	Negotiations with top-ranked consultant completed
June, 2025 (estimated)	Anticipated Start

Selection Process

The RFP is being solicited under a multi-step procurement procedure consisting of possibly three phases:

The **first phase** requires all interested consultants to submit an un-priced proposal addressing only those items cited in *Section II, Proposal Submittal Requirements*, of this RFP. Proposals will be evaluated using the evaluation criteria outlined in *Section III, Evaluation Criteria*, to select a short-list of consultants for further evaluation. Only those consultants who are placed on the short-list will be able to participate in the second phase.

During the **second phase**, interviews may be held with a short-list of consultants, if deemed necessary by the City's evaluation committee. The consultant that is ranked the highest by the evaluation committee on the basis of the written proposal and interview, if interviews are conducted, shall be considered for award of the contract, subject to successful negotiations of a final agreement under the third phase of this RFP process. Should the City be unable to reach agreement with the number one top ranked firm, negotiations will commence with the second ranked firm. This process will continue until a satisfactory contract is negotiated, or the City exercises its right to reject all proposals.

During the **third phase**, the top ranked firm shall be contacted by the City to begin the negotiation process for award of the contract. Within 5 business days of being notified by the City that the negotiation process is beginning the top ranked firm must submit the following initial Scope of Service, Project Schedule and Price proposal:

1. Detailed Scope of Work: The Scope of Work (SOW) should include a detailed breakdown by Tasks with sub-tasks that shows what services shall be provided to the City for completing the proposed services identified in Section I, Scope of Services of this RFP.
2. Detailed Project Schedule: The Project Schedule should directly reflect/respond to the above proposed SOW demonstrating major milestones in the project.
3. Detailed Price Proposal and Rate Sheet: The detailed price proposal shall reflect completing all the proposed services identified in the SOW and Project Schedule submitted under items 1 & 2 above. The detailed price proposal shall be submitted in an Excel style spreadsheet that shows the following:
 - List of tasks & sub-tasks
 - List of key personnel with titles and hourly rates on the top row
 - List of total hours per each sub-task for each identified key personnel
 - List of the total direct labor costs estimated to complete each sub-task (this should be a column that comes right after the list of total hours noted in the previous bulleted item)
 - List of all other direct and or indirect costs

After the City has completed its initial evaluation of the above submitted SOW, Project Schedule and Price proposal follow up meetings/negotiation discussions with the top ranked firm may be scheduled to discuss potential changes to their submittal proposal. The negotiation discussions shall involve all the aspects of the top ranked firm's submitted SOW, Project Schedule and Price proposal. In the event the City determines that negotiations have failed to reach an acceptable agreement for award of the contract to the top ranked firm, then the City shall notify the top ranked firm of the City's decision to conclude negotiations. The City will then contact the second ranked firm to begin negotiations as previously identified under the second phase of this RFP.

Proposals will be considered only from consultants or individuals who are firmly established in an appropriate business, who are financially responsible, and who have the resources and ability to offer services in a professional and expedient manner. The City may request additional information as deemed necessary. Failure to provide such information may result in the proposal being considered non-responsive.

The City reserves the right to reject any and all proposals, to waive any informalities in the proposals received, and to accept the proposals deemed most advantageous and in the best interests of the City.

Confidentiality

Please be aware that proposals submitted to the City in response to this RFP shall be subject to the Colorado Open Records Law, Section 24-72-201, et seq., C.R.S. Any privileged or confidential information in the firm's proposal shall be specifically identified as such by the firm. If any information is considered to be confidential, the firm shall agree to indemnify the City for any and all attorney fees the City may incur in defending the withholding of such information by signing and returning the letter found as Section VII of this RFP. Should the City receive a request for the release of any information in the firm's proposal in accordance with the open records law, the City will review the firm's proposal, giving consideration to the portions that the firm indicated contained trade secrets, privileged information, or confidential commercial, financial, geological, or geophysical data, and may release only that information which has not been identified as confidential so long as Section VII has been signed and returned by the firm along with the proposal. Should the firm choose not to sign and return Section VII, all information in the firm's proposal shall be considered releasable by the City. If, in the opinion of City's legal counsel, the City is nonetheless compelled to disclose any portion of such information to anyone or else stand liable for contempt or suffer censure or penalty, the City may disclose such information without liability.

Licenses

The successful Consultant, without additional expense to the City, shall be responsible for obtaining any necessary licenses and for complying with any applicable federal, state, and municipal laws, codes and regulations in connection with the prosecution of the services. The successful Consultant and any sub-consultant, if applicable, will be required to obtain an Aurora Business License. The successful Consultant shall provide the Aurora Business License number(s) to Angie Young, Senior Procurement Agent, within thirty (30) days of contract award.

Addenda to the RFP

The City of Aurora reserves the right to amend, by an addendum or addenda to this RFP, at any time and/or a multiple number of times prior to the date set for receipt of the submission of proposals. Addenda or

amendments will only be posted and updated on the Rocky Mountain E- Purchasing System located at www.bidnetdirect.com/colorado. It shall be the responsibility of consultants to obtain all addenda from the Rocky Mountain E-Purchasing System. Parties obtaining proposal information from other sources do so understanding that their information may be incomplete, inaccurate, or out of date and therefore wholly unreliable from a commercial perspective. Consultants registered for the paid bidding notification service shall be notified either by fax or email depending on the service that they have subscribed to. It shall be the responsibility of prospective consultants registered for the no charge, no notification service on the Rocky Mountain E-Purchasing System to monitor the Rocky Mountain E-Purchasing System for any addenda. Failure to do so may lead to reliance on incomplete, inaccurate, or out of date information when submitting proposals subjecting such proposals to automatic disqualification from consideration. If revisions are of such a magnitude to warrant, in the City of Aurora's opinion, the postponement of the date for receipt of proposals, an addendum will be issued announcing the new date.

It is understood that any/all changes or revisions to this Request for Proposals will be through written addendum from the Office of Purchasing & Contracts only.

Questions

Written questions regarding this RFP shall be submitted by email to Angie Young, Senior Procurement Agent, at ayoung@auroragov.org **AND** Jacob DeBernardi, Project Manager, at jdberna@auroragov.org. It is preferred that all questions be sent with the subject title: 13th Avenue Multimodal Design project; **R-2448**.

Questions received after the deadline may not be addressed. Responses to questions will be provided via addenda to the RFP and posted on BidNet.

Contacts During the Solicitation Process

Any questions, comments, or other communications shall be directed to those individuals noted in the section titled Questions above. No other contact shall be made regarding this Request for Proposal with any other City of Aurora staff, Council Member, Agents, Consultants, etc. during the Request for Proposal Process. Failure to comply with this requirement may result in the offending Consultant being removed from consideration.

Additional Information

Please refer to enclosed "Special Conditions" for any/all additional terms and conditions relevant to this "Request for Proposals" as appropriate to the City's specific requirements and/or application.

Acceptance of the RFP

By submitting a proposal in response to this RFP, the Consultant accepts all the conditions described in this RFP, including the Professional Design Services Agreement and Insurance Requirements, and agrees to abide by all final decisions made by the City.

Should any interested consultant find any part of the listed scope of services, terms and conditions to be discrepant, incomplete, or otherwise questionable in any respect, it is the responsibility of concerned party to notify the "City Contact" identified in this solicitation of such matters to obtain clarification(s). Failure to seek clarification(s) that could possibly have a negative impact on a consultant's proposal shall not be the fault of the City.

City of Aurora, Colorado



Angie Young, Senior Procurement Agent
Office of Purchasing Services

Attachments:	Section I	Scope of Services
	Section II	Proposal Submittal Requirements
	Section III	Evaluation Criteria
	Section IV	Special Conditions

Section V	Small Business Enterprise Program
Section VI	Sample Professional Design Services Agreement and Insurance Requirements Attachment 5 – 2022 Local Agency Professional Services Contract Requirements
Section VII	Request for Business Size Status
Section VIII	Letter of Indemnification for Withholding Confidential Information
Section IX	W-9 Request for Tax-Payer Identification

Exhibit 1	General Limits of Construction
Exhibit 2	Affidavit of Small Business Participation
Exhibit 3	Local Agency Contract Administration Checklist

SECTION I

SCOPE OF SERVICES

A. BACKGROUND

The City of Aurora is embarking on a transformative initiative to enhance community connectivity through a comprehensive sidewalk improvement project. This endeavor is rooted in the principles of safety and accessibility, seeking to address critical gaps and deficiencies within the city's sidewalk network. The focus of this endeavor spans approximately 4.2 miles of E 12th & E 13th Avenue, extending from Yosemite Street & E 12th Avenue on the West to E 12th Avenue North of Hinkley High School.

Key Objectives:

- Bring the 15% conceptual design from the 13th Avenue Multimodal Mobility Study to 60% for the entire 4.2 mile project limits.
- Evaluate the 15% conceptual designs of two raised intersections, six raised crosswalks, and one mid-block crossing with an RRFB, and bring those deemed feasible to 60% design.
- Complete 100% design for a single 1-mile segment, or group of segments totaling one mile.
- Conduct community & stakeholder engagement for the segment(s).
- Improve traffic safety in high vulnerability areas.
- Improve bicycle facilities by adding a 8'-10' shared use lane.
- Widen substandard sidewalks.

Project Impact:

This project aligns with the City of Aurora's commitment to improving multimodal access and safety by providing improved bicycle facilities and widened sidewalks. The project limits are designated as a City of Aurora Bicycle Route. Arapahoe County and DRCOG have also designated it a priority multimodal corridor.

Scope of Locations:

Location	Between
E 12 th Avenue	Yosemite St to Boston St
E 13 th Avenue	Boston St to Chambers Rd
E 12 th Avenue	Chambers Rd to High Line Canal Trail

See attached exhibit showing the general limits of the locations listed above.

All locations will also include new ADA ramps and may need to be narrower in some segments depending on physical constraints.

The city received a Transportation Improvement Program (TIP) grant for this design project. State funding will require close coordination with Colorado Department of Transportation (CDOT) throughout the project.

The project is anticipated to have five key phases:

1. Conceptual design evaluation
2. Public outreach and coordination
3. 30% design
4. 60% design
5. Final design for 1 mile portion

During the proposal process, each qualified firm is encouraged to identify, define, and address specific issues related to the design. The consultant will work with the City of Aurora staff and CDOT to review existing elements of the project and to refine the scope of work. **The selected consultant will be required to attend a scoping meeting with the City and CDOT prior to finalizing their scope and fee.**

B. SCOPE OF WORK

The selected Consultant will provide engineering services for the 60% design of sidewalk & bicycle facility improvements for the entire project limits from Yosemite to High Line Canal Trail. Funds for design are being provided through CDOT's TIP Grant, with 40% matching funds provided by the City's Public Works department.

Elements of Scope of Services is as follows:

1. CONCEPTUAL DESIGN EVALUATION

The selected firm will analyze the 15% conceptual designs previously prepared for the City.

2. PUBLIC OUTREACH AND COORDINATION

The City of Aurora wants to ensure there is a public component to this project that recognizes concerns and comments of citizens and businesses in the area. The selected firm will lead and attend stakeholder project meetings and one public meeting and will prepare the meeting notification, exhibits, presentation material, meeting summary, and minutes. Public outreach will apply to all segments.

The public process shall include the following:

Public Meeting: This meeting will be held in the beginning of the design effort. The purpose of this meeting will be to gather stakeholder input and obtain feedback. Exhibits summarizing existing and conceptual proposed sidewalks will be presented to the public, along with a location map showing the sidewalks to be modified/ added. Also, a process will be developed to record and summarize the input rendered by the public.

In addition to the public stakeholder meetings, the selected firm shall hold coordination/progress meetings as needed with the City's designated project team during design. Potential stakeholders may include but are not limited to: Public Works Department, including Street Operations, Parks, Recreation and Open Space, Aurora Water, Planning Department, Aurora Public Schools, CDOT, and RTD. Consultants are encouraged to recommend modifications or additions to the public outreach process as part of their proposal.

Deliverables:

- Meeting Agendas
- Meeting Minutes
- Public Meeting Exhibits
- Citizen Comment Matrix

3. 30% DESIGN & ROLL PLOT

The selected firm will use the 15% conceptual design from the 13th Avenue Multimodal Mobility Study as a foundation to bring the design of the entire project to 30%, identifying any design and construction challenges for the corridor, along with determining how to phase future design and

construction into several manageable projects. This design shall be progressed to a point sufficient to identify and to solve key project challenges. The design will be evaluated for overall safety improvement, adherence to criteria, constructability, environmental constraints, and an order of magnitude cost will be developed. During the conceptual design phase, the existing typical sections in the City's criteria manual shall be evaluated, and a determination made as to whether the project will move forward with the existing typical sections or if revised sections are necessary. The proposed 30% design will be discussed in a concept review meeting with the city and at a public meeting to determine the design to move forward into preliminary design.

The general expectations for a 30% design are defined as:

30% Preliminary Design – Engineering Plans demonstrating roadway horizontal & vertical geometry with grading design. Plans shall include horizontal design of storm sewer and utilities. Key project concerns (i.e. ROW, Drainage, Grading, etc.) shall be identified at this time. A sheet list of the anticipated full set shall be included. A preliminary cost estimate shall be included with the 30% Design submittal. The 30% design shall be sent to both the City and to CDOT for a formal FIR review. Upon City and CDOT acceptance of the 30% design, the project will proceed to 60% design.

4. 60% DESIGN & ROLL PLOT

The selected firm will bring the design of the entire project to 60%. The 60% design will maintain the ability to provide effective drainage, minimize impacts to traffic signals & hardware, and minimize right-of-way acquisition. The concepts will be evaluated for overall safety improvements and an order of magnitude cost will be developed for each location. The results of the evaluation will be discussed in a concept review meeting with the city to determine the preferred concepts to move forward into final design. The final deliverable will include the following elements:

- A shared use path (generally 8-10 feet in width)
- Widened sidewalks (generally 5-6 feet in width)
- Intersection curb extensions
- New curb ramps
- New crosswalk markings
- Sharrow (shared lane) symbols
- Improved pedestrian-scale and vehicular lighting
- Conceptual Design Exhibits for each location
- Budgetary Cost Estimates for each location

The general expectations for 60% design are defined as:

60% Preliminary Design – Complete Plan & Profile, Grading, Drainage, Signing & Striping Traffic Signal, and Utility Design Plans including Cross Sections. A Preliminary Drainage Report shall also be included. A preliminary cost estimate and construction schedule shall be included with the 60% Design submittal.

The 60% design shall be sent to both the City and to CDOT for a formal FOR review.

The Consultant shall provide all calculations used during the design of the facilities. Design calculations, notes, sketches, and modeling outputs shall be submitted to the City. QA/QC check sets for each submittal shall provided to the City with each review.

The design shall include all facilities and appurtenances in accordance with accepted engineering practices and compatible with existing facilities and systems within the City. Opinion of probable construction costs shall be submitted with each review.

The following is an estimation of the sheets that will be included in this scope but is not an all inclusive list:

- Title Sheet
- Project Specific Notes
- Survey Control Sheets
- Typical Sections
- Removal Plans
- Roadway Plan and Profiles including Grading
- Drainage Plan and Profiles
- Utility Plan and Profiles
- Signing and Striping Plans
- Existing Traffic Signal Plans
- Proposed Traffic Signal Plans
- Cross Sections
- Temporary and Permanent Erosion Control Plans
- Storm Drainage Maps
- Bid Item Quantities (CDOT Standard Bid Items)

5. FINAL DESIGN (For 1 Mile Portion)

Upon City acceptance of the 60% Preliminary Design, a series of segment(s) totaling one mile will proceed to Final Design of construction bid documents. The Final Design shall include project team review submissions at sixty percent (60%), ninety percent (90%) and 100% designs, followed by a Signature Set submittal upon approval.

The selected firm shall prepare all design documentation including drawings, SUE investigation results, plans, specifications, contract documents, and other related project documentation necessary for bidding and constructing the project. A submittal of plans shall be submitted to the City Project Manager for review at 60% (FIR). Plan submittals will take place through the City of Aurora AMANDA review system for the 90% (FOR), 100% and Signature Set submittals.

The Consultant shall provide all calculations used during the design of the facilities. Design calculations, notes, sketches, and modeling outputs shall be submitted to the City. QA/QC check sets for each submittal shall be provided to the City with each review.

The general expectations for 90% design are defined as:

90% (FOR), 100% and Signature Set Formal Reviews (AMANDA Reviews) – Complete Engineering Plans, Drainage Report, and SWMP Report and Specifications. The consultant should consider these plans complete and constructible. All applicable files shall be officially submitted for review in the City's formal AMANDA process. A Pre-Submittal meeting will initiate the 90% review to start the AMANDA process.

Consultant shall anticipate addressing comments through the AMANDA review and will be required to record responses on comment & resolution forms.

The design shall include all facilities and appurtenances in accordance with accepted

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engineering practices and compatible with existing facilities and systems within the City. Opinion of probable construction costs shall be submitted with each review.

Technical specifications and standard details shall be prepared based on CDOT standards and specifications; however, the bid package will need to include CDOT Project Special Provisions (PSP's) and Standard Special Provisions (SSP's). CDOT specifications and pay items shall be used as the basis for the quantities, cost estimates and bid items.

The following is an estimation of the sheets that will be included in this scope but is not an all-inclusive list (the sheets necessary may vary by location):

- Title Sheet
- Project Specific Notes
- Survey Control Sheets
- Erosion Control Plans
- Grading Plans
- Sidewalk Plan and Profiles
- Drainage Plan and Profiles
- Utility Plan and Profiles
- Bid Item Quantities (CDOT Standard Bid Items)

a. CITY OF AURORA PLAN REVIEW/APPROVAL

The Consultant shall submit plans for review to the City Project Manager at 30% and 60%. At 90%, the plans will be submitted to AMANDA for the formal review. Review fees will be paid by the City. The review process includes two municipal review periods (90%, 100%) plus turn-around time for the remedy of any comments by the Consultant.

b. DESIGN STANDARDS

All drawings and designs shall be in accordance with the City's "Roadway Design & Construction Specifications" and "Water, Sanitary Sewer and Storm Drainage Infrastructure Standards and Specifications and Public Utility Improvements Rules and Regulations Regarding Standards and Specifications" latest editions. The Consultant shall document and make recommendations related to design criteria for bicycle and pedestrian facilities including input, guidance, and recommendations from NACTO (National Association of City Transportation Officials), AASHTO and FHWA. The drawings shall include all grading, plans and profiles, drainage, survey control, erosion control, quantity summary, lighting plans and other information as required in the City Standards.

c. FIELD SURVEYS

Consultant will provide topographic mapping including contours at an interval of 1 foot and a Survey Control drawing. The City of Aurora benchmarks will be used for vertical control.

Surveys will include street ROW, existing signal poles, control cabinet, pull boxes, signs, signal heads, sidewalk, curbs, inlets, manholes, valves, detection loops, trees, bushes, utilities, fences, and retaining walls (above ground), and ROW in the subject area.

Surveying of underground utilities by the City is via surface markings as provided by a utility locator only. **Any pothole/testhole excavation required for this project will be the responsibility of the consultant (see section f below.) As necessary, utilities shall be**

located by potholes at each potential utility conflict point. All design activities and plans shall be compliant with Colorado Senate Bill 18-167 quality level A/B.

d. RIGHT-OF-WAY AND EASEMENTS

The Consultant will identify any right-of-way and/or permanent or temporary construction easements needed for construction and provide CAD line work to the Project Manager who will prepare the legal descriptions with the City's Real Property Team.

e. UTILITIES AND POTHOLING

All underground or above ground utilities shall be located on the survey. All information received from this survey should be field verified. A private locate company shall be used if necessary. Design sequencing shall be coordinated to supply new or relocate existing utilities. The selected firm shall prepare mapping for use in coordination of new utilities.

All utilities that are potentially impacted by the project will require potholing. The consultant shall prepare final utility plans utilizing the pothole information and field locates. Final utility plans shall identify utility conflicts and provide a suggested relocation plan as required. The consultant shall coordinate with the utility companies for final relocation plans and specifications. Utility clearance letters will be required from all utility owners within the project limits.

f. DRAINAGE AND WATER QUALITY

A Preliminary Drainage Report shall be included with both the 60% and 100% submittals for this project. This report shall follow the requirements of the City's Storm Drainage Design and Technical Criteria. The drainage analysis shall include an evaluation of existing conditions using survey, available as-builts and drainage reports, an assessment to determine positive surface drainage is maintained, and determine required improvements to the roadway storm sewer system. Drainage reports for surrounding developments are available to help define the tributary watershed and can be provided to the Consultant as requested. The Consultant shall evaluate the need for permanent BMPs in order to meet Water Quality standards and specifications.

g. QUANTITIES AND COST ESTIMATES

A detailed engineer's opinion of probable construction cost shall be provided for both the 60% design and the segment(s) totaling 1 mile which will be brought to 100% design. CDOT specifications and pay items shall be used as the basis for the quantities and cost estimates. The selected firm shall also estimate the appropriate construction timing and schedule. The preliminary, progress and final cost estimates shall be submitted with all project milestone submittals.

h. BID DOCUMENTS (For 1 Mile Portion)

The consultant shall provide all required documents for the preparation of the project manual by the City. This information shall include, but is not limited to; Construction Plans, Specifications, Reports, and Bid Tabulation.

SECTION II

PROPOSAL SUBMITTAL REQUIREMENTS

Limit the TOTAL LENGTH of the core proposal to thirty-five (15) pages maximum, which does not include cover letter, index and/or table of contents, front and back covers, title page, separation tabs, and resumes (keep resumes to 2 pages each, maximum). Use 10-point font or larger. Use of figures, photographs, or other graphics within the page constraints indicated is up to the discretion of the consultant. The City cannot guarantee review of voluminous firm-specific or other information contained as an appendix. The qualified firm's proposal shall include at a minimum the following information:

1. Company information

- Firm Name
- Business Address
- Primary Contact Name, Telephone Number and Email Address
- Year Established
- Type of Ownership

2. Proposed Scope of Work

Approach to completing the Scope of Services contained within this RFP. Proposing firm will need to exhibit a complete understanding of the tasks and public engagement involved in this project, and offer their approach to any additional anticipated issues and proposed strategies for addressing said issues based on additional insight, capabilities or perspectives of the consultant. Within the proposed scope of work the proposing firm shall detail their approach to phasing the design of nine miles of roadway corridor, and describe their team's approach to breaking this large task down into manageable sections to achieve a successful end product. This includes demonstrating familiarity with State and Local Agency policies and procedures, addressing coordination with other entities, and defining project milestones including project meetings and workshops.

3. Relevant Experience

- a. Provide specific examples of similar projects the proposing firm has completed in the past, with a focus on projects including grant funding and public engagement and delivery history for time and budget.
- b. Provide contact information for relevant contracts with other municipalities within the past three years where similar services have been performed.

4. Proposed Project Team

- a. Project Manager, project management structure, QA/QC, technical resources, discipline-specific leads, support staff and proposed sub-consultants, if any (include information on firm(s), including sub-consultant personnel who will be working on the project), and their specific roles. Also include location of key personnel, including sub-consultants.
- b. Shall Include:
 - i. General firm information including both local and firm-wide resources pertinent to this project
 - ii. Resumes of key project personnel and percent of team that is local, including subconsultants and subcontractors.
 - iii. Location of key project personnel and availability

Note: The team of key personnel presented in the proposal shall work on the project until completion. Any substitution of personnel shall require the approval, in writing, of the City. Personnel changes shall only be considered for valid reasons such as an employee leaving the firm, major illness or accident. Only persons as well qualified as the proposed individual shall be approved.

5. Preliminary Proposed Schedule

- a. The schedule shall be detailed by week with an anticipated start date of June 2025.

6. Forms

- a. Letter of Indemnification for Withholding Confidential Information, refer to Section VI;
- b. W-9 Taxpayer Identification form, refer to Section VII;
- c. Request for Business Status, refer to Section VI of this RFP; and
- d. Affidavit of Small Business Participation; refer to Exhibit 2. Failure of the proposer to submit the affidavit will result in the consultant being deemed non-responsive and ineligible for award. If DBE goal is 0% the Affidavit is still required.

The City reserves the right to obtain financial data or other supplemental information concerning the firm and/or its proposed sub-consultants.

SECTION III EVALUATION CRITERIA

Proposals will be evaluated on the criteria listed below. The selection committee will review each firm's approach to ascertain their understanding of the project and issues to assure that a proper effort will be devoted to the project, and to entertain the firm's special perspective on approach, techniques, and work efforts.

- 1. Approach to completing Scope of Work**
 - a. Project understanding and approach 20 points
 - b. Understanding of project institutional requirements 20 points
 - c. Approach to project phasing 5 points
 - d. Proposed project schedule 5 points
- 2. Relevant Experience**
 - a. Experience and performance of the project team/firm on similar projects 20 points
 - b. Project delivery history for time and budget 10 points
- 3. Proposed Project Team**

Experience and availability of project personnel 10 points
- 4. Overall quality, readability, and responsiveness of the proposal and adherence to submittal requirements.** 10 points

Total Maximum Points: 100 points

SECTION IV SPECIAL CONDITIONS

CONSULTANT RESPONSIBILITY FOR PROPOSAL COSTS

The City is not liable for any costs incurred by any CONSULTANT associated with the preparation of a proposal, the negotiation of a contract, or for services prior to the award of the Agreement.

Selected consultant may be asked to present their proposals and/or to demonstrate ability to provide products or services to the City's representatives in Aurora or at another mutually agreeable location. The consultant shall bear all costs of such presentations.

PROPOSALS BINDING UPON CONSULTANTS

Consultants are advised that their proposals shall be binding upon the consultant for **ninety (90) calendar days** from the proposal due date. A consultant may withdraw or modify their proposal any time prior to the proposal due date by a written request, signed in the same manner and by the same person who signed the proposal.

SAMPLE PROFESSIONAL DESIGN SERVICES AGREEMENT

Included in this package is a sample of the standard "Professional Design Services Agreement" used by the City that the awarded Consultant will be required to execute with City prior to commencement of services.

INSURANCE REQUIREMENTS

Attached to the sample "Professional Design Services Agreement" is a copy of the City's current insurance requirements (Form 410-33). The awarded firm will be required to provide this proof of insurance.

INDEPENDENT CONTRACTOR

The successful Consultant is an independent contractor. The independent contractor is not entitled to Workers Compensation Benefits. An independent contractor is obligated to pay federal and state income tax on any monies earned pursuant to the contract relationship. Additionally, it is understood that the independent contractor is not entitled to Unemployment Insurance Benefits unless unemployment compensation coverage is provided by the independent contractor or some entity other than the City of Aurora, Colorado.

SUBLETTING OF CONTRACT

The Consultant will agree not to assign or sublet the whole or any part of the contract without the prior written consent of the City.

CHANGES IN SCOPE OF SERVICES

The City Project Manager will agree that any change of scope in the services to be performed after the original contract has been signed shall be documented as a written change order, be accepted by all parties, and made a part of the original contract by amendment.

AWARD FUNDING

This project is being supported, in whole or in part, by DRCOG federal funds awarded to the City of Aurora through Colorado Department of Transportation (CDOT). The contract must follow all applicable Federal, State and local regulations and restrictions.

CITY OF AURORA SMALL BUSINESS ENTERPRISE (SBE) PROGRAM FOR CONTRACTS OVER \$250,000.00

This RFP may be subject to the City's Small Business Enterprise (SBE) Program. The intent is to recognize the role and importance of small businesses in our country's and City's continued success. For Aurora to acknowledge this category of businesses involved with providing professional and regular services, it has been determined that certain actions are necessary to support this program.

SECTION V

SMALL BUSINESS ENTERPRISE PROGRAM

Objectives of the SBE Program

The City's Small Business Enterprise (SBE) Program demonstrates the City's commitment to the SBE community by promoting economic growth within the local business community and providing a development program to assist SBEs regardless of gender, age, race or ethnicity.

For purposes of the City's Program, SBEs are defined as a small business if they meet 50% of the Small Business Administration's size standard that applies to the appropriate North American Industry Classification (NAICS) code for the scope being procured. SBEs shall self-certify as to their business size status.

As part of the SBE Program, contracts over \$250,000 awarded to large businesses by the City's Office of Purchasing Service shall require that the large business use a good faith effort to award no less than 10% of their subcontracting dollars to SBEs, if they plan to subcontract any portion of the work. **This Program does not apply to large businesses that will perform 100% of the contract work with their own workforce without using any subconsultants and or to the top ranked successful consultant that has self certified themselves as a small business enterprise.**

Consultants are encouraged to identify as many aspects of the work as possible to enhance the utilization of SBEs. Consultants are expected to use qualified SBEs. To be qualified, SBEs must have the necessary financial capabilities, skill, experience, and access to the necessary staff, facilities and equipment to perform the work or to provide the supplies or services that are required.

Good Faith Effort

If the objective specified herein has not been met, it shall be the responsibility of the large business top ranked consultant to demonstrate its good faith efforts in attempting to meet the objective. The consultant, if it has not met the specified objective, must provide a completed Good Faith Effort Questionnaire in support of its good faith effort to meet the objective for evaluation and approval by the City.

SBE Program Documents

In order to demonstrate compliance with the City's SBE Program, the top ranked consultant must complete the initial "Request for Business Status" form (refer to Section VII of this RFP). If the top ranked consultant has self certified as a large business, then that consultant must sign and submit the attached forms entitled Statement of Intent to Use Small Business Enterprises (SBEs) and Individual Letter of Intent for Each Small Business Enterprise. In addition, if the SBE objective has not been met, the large business top ranked consultant will be required to submit the attached Good Faith Effort Questionnaire as provided for herein under "Good Faith Effort." **All forms shall be submitted by the successful consultant upon successful conclusion of negotiations.**

Evaluation Criteria for a Good Faith Effort

The adequacy of the large business top ranked consultant's good faith effort will be evaluated based upon the following criteria:

1. The consultant's outreach efforts, including:
 - Advertising in trade association publications and other publications;
 - Mailings to SBEs;
 - Contacts with SBE contractor organizations;
 - Phone contacts with SBEs; and
 - Other activities identified by the consultant.
2. List items of work identified by the consultant for subcontract or supply to meet the Program objectives;
3. Efforts to negotiate with SBEs to obtain them as subconsultants or suppliers;
4. Efforts to provide SBEs a full and fair opportunity to provide a proposal, including the opportunity to review the scope of services and to have the time to prepare proposals and negotiate; and

5. The reasons why the consultant was unsuccessful in its efforts to obtain SBEs as subconsultants, suppliers or joint venture partners.

If the City determines that the large business top ranked consultant failed to make a good faith effort, the proposal will be deemed non-responsive and will be rejected.

STATEMENT OF INTENT TO USE SMALL BUSINESS ENTERPRISES (SBE)

The large business shall complete this form for the involvement of SBEs on this project. **This form shall be submitted by the successful consultant upon successful conclusion of negotiations.**

The following SBEs will be utilized:

1. Name: _____
Type of Work: _____
Amount of Contract: _____
2. Name: _____
Type of Work: _____
Amount of Contract: _____
3. Name: _____
Type of Work: _____
Amount of Contract: _____

(Attach additional sheets as required)

By executing this document, the consultant hereby certifies that it fully intends to employ the SBEs listed on this STATEMENT OF INTENT TO USE SMALL BUSINESS ENTERPRISES. Should one or more listed SBEs be deleted after the proposal has been submitted or if it becomes necessary to replace an SBE, the **CONSULTANT MUST OBTAIN PRIOR WRITTEN APPROVAL FROM THE CITY.**

Total Amount of Anticipated to be Subcontracted: _____ %

Total SBE Program Participation Achieved: _____ %

Consultant: _____
(Company Name)

By: _____
(Consultant's Authorized Representative)

Name: _____
(Type or Print)

Title: _____

Date: _____

INDIVIDUAL LETTER OF INTENT FOR EACH SMALL BUSINESS ENTERPRISE

The large business shall complete this form for the involvement of SBEs on this project. **This form shall be submitted by the successful consultant upon successful conclusion of negotiations.**

CONSULTANT INFORMATION:

Name: _____

Address: _____

Telephone: _____

SBE INFORMATION:

Name: _____

Address: _____

Telephone: _____

Type of Firm: Subconsultant ☐ Supplier ☐

The North American Industry Classification System (NAICS) code for this award is _____.

The small business size standard designated for this award in accordance with the City of Aurora's SBE

Program is _____ ☐ U.S. dollars ☐ Employees

Description of work to be performed: _____

Estimated start date:

Total value of estimated work: _____

CONSULTANT INTENDS TO UTILIZE THE ABOVE-NAMED SBE FIRM FOR THE WORK DESCRIBED ABOVE.

Consultant: _____
(Company Name)

SBE Firm: _____
(Company Name)

By: _____
(Consultant's Authorized Representative)

By: _____
(SBE's Authorized Representative)

Name: _____
(Type or Print)

Name: _____
(Type or Print)

Title: _____

Title: _____

Date: _____

Date: _____

GOOD FAITH EFFORT QUESTIONNAIRE

The large business who has failed to meet the SBE objective is required to complete and submit this form, along with supporting documentation. **This form shall be submitted by the successful consultant upon successful conclusion of negotiations.** Please use an additional sheet when space is inadequate.

Project SBE Objective: 10% CONTRACTOR SBE PARTICIPATION: _____%

1. Did your firm advertise for SBE participation? Yes _____ No _____

If yes, were the advertisements specific or general _____?

In what publication(s) did your ad appear? _____

Please provide a copy of your advertisements.

2. What other sources did your firm use to solicit proposals from SBE subconsultants and suppliers? _____

Please provide a copy of your advertisements.

3. What items of work were identified for SBE contracting opportunities? List the items of work identified and the percent of contract:

Item	Percent of Total Subcontract Dollars
_____	_____
_____	_____
_____	_____
_____	_____

4. How many SBE firms did you contact by mail? _____

Please provide a copy of all materials mailed and a list showing to which SBE firms the various mailings were sent.

5. How many SBE firms did you contact by phone? _____

Please provide a list showing which SBE firms were contacted by phone.

GOOD FAITH EFFORT QUESTIONNAIRE (CONTINUED)

6. For subcontracts or supply contracts where an SBE proposed, but was not used, provide the following information:
- A. Scope of work SBE proposal vs. scope of work non-SBE proposal:
 - B. Amount of SBE proposal vs. amount of non-SBE proposal. (Note: Include the date the proposals were received.)
7. If you negotiated with SBEs, but no negotiated subcontracts resulted, please give the reasons that your negotiated efforts failed relative to each such failure.
8. If you did not negotiate with any SBE firm(s) please explain why.
9. Please indicate how many negotiated subcontracts you entered into: _____
10. How many SBE firms reviewed the RFP at your office? _____
11. Have you previously proposed on work with public entities in which the RFP documents set forth objectives for SBEs? Yes_No_____

If the answer to this question is yes, please provide the following information:

- A. Were you ever the selected firm? Yes_____No_____
- B. Have you ever failed to meet a specified objective? Yes_____No_____

If yes, relative to each incident in which you have failed to reach the objective, please set forth the reasons for any such failure.

- C. Has a proposal submitted by your firm ever been rejected for its failure to respond to an SBE program? Yes_____No_____
- D. Have you ever competed successfully for a public project and met the objectives specified therein? Yes_____No_____

If yes, please identify those projects.

Relative to each of the questions set forth above, please respond in detail on a separate piece of paper, if necessary. This information will be used by the City as an indication of your commitment to the City's SBE Program.

SECTION VI

SAMPLE

**AGREEMENT
for
PROFESSIONAL DESIGN SERVICES**



**DESIGN SERVICES AGREEMENT
CITY OF AURORA
AURORA, COLORADO**

TITLE: _____

FILE: _____

P.O. NO.: _____

(Version PDSA 10 2024)

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AGREEMENT

THIS AGREEMENT, with an effective date of the ____ day of _____, 20____, is made and entered into between the CITY OF AURORA, COLORADO, (hereinafter called the "City"), and _____, a corporation with a principal place of business at _____, (hereinafter called the "Designer"). (City and Designer may be collectively referred to herein as "Parties", or individually as "Party".)

Recitals

WHEREAS, the City desires to obtain professional design services for a City project ("Project") as hereinafter provided; and

WHEREAS, the Designer represents that its project team includes engineers and/or architects licensed by the State of Colorado or by another State, Federal, or governmental entity recognized by the State of Colorado, and that Designer is experienced and qualified to perform professional design services for the City of Aurora, including the planning, designing, drafting and preparation of construction documents for the Project specified in this Agreement, as well as the bidding of the Project specified in this Agreement.

NOW, THEREFORE, in consideration of the promises and mutual covenants and obligations set forth herein, the Parties mutually agree as follows:

Section I – Scope of Work

A. Designer agrees to provide professional design services for the Project as stated in the Scope of Work specified in **Attachment 1**, attached hereto and incorporated into this Agreement. The order of precedence of the Agreement documents shall be:

1. Agreement
2. Scope of Work, Attachment 1
3. Schedule, Attachment 2
4. Compensation, Attachment 3
5. Insurance Coverage, Attachment 4
6. CDOT Professional Services Contract Requirements; Attachment 5

The above documents may be superseded supplemented and amended through the amendment process as codified in Section 2-676 of the City Code and by applicable amendments approved by the Parties as required by City." It is the intent of the Parties that any Amendment and the Contract be read together as being consistent with one another. To the extent there is any inconsistency between the terms of an Amendment and the Contract, the provisions of the Contract shall be given precedence.

B. Nothing in this Agreement shall be construed as placing any obligation on the City to proceed with tasks beyond those which have been identified in **Attachment 1**.

Section II – Project Management

A. _____ ("Project Manager") is the City's Project Manager. The Project Manager is responsible for authorizing and approving all work performed under this Agreement. All work to be performed by Designer shall be authorized in writing by the Project Manager as provided by this Agreement. All communications related to the Project shall be with the Project Manager or written authorized designee. The Project Manager is authorized to make decisions on behalf of the City related to the design of the Project. The Project Manager shall be responsible for the day-to-day administration, coordination and approval of work performed by Designer.

B. _____ ("Designer Representative") is Designer's representative for the Project. Designer Representative shall have sufficient authority to represent and bind Designer in those instances when such authority is necessary to carry out Designer's responsibilities and obligations under the terms of this Agreement.

Section III – Designer’s Representations

- A. Designer hereby represents to the City that Designer is financially solvent and possesses sufficient experience, licenses (including required state licenses), authority, personnel and working capital to complete the services as required herein.
- B. The design services contemplated by this Agreement shall be diligently performed by Designer’s regular professional and technical staff. In the event Designer does not have as part of its regular staff certain professional consultants, then such consulting services shall be performed, with the City approval, by practicing professional sub-consultants outside of Designer’s regular employment.
- C. Prior to designating an outside professional to perform work or services under this Agreement, Designer shall submit the name(s) 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 written approval. The Project Manager shall have the right to reject any proposed sub-consultant. “Sub-consultant” shall mean any person or business entity which is not an employee of Designer.
- D. All professional consultants and sub-consultants must be retained for the term of the Project to the extent practicable.
- E. The City’s communications with Designer’s sub-consultants shall be through Designer.
- F. The standard of care for all design services performed under this Agreement shall be the care and skill ordinarily used by design professionals for projects of similar size, complexity, location and difficulty. The drawings and specifications for the Project, when submitted by Designer to the Project Manager shall reflect appropriate and necessary architectural, design and engineering services applicable to work of the Project. Designer shall be responsible for ensuring the professional quality, technical accuracy, timely completion and the coordination of all designs, plans, reports, specifications, drawings, schedules, cost estimates and other services rendered by Designer and shall, without additional compensation, promptly remedy and correct any errors, omissions, or other deficiencies in its services that fail to conform to the applicable standard of care for professional services described in this Agreement.
- G. Nothing in this Agreement shall be construed as placing any obligation on the City to proceed with any work beyond what has been specifically authorized in writing by the City.
- H. The City shall have the right not to accept any portion of Designer’s work on the Project, including, but not limited to, work associated with the design and construction documents, pre-bid and bidding phases, and any other design work or documents, which does not comply with the requirements of this Agreement. In the event that Designer’s work or a portion thereof is not accepted by the City, Designer shall proceed, when requested by the City, with revisions to the design work or documents prepared for that work and meet all applicable requirements of this Agreement. If said additional work complies with the requirements of this Agreement, the City will provide prompt written acceptance. Correction or completion of work which does not comply with the requirements of this Agreement shall be made without adjustments to the compensation for Designer’s services. Designer shall promptly correct any defective, inaccurate or incomplete tasks, deliverables, services or other work, without additional cost to the City. The acceptance of Designer’s services by the City shall not relieve Designer from the obligation to correct subsequently discovered defects, inaccuracies or incompleteness resulting from Designer’s negligent acts, errors or omissions.
- I. Designer shall consult with the City as necessary on all matters connected with carrying out and performing the services required under this Agreement.
- J. Designer agrees to design the Project within the established Project budget. Should the Designer determine that the Project cannot be constructed within the established Project budget, Designer shall immediately notify the City, in writing, so that the Project scope and/or Project budget can be reviewed and modified as necessary.

- K. All drawings and specifications shall be prepared so that the Project, when constructed in accordance with such drawings and specifications, complies with all local, state and federal, statutes, codes, ordinances, executive orders, and rules and regulations of the City, County, the State of Colorado, and the United States Government in effect when the design documents are finally accepted by the Project Manager. Design changes required by changes in local, state, or federal statutes, codes, ordinances or rules and regulations after the City's acceptance of design documents will not be part of the scope of Designer's basic services under the terms of this Agreement and will be compensated for as additional service(s).
- L. No documents will be considered final until approved by the Project Manager, even though local, federal, state and county agencies may have approved such documents.
- M. If other designers provide design services to the City for the Project, then Designer shall be responsible for coordinating its design work with those other designers working on the Project to ensure that all physical and electrical interfaces, including but not limited to, civil, architectural, structural, mechanical, electrical, and instrumentation & controls, are compatible with the Project's operations.
- N. The responsibilities and obligations of Designer under this Agreement shall not be relieved or affected in any respect by the presence on the site of any agent, consultant, subconsultant, City's Representative or employee of the City.

Section IV - Schedule

- A. Designer acknowledges that time is of the essence. Designer agrees to complete the work within the Schedule. Designer shall begin work upon issuance of a Notice to Proceed from the City. Designer shall submit to the City, in writing, a Milestone Schedule setting out the milestone dates on which the Designer plans to complete the work under this Agreement within twenty (20) working days of the effective date of this Agreement. The City shall have ten (10) working days to review the proposed milestone schedule, or as mutually agreed to by the Parties. The milestone schedule shall include, but not be limited to, all dates by which any known actions, decisions or information required from the City must be provided in order for Designer to perform according to the schedule. The milestone schedule shall, when reviewed by the City, be incorporated herein as **Attachment 2**. Designer shall promptly notify City of any significant changes to the Schedule.
- B. In the event that the Milestone Schedule is unreasonably extended beyond the dates in **Attachment 2**, as amended from time to time, by no fault of Designer, Designer may be compensated for any additional efforts which may be associated with such an extended schedule.
- C. Designer is not liable for delays in performance which are caused by the City, the City's other designers, or events which are outside the control of the Parties and could not be avoided by the exercise of due care.

Section V- Compensation

- A. The compensation to be paid to the Designer by the City covers the entire costs for professional design services as specified in **Attachment 1**. The compensation of this Agreement to be paid to the Designer shall not exceed _____00/100 dollars (\$_____) and is more fully described in the Fee Schedule provided by the Designer which is incorporated into this Agreement as **Attachment 3**.
- B. Designer shall provide to the City an estimated payment schedule, including a not-to-exceed price for reimbursable expenses, which corresponds to the milestone progress schedule specified in **Section IV** of this Agreement.
- C. In the event that any part of the Project work is deleted or otherwise not performed, compensation to Designer for the Project shall be payable only to the extent services are actually performed on said work, or portions of the Project work, in accordance with Designer's approved payment schedule.
- D. This Agreement is subject to annual appropriation by the Aurora City Council and, in the absence of appropriated funds, the City may terminate this Agreement. The City has appropriated money for the 2025 fiscal year at least equal to the foregoing annual compensation for this work. The City may, from

time to time and in its sole discretion, appropriate additional amounts to reflect extensions of this Agreement beyond the close of the 2025 fiscal year and additional and/or continuing scope(s) of work. Notwithstanding any other language in this Agreement, City shall issue no Change Order or other form of order or directive requiring additional compensable work that will cause the foregoing annual compensation to exceed the amount appropriated unless City gives Designer written assurance that City has made lawful appropriations to cover the costs of the additional work.

- F. Designer shall provide written notice to the City when Designer has incurred costs which amount to seventy-five percent (75%) of the currently appropriated amounts. If at any time, Designer determines that the maximum contract amount is insufficient to permit Designer to complete its work as provided in **Attachment 1**, Designer shall provide immediate written notice to the City.
- G. Designer shall promptly pay all owed bills, debts and obligations it incurs performing work under this Agreement and, provided that Designer is timely paid amounts due from the City under this Agreement, shall not allow any lien, verified claim, mortgage, judgment or execution to be filed against land, facilities, funds or improvements owned or beneficially owned by the City as a result of such bills, debts or obligations.
- H. Designer shall submit monthly invoices to be approved by the City's Project Manager. Designer shall submit its monthly invoices no later than close of business on the fourteenth (14th) calendar day of the month after which the work was performed; provided however, that if that day falls on a weekend or holiday, then monthly invoices shall be submitted no later than close of business on the next regular business day of the month. Upon submission of an approved Designer invoice, in the proper form, to the City, payment shall be issued. It is to be understood and agreed that the City may require up to thirty (30) days to process payment after date of receipt of invoicing. If the City finds a discrepancy in the Designer's invoice, the Designer shall take reasonable efforts to resolve any such discrepancy to allow the City to make payment within a reasonable time. The City shall make payment of undisputed amounts in accordance with the provisions of this Section.
- I. Designer shall maintain current, accurate and complete records of all hours expended and expenditures made by it in connection with the Project. In accordance with **Section VI**, all such records shall be available for review by the City at all reasonable times upon written request by the City to Designer.
- J. The City shall not be obligated to make any payment (whether an interim payment or Final Payment) to Designer hereunder if any one or more of the following conditions exist:
 - 1. Designer is in material default of any of its obligations hereunder or under any provision of this Agreement and has either failed to cure such default within ten (10) calendar days of receipt by Designer of notice of default from the City or has failed to submit an acceptable plan to cure such default within ten (10) calendar days of receipt by Designer of notice of default from the City.
- K. Designer shall defend, indemnify, and hold harmless the City from and against any claims, actions, liabilities, losses, damages, costs and expenses (including reasonable attorneys' fees) in the event of a claim alleged by one of Designer's subconsultants for non-payment by Designer to that subconsultant.
- L. No interim payment or other partial payment made hereunder shall be or construed to be final acceptance or approval of that part of the services to which such interim payment or other partial payment relates, nor shall it relieve Designer of any of its obligations hereunder with respect thereto.

Section VI - Examination of Records

- A. This Section applies if this contract agreement exceeds \$10,000.00.
- B. The Internal Auditor of the City of Aurora, or a duly authorized representative from the City of Aurora shall, until three (3) years after final payment under this Agreement, have access to and the right to examine any of the Designer's directly pertinent books, documents, papers, or other records involving transactions related to this Agreement.

- C. Designer agrees to include in first-tier subcontracts under this Agreement a clause to the effect that the City's Internal Auditor, or a duly authorized representative from the City of Aurora shall, until three (3) years after final payment under the subcontract have access to and the right to examine any of the Designer's directly pertinent books, documents, papers, or other records involving transactions related to the subcontract. "Subcontract," as used in this clause, excludes (1) purchase orders not exceeding \$10,000.00 and (2) subcontracts or purchase orders from public utility services at rates established to apply uniformly to the public, plus any applicable reasonable connection charge.
- D. The periods of access and examination as noted above for records relating to (1) litigation or settlement of claims arising from the performance of this Agreement, or (2) costs and expenses of this Agreement to which the City, acting through its duly authorized designee, has taken exception, shall continue until such appeals, litigation, claims, or exceptions are finally resolved.

Section VII - Personnel Assignments - Key Personnel

- A. The Project Team identified in Designer's proposal dated _____, _____, are considered to be key personnel that are essential to the successful completion of the Project and shall be assigned by Designer or its subconsultants to perform work under this Agreement.
- B. Designer shall submit to the Project Manager a list of any additional key 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 assigned. Any additional key personnel must be recommended by Designer and acknowledged by the Project Manager before they are assigned to perform work or services under this Agreement.
- C. It is the intent of the Parties that all key personnel be engaged to perform their specialty for all such services required by this Agreement, and that Designer's key 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.
- D. If Designer or a subconsultant of Designer decides to replace any of its key personnel, Designer shall notify the Project Manager in writing of the desired change. No such changes shall be made until at least two (2) qualified replacement candidates are recommended by Designer and a replacement is approved in writing by the Project Manager. The Project Manager's approval shall not be unreasonably withheld. Failure of Designer to comply with the requirements of this provision may be the basis for the City's termination of this Agreement.
- E. The Project Manager shall respond to Designer's written notice regarding replacement of key personnel within fifteen (15) working days after the Project Manager receives the list of proposed changes. If the Project Manager or its designated representative does not respond within that time, the listed changes shall be deemed to be approved.
- F. If during the term of this Agreement, the Project Manager determines that the performance of approved key personnel is not acceptable, he shall notify Designer and give Designer the time which the Project Manager considers reasonable to correct such performance. Thereafter, he may require Designer to reassign or replace such key personnel. If the Project Manager notifies Designer that certain of its key personnel or the key personnel of a subconsultant should be replaced, Designer will use its best efforts to replace such key personnel within a reasonable time but not to exceed thirty (30) calendar days from the date of the Project Manager's notice.
- G. Actions taken by the City under this Section shall not, in any way, relieve Designer of its responsibility for design deficiencies, errors or omissions.

Section VIII - Ownership of Documents

- A. All Project deliverables, as described in **Attachment 1**, prepared by Designer under this Agreement when delivered to and accepted by the Project Manager, shall become the property of the City when Designer has been compensated by the City under the terms of this Agreement. Designer 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 as more fully described in **Attachment 1**.

- B. To the extent not limited by this Agreement, the City shall have unlimited rights in the ownership of all Project deliverables, as described in **Attachment 1**, including the right to use the same on any other City project(s) without additional cost to the City, and with respect thereto, the Designer agrees to and does hereby grant to the City a non-exclusive royalty-free license to all data which Designer may cover by copyright and to the Project deliverables to which Designer may assert any rights or establish any claim under the patent or copyright laws or any other applicable laws.
- C. The City acknowledges and agrees that in the performance of the development service, Designer will utilize its proprietary data, concepts, methods, techniques, processes, protocols, ideas, inventions, know-how, trade secrets, algorithm, software, works of authorship, software and hardware architecture, databases, tools, other background technologies and standards of judgment that Designer developed or licensed from third parties prior to the Effective Date (the "Pre-Existing Technology"). Designer will retain all right, title and interest, including without limitation Intellectual Property Rights, in and to the Pre-Existing Technology."
- D. If the City determines to use Project deliverables without modification in a future project which is not contemplated by this Agreement, the City and Designer agree to negotiate in good faith for acceptance by Designer for any professional liability associated for such future use. Designer agrees not to demand unreasonable compensation or other concessions from City. To the extent modifications are made in Project deliverables contemplated for use in a future project, Designer shall not be liable for any professional liability unless Designer agrees in writing to such modifications.
- E. In the event the City does not exercise its option to negotiate with Designer for Designer's acceptance of any professional liability or the Parties cannot agree regarding the acceptance of such liability, it is understood that Designer's name and seal shall be removed from the reproduced documents as utilized and that Designer shall no longer be liable to the City or third parties for the reuse of those documents.
- F. The Project deliverables, as described in **Attachment 1**, excluding Designer's standard details and documents, shall not be used by Designer on or for other projects without the written approval of the City, which shall not be unreasonably withheld.
- G. Submission or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of Designer's or the City's rights.

Section IX - Taxes and Licenses

- A. Designer shall promptly pay, when they are due, all license fees and permit fees required to be in the Designer's name, applicable to the work and services which it performs under this Agreement and shall take out and keep current all required municipal, City, state or federal licenses required to perform its services under this Agreement. Designer shall furnish the Project Manager, upon request, duplicate receipts or other satisfactory evidence showing or certifying to the proper payment of all required licenses and/or registrations.

Section X - Assignment and Subcontracting

- A. The City is not obligated or liable under this Agreement to any party other than the Designer named herein. Both Parties understand and agree that this is a professional services agreement and they shall not assign or subcontract with respect to any of their rights, benefits, obligations or duties under this Agreement except upon prior written consent and approval of the other party to such assignment or subcontracting.

Section XI - The City's Responsibilities

The City shall:

- A. Provide full information, including detailed scope as to its requirements for the services described in **Attachment 1**.

- B. Give prompt notice to Designer whenever the City observes or otherwise becomes aware of any discrepancies in the services provided.
- C. Furnish, or direct Designer to provide, at the City's expense, any necessary additional services.
- D. Examine all documents submitted by Designer, and, if requested by Designer, provide comments and decisions in a timely manner in order to allow Designer's work to proceed on schedule.
- E. Shall meet all of its obligations which are more fully described in **Attachment 1**.

Section XII - Mutual Obligations of the City and Designer

- A. This Agreement does not guarantee to Designer any work except as authorized in accordance with **Section I** above, or create an exclusive contract.
- B. Designer shall not publicize its involvement concerning the Project to anyone or use any Project deliverables produced as part of this Project for any promotional purposes without the express written consent of the City.
- C. Designer shall be required to sign the City's standard form nondisclosure agreement before obtaining any electronic information, data, drawings, or other materials from the City. Designer's subconsultants shall be required to execute a nondisclosure agreement prior to disclosure by Designer to subconsultant.
- D. When providing services under the terms of this Agreement, it is understood that Designer may be supplied with certain information and/or data by the City and Designer will rely on such information. The City and Designer agree that the accuracy of such information is not within Designer's control and Designer shall not be liable for its accuracy nor for its verification; provided however, Designer shall timely notify the City of any information and/or data that Designer has a reasonable basis to believe is either incorrect, incomplete or otherwise inappropriate for use.

Section XIII - Charter, Laws and Ordinances

- A. Designer, at all times, agrees to and shall observe and comply with all applicable Federal, State and local laws, ordinances and Charter Provisions of the City of Aurora, and all applicable rules and regulations issued pursuant thereto, which in any manner affect or govern the services contemplated under this Agreement. Designer represents and warrants that Designer will comply with Federal, State and local regulations including compliance with the American with Disabilities Act (if applicable) in the performance of the services described herein.

Section XIV - Status of Designer/Independent Contractor

- A. By executing this Agreement, Designer acknowledges an understanding of and expressly agrees that all work performed under this Agreement is that of an independent contractor. An independent contractor is not a City of Aurora employee and as such is not entitled to Workers' Compensation benefits. Designer is obligated to pay Federal and state income tax on any monies earned pursuant to the contractual relationship. It is expressly understood between the City of Aurora and Designer that Designer, as an independent contractor, is not entitled to unemployment insurance benefits unless unemployment compensation coverage is provided by Designer or some entity other than the City of Aurora, Colorado.

Section XV - Termination of Agreement

- A. Termination for Cause - In the event a material breach of this Agreement remains uncured following written notice of said breach by City, the City may terminate this Agreement upon written notice specifying the effective date thereof; provided however, the City may, in its discretion and for good cause, allow Designer to cure any breach or submit an acceptable plan to cure such breach within ten (10) days of such written notice.
- B. Termination for Convenience
 - 1. The City may terminate this Agreement at any time upon thirty (30) days notice specifying the date thereof, provided Designer shall be compensated in accordance with this Agreement for all work performed up to the effective date of termination.
 - 2. The City's total liability for termination of this Agreement shall not exceed the lesser of total amount of this Agreement or the total amount of funds which have been appropriated specifically for this Agreement.
 - 3. Designer shall be entitled to reasonable incurred costs for terminating its activities under this Agreement, including those of its subconsultants, if this Agreement is terminated for the City's convenience; provided however, in no event shall the City's total liability to Designer exceed the total amount of funds which have been appropriated specifically for this agreement.
- C. Effect of Termination
 - 1. Termination Costs. After receipt of written notification that this Agreement has been terminated under this Section, Designer shall incur no further costs other than reasonable termination costs associated with current activities.
 - 2. Ownership of Work Product. In the event of termination, all finished and unfinished Project deliverables prepared by Designer pursuant to this Agreement shall become the sole property of the City, provided Designer is compensated in accordance with this Agreement for all work performed in accordance with this Agreement up to the effective date of termination. Designer shall not be liable with respect to the City's subsequent use of any incomplete work product, provided Designer has notified the City in writing of the incomplete status of such work product.
 - 3. City's Right to Set-Off and other Remedies. Termination shall not relieve Designer from liability to the City for damages sustained as the result of Designer's breach of this Agreement; and the City may withhold funds otherwise due under this Agreement in lieu of such damages, until such time as the exact amount of damages, if any, has been determined.
 - 4. If this Agreement terminated for cause as provided in this Section and it is subsequently determined that the City's termination of this Agreement for cause was improper, then the termination for cause shall be considered to be a termination for convenience and the procedures in this Section related to a termination for convenience shall apply.

Section XVI - Amendments and Extensions

- A. Changes in the Work may be accomplished after execution of the Agreement, and without invalidating the Agreement, by change order and order for a minor change in the Work, and the Compensation and Milestone Schedule shall be adjusted as provided herein in connection therewith. If the Milestone Schedule is adjusted, the schedule set forth in **Attachment 2** shall be adjusted accordingly.
- B. An Amendment is any change in work, scope or schedule that exceeds the Compensation or Milestone Schedule. All amendments are to be in writing and requires prior written authorization by the City. Amendments include, but are not limited to:
 - 1. The addition of work not included within the scope of **Attachment 1** necessary to complete the Project as originally contemplated.

2. The subtraction of work originally included within the scope of **Attachment 1** subsequently determined to be necessary to complete the Project.
 3. A change to the Compensation, not due to the fault of Designer.
 4. A change to the Milestone Schedule, not due to the fault of Designer.
 5. Design modifications that are necessary for the completion of the Project, but are outside the original scope of work included in the Agreement.
 6. Changes in applicable Federal, State or local laws, regulations, statutes, codes or ordinances after the City's acceptance of the design documents.
 7. Changes in any City standards, policies or ordinances.
- C. Designer shall provide or perform additional work, make other changes in the work and comply with the provisions of an amendment, the same as though the work had been a part of the original Agreement, according to the terms of an amendment. The City shall have the authority to order minor changes in the work which do not involve an adjustment in the Compensation or Milestone Schedule.

Section XVII - Dispute Resolution

- A. If a dispute or claim arises out of or relates to the Agreement or its breach, the Parties shall endeavor to settle the dispute first through direct discussions. Representatives of the City and the Designer with day-to-day involvement in the administration of this Agreement and the performance of the design services shall initially and promptly enter into negotiations to attempt to address and resolve any disputes that may arise concerning this Agreement. In connection with such negotiations, the party asserting the dispute shall provide the other with a written description of the nature of the dispute, along with reasonable supporting documentation. The Parties shall consider involving senior representatives and other upper management personnel of each party in the informal negotiation process, as well as other representatives of the Parties not actively involved in the day-to-day activities associated with the dispute who might be able to take a broader look at the dispute in the context of the overall objectives of the Project and Agreement.
- B. If the dispute cannot be settled through direct discussions, the Parties may submit the dispute to a mutually acceptable neutral third party skilled in the review of design contracts before resorting to arbitration. The location of the mediation shall be the location of the Project. The Parties agree to conclude such non-binding mediation within 60 (sixty) days of selection of mediator. The mediator of any dispute under this Agreement shall not serve as arbitrator of such dispute unless otherwise agreed.
- C. If the dispute cannot be resolved by mediation, then the Parties may refer the matter to arbitration. If the Parties are unable to agree upon a single arbitrator, each party shall appoint one arbitrator, and the appointed arbitrators shall select a third arbitrator who shall serve as chairperson of the arbitration panel. Unless the Parties otherwise agree, the rules comparable to Colorado Revised Uniform Arbitration Act then in effect shall govern the proceedings.
- D. The dispute resolution procedures set forth in this Section are intended to encourage a negotiated resolution of disputes in a prompt and efficient manner without resort to arbitration or litigation, which should be a last resort. Nothing in this Section shall operate to limit, interfere with or delay the right of either party under this Article to commence judicial Legal Proceedings upon a breach of this Agreement by the other party, whether in lieu of, concurrently with, or at the conclusion of any non-binding mediation.

Section XVIII - Equal Employment Opportunity

- A. Designer shall not discriminate against any employee or applicant for employment on the basis of race, color, national origin, ancestry, age, sex (gender), religion, creed, or physical or mental disability. Designer shall adhere to lawful equal opportunity guidelines in selecting employees, provided that no person is illegally discriminated against on any of the preceding bases. This provision shall govern, but shall not be limited to, recruitment, employment, promotion, demotion, and transfer, and advertising therefor; layoff or termination; rates of pay or other compensation; and selection for training, including apprenticeship. Designer shall post, in all places conspicuous to employees and applicants for employment, notices provided by the State of Colorado setting forth the provisions of this nondiscrimination clause.
- B. All solicitations and advertisements for employees placed by or on behalf of Designer, shall state that Designer is an equal opportunity employer.
- C. Designer shall cause the foregoing provisions to be inserted in all subcontracts for any work contemplated by this Agreement or deemed necessary by Designer, so that such provisions are binding upon each of Designer's subconsultants.
- D. Designer shall keep such records and submit such reports concerning the racial and ethnic origin of employees and of applicants for employment as required by appropriate agencies of the United States, the State of Colorado, and the City of Aurora.
- E. Designer shall comply with all applicable rules, regulations and guidelines as promulgated by the United States, the State of Colorado, and the City of Aurora.

Section XIX - Special Conditions

- A. The Parties agree that Designer has no control over the cost of labor, materials, or equipment furnished by others, or over the resources provided by others to meet project schedules. Designer's opinion of probable costs and of project schedules shall be made on the basis of experience and qualifications as a professional engineer. Designer shall not be deemed to have guaranteed that proposals, bids, or actual project costs will not substantially vary from Designer's cost estimates or that actual schedules will not substantially vary from Designer's projected schedules.

Section XX - Insurance Requirements

- A. Designer agrees to procure and maintain, at its own cost, a policy or policies of insurance as described in **Attachment 4**, sufficient to insure against all liability, claims, demands and other legal obligations arising out of the Designer's performance of this Agreement and shall provide appropriate certificates of insurance prior to the issuance of the Notice to Proceed. Designer shall not be relieved of any liability, claims, demands or other obligations assumed pursuant to this Agreement by reason of its failure to procure or maintain insurance in sufficient amounts, durations or types.
- B. Failure on the part of Designer to procure or maintain policies providing the required coverages, conditions and minimum limits shall constitute a material breach of agreement, upon which the City may immediately terminate this Agreement or, at its discretion, the City may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the City shall be repaid by Designer to the City upon demand, or the City may offset the cost of the premiums against any monies due to Designer from the City.
- C. Designer shall provide an Acord certificate demonstrating the required insurance as per **Attachment 4**. The City reserves the right to request and review a copy of any policy and any endorsement thereto.
- D. Nothing herein is intended to be construed or shall be construed to be a waiver of the City's governmental immunity under Section 24-10-101 et. seq., C.R.S. as amended.
- E. Designer shall procure and maintain, and shall cause any subconsultant of Designer to procure and maintain, the minimum insurance coverage required as required in **Attachment 4**. Such coverages shall be procured and maintained with forms acceptable to the City. All coverage shall be continuously

maintained to cover all liability, claims, demands, and other obligations assumed by Designer pursuant to this Agreement.

- F. Designer shall be solely responsible for any deductibles, including losses under the deductible pursuant to any policy required in **Attachment 4**.
- G. Designer shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to this Agreement by reason of its failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations or types.
- H. The Designer's policy will be primary and non-contributory with respect to any and all insurance policies purchased by the City.

Section XXI - Indemnification

- A. The Designer shall indemnify, hold harmless and, not excluding City's right to participate, defend the City, its officials, officers, employees, volunteers and agents from and against all liabilities, actions, losses, claims, damages, costs and expenses, including without limitation reasonable attorney fees and costs, expert witness fees, arising out of or resulting in any way from the performance of Designer's services for the City and caused by negligent acts, errors, and omissions of the Designer or any person employed by it or anyone for whose act the Designer is legally liable.
- B. The insurance coverage specified in this Agreement constitutes the minimum requirements and these requirements do not lessen or limit the liability of Designer hereunder. Designer shall maintain, at its own expense, any additional kinds and amounts of insurance that it may deem necessary under this Agreement.
- C. Patents Infringement: The Designer shall indemnify, defend and hold harmless the City Indemnities from and against all suits or actions for infringement or unauthorized use of any patent, trademark, copyright or trade secret relating to the professional design services under this Agreement. The Designer's indemnity pursuant to this Section shall apply only when infringement occurs or is alleged to occur from the intended use for which the deliverable material was provided by the Designer pursuant to this Agreement. Designer shall not be held liable for any suits or actions of infringement of any patent, trademark, or copyright arising out of any patented or copyrighted materials, methods, or systems specified by the City under the Agreement or Change Order or infringement resulting from unauthorized additions, changes or modifications to the deliverable material made or caused to be made by the City subsequent to delivery by the Designer. Designer also agrees to notify the City upon the knowledge of any potential infringement claim, so that the City may provide input on suggested solution.
- D. Designer agrees that it will contractually obligate its sub-consultants to indemnify and hold harmless the indemnitees identified in this Section to the same extent that Designer is required to indemnify and hold harmless said indemnitees.

Section XXII - Miscellaneous

- A. In no event shall any payment by the City constitute a waiver of any breach of this Agreement, or of any covenant or default which may then exist on the part of Designer. No consent by the City, expressed or implied, to any breach of the Agreement shall be held to be a waiver of any subsequent or other breach.
- B. Each and every term, provision or condition herein is subject to and shall be construed in accordance with the provisions of Colorado law. Venue for any lawsuit arising under or related to this Agreement shall be in Arapahoe County, Colorado.
- C. Designer agrees that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. Designer further agrees that in performing this Agreement, no person having any such interests shall be knowingly employed by Designer.

- D. The Parties agree that no employee of the City shall have any personal or beneficial interest whatsoever in the services or property described herein, and Designer further agrees not to hire or contract for services with any employee or officer of the City which would be in violation of any Code of Ethics of the City.
- E. It is expressly understood and agreed that 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 Designer, and except as otherwise expressly provided for in this Agreement, nothing contained in this Agreement shall create or allow any claim or right of action by any other person or third person under this Agreement. Except as otherwise expressly provided, it is the express intention of the City and Designer that any person other than the City or Designer receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.
- F. The City shall not be liable for the payment of late charges, or penalties of any nature incurred by Designer in performing its services under this Agreement.
- G. The term of this Agreement shall commence upon written Notice to Proceed from the City to Designer and end upon final completion of the services to be provided hereunder by Designer. The insurance and indemnification provisions of this Agreement shall survive such termination.
- H. The captions and headings set forth in this Agreement are for convenience and for reference only and shall not be construed so as to define or limit the terms and provisions hereof.
- I. 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 held by a court of competent jurisdiction 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.
- J. This Agreement is intended as the complete integration of all prior oral or written understandings between the Parties. No prior or contemporaneous additions, deletions or other amendments 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.
- K. All notices, demands, or other documents or instruments required or permitted to be served upon either Party hereto shall be in writing and shall be deemed duly served when delivered in person to an officer or partner of the Party being served, by facsimile transmission or when mailed certified or registered mail, return receipt requested, postage prepaid addressed to Parties at the addresses stated below:
- City: Office of the City Attorney
 15151 East Alameda Parkway
 5th Floor
 Aurora, Colorado 80012
- Designer: _____

- L. Any action arising out of or relating to the Work asserted by Designer against the City shall be brought within two (2) years from when the action accrued pursuant to C.R.S. §13-80-102(1)(h).

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first above written.

CITY OF AURORA, COLORADO

By: _____

Name: _____

Title: _____

Date: _____, 20____

RISK MANAGEMENT: _____
Risk Manager

APPROVED AS TO FORM: _____
Assistant City Attorney

Designer

By: _____
(Signature)

Name: _____
(Type or Print)

Title: _____

Date: _____, 20____

Attachment 4

INSURANCE REQUIREMENTS

During the term of this Agreement and until final acceptance by the City of all work covered by the Purchase Order or contract, the Designer performing services under this agreement shall provide, pay for and maintain in full force and effect the types and minimum limits of insurance, as indicated below, covering the Designer, their employees, subcontractors or representatives, along with the activities of any and all subcontractors retained by the or the activities of anyone employed by any of them, or their representatives or anyone for whose acts they may be liable.

Commercial General Liability Insurance. The Designer shall maintain commercial general liability insurance covering all operations by or on behalf of the Designer on a per occurrence basis against claims for personal injury (including bodily injury and death) and property damage (including loss of use). Coverage will include, if appropriate for the scope of services: Products and Completed Operations, Contractual Liability and a Waiver of Subrogation. The City, its elected and appointed officials, employees, agents and representatives shall be named as Additional Insureds by endorsement.

Minimum limits:

\$2,000,000 each occurrence

\$4,000,000 general aggregate

\$4,000,000 products and completed operations

Commercial Automobile Liability Insurance. The Designer shall maintain business automobile liability covering liability arising out of the operation of any vehicle (including owned, non-owned and hired vehicles) with minimum limits of \$1,000,000 combined single limit each accident.

Workers' Compensation and Employers Liability Insurance. The Designer shall maintain Worker's Compensation Insurance with limits in accordance with the provisions of the Workers' Compensation Act, as amended, by the State of Colorado. Additionally, the Designer shall maintain Employers Liability Insurance with minimum limits of: \$1,000,000 bodily injury for each accident, \$1,000,000 bodily injury by disease each employee and \$1,000,000 bodily injury disease aggregate.

Umbrella/Excess Liability Insurance. The Designer shall maintain umbrella/excess liability insurance on an occurrence basis in excess of the underlying insurance described in this agreement which is as least as broad as the underlying policies. Policy limits with minimum limits of not less than Two Million Dollars (\$2,000,000) per occurrence. The City, its elected and appointed officials, employees, agents and representatives shall be named as Additional Insureds by endorsement.

Subcontractor's Insurance It shall be the responsibility of the Designer to ensure that subcontractors maintain:

A. Commercial General Liability insurance with minimum limits of \$1,000,000 per occurrence, \$2,000,000 general aggregate and shall name the City of Aurora as an additional insured; and

B. Worker's Compensation Insurance with limits in accordance with the provisions of the Workers' Compensation Act, as amended, by the State of Colorado and Employers Liability Insurance with minimum limits of: \$1,000,000 bodily injury for each accident, \$1,000,000 bodily injury by disease each employee and \$1,000,000 bodily injury disease aggregate.

The Designer is responsible for verifying that the subcontractor's insurance is in effect prior to commencement of work and throughout the time that the subcontractor performs work on the project. Any subcontractor which ceases to provide insurance coverage as set forth above must be removed from the project until such time that insurance coverage can be verified as in full force and effect.

Limits of Insurance. The total limits of general and excess liability insurance set forth above may be provided to the City using a combination of primary and excess liability insurance.

Additional Insured and Waiver of Subrogation. The Consultant shall name the City of Aurora, its elected and appointed officials, employees, agents and representatives as additional insureds by endorsement and provide a waiver of subrogation for the Commercial General Liability, Auto Liability and Excess Liability insurance policies. The certificate of insurance will include these specific requirements along with a copy of the relevant endorsements.

Certificates of Insurance. Upon the execution of this Agreement, the Designer shall provide certificates of insurance to the City of Aurora demonstrating that at the minimum coverages required herein are in effect. Designer agrees that the required coverages will not be reduced, canceled, non-renewed or materially changed without thirty (30) days prior written notice to the City. All certificates of insurance must be kept in force throughout the duration of the services. If any of Designer's or its subcontractor's coverage is renewed at any time prior to completion of the services, the Designer shall be responsible for obtaining updated insurance certificates for itself and such subcontractors from the respective insurance carriers and forwarding the replacement certificates to the City within five (5) days of the expiration date of any previously delivered certificate.

The minimum A.M. Best rating of each primary insurer shall be A- X and the minimum A.M. Best rating of each excess insurer shall be A- VIII. The Designer shall provide copies of insurance policies to the City Risk Manager upon request.

Any of the minimum limits of insurance set out herein may be raised or lowered at the sole discretion of the Risk Manager for the City of Aurora in response to the particular circumstances giving rise to the contract. **The Designer's policy will be primary and non-contributory with respect to any and all insurance policies purchased by the City.**

In the event that the contract involves professional or consulting services, in addition to the aforementioned insurance requirements, the contract shall also be protected by a Professional Liability Insurance policy as set forth below:

Professional Liability Insurance. The Designer shall maintain professional liability insurance with minimum limits of Two Million Dollars (\$2,000,000) per claim, covering those claims which arise out of the negligent acts or omissions of the Designer, its Subcontractor and any other parties for whom it may be liable including without limitation, bodily injury, personal injury, property damage and including a contractual liability endorsement specifically applicable to the insurable indemnity obligations set forth herein which Professional Liability Insurance shall be carried on a claims-made basis maintained in full force and effect for the term of this Agreement and, to the extent possible, for a minimum period of Three (3) years after the completion of any and all of Designer's Services hereunder. Any retroactive date or prior acts exclusion to which such coverage is subject shall pre-date both the date upon which any services hereunder are commenced and the date of this Agreement. In the event that coverage is renewed during the original term of any subsequent term of this agreement, endorsement(s) for the new policy(ies) shall be delivered within five (5) days after renewal.

ATTACHMENT 5

**CDOT PROFESSIONAL SERVICES LOCAL AGENCY CIVIL RIGHTS AND DISADVANTAGED
BUSINESS ENTERPRISE (DBE) CONTRACT REQUIREMENTS FOLLOWS THIS PAGE AND IS NOT
INCLUDED IN THE PAGE NUMBERING**

CDOT PROFESSIONAL SERVICES LOCAL AGENCY CIVIL RIGHTS AND DISADVANTAGED BUSINESS ENTERPRISE (DBE) CONTRACT REQUIREMENTS

Please refer to CDOT's Local Agency Civil Rights Guidelines for more information:

<https://www.codot.gov/business/civilrights/la-compliance/overview>

The following requirements shall be applied to FHWA-assisted contracts.

I. DEFINITIONS

B2GNow. Web based platform utilized by CDOT to track Civil Rights compliance (DBE/ESB participation) and prompt payment requirements on its contracts. The Consultant will use this platform to submit Utilization Plan(s), Subconsultant and Supplier/Vendor information on the Contract.

CDOT Civil Rights. The CDOT Civil Rights office that assist with the contract and prompt payment requirements on contracts. This can be in either the region or headquarters.

Civil Rights and Business Resource Center (CRBRC). CDOT's Civil Rights office at Headquarters.

Commercially Useful Function (CUF). Responsibility for the execution of work by actually performing, managing, and supervising the work, as described in 49 CFR Part 26.

Commitment. A portion of the Contract designated by the Consultant for participation by DBE firms. The DBE firm(s) are included in the proposal team for participation to meet the Contract Goal. Commitments must identify the work to be performed by the DBE and include the percentage of the contract committed to each DBE firm. Commitments are measured at the end of the contract and are calculated by the actual payments to a DBE firm divided by the total payments made under the Contract.

Contract. Agreement between the Local Agency and the Consultant, whereby the Consultant will be compensated in exchange for providing Professional Services and ancillary services. For purposes of this document, the term "Contract" refers to an individual, executed Task Order for an On-Call Agreement or a Master Contract (overarching agreement) for Project-Specific and Program-Specific Agreements.

Contract Goal Percentage. The percentage of the Contract established by CDOT for reasonable participation by DBEs and stated in the invitation for consultant services.

Consultant. An individual, firm, corporation, or other legal entity with a direct contractual relationship with the Local Agency's solicitation to render Professional Services and ancillary services.

Disadvantaged Business Enterprise (DBE). A Colorado certified Disadvantaged Business Enterprise listed on the Colorado Unified Certification Program (UCP) DBE Directory at www.coloradodbe.org.

Emerging Small Business (ESB). A CDOT certified Emerging Small Business firm listed on the ESB Directory at www.coloradoesb.org.

Good Faith Efforts (GFE). All necessary and reasonable steps to secure the necessary Commitments to meet the Contract Goal or other requirements of this contract, which by their scope, intensity, and appropriateness to the objective could reasonably be expected to fulfill the contract requirement. Guidance on Good Faith Efforts to meet the Contract Goal is provided in 49 CFR Part 26, Appendix A.

CDOT PROFESSIONAL SERVICES LOCAL AGENCY CIVIL RIGHTS AND DISADVANTAGED BUSINESS ENTERPRISE (DBE) CONTRACT REQUIREMENTS

Local Agency. A public agency, local public agency, established public owned organization, or private interest that can legally enter into an intergovernmental agreement with CDOT for a transportation related project. This can involve the design, construction or management of State and Federally funded projects.

Professional Services. The practice of architecture, engineering, professional land surveying, landscape architecture, and industrial hygiene as defined in Colorado Revised Statutes (CRS) 24-30-1402 and 48CFR Part 2.

Reduction. Reduction occurs when the Consultant reduces a Commitment to a DBE. A Reduction is a partial Termination.

Subconsultant. An individual, firm, corporation or other legal entity to whom the Consultant sublets part of the contract. For purposes of these requirements, the term Subconsultant includes Suppliers/Vendors.

Substitution. Substitution occurs when a Consultant seeks to find another certified DBE firm to perform work on the contract as a result of a Reduction or Termination.

Termination. Termination occurs when a Consultant no longer intends to use a DBE firm for fulfillment of a Commitment. This includes, but is not limited to, instances in which a Consultant seeks to perform work originally designated for a DBE Subconsultant with its own forces or those of an affiliate, a nonDBE firm, or with another DBE firm.

Utilization Plan (UP). The documentation of Subconsultant and Supplier/Vendor participation on the awarded Contract. The Utilization Plan details all Subconsultants and Suppliers/Vendors included as part of the proposal team and Commitments by percentage made by the Consultant. The Consultant must submit the Utilization Plan within five (5) calendar days of receiving notice from CDOT's B2GNow system.

Vendor. Participant on a CDOT contract that is providing services not considered to be a Professional Services as defined in Colorado Revised Statute 24-30-1402 and 48 CFR Part 2. A vendor would provide Non-Engineering Services (i.e. Geotechnical drilling, Public Information/Relations, traffic control, etc) and would not be overseen by a licensed engineer.

Work Code. A code to identify the work that a DBE is certified to perform. A work code includes a six (6) digit North American Industry Classifications System (NAICS) code plus a descriptor. Work codes are listed on a firm's profile on the Colorado UCP DBE Directory at <https://coucp.dbesystem.com/>. The Local Agency may include CDOT in discussions for clarification. The consultant may contact the Civil Rights and Business Resource Center to receive guidance on whether a work code covers the work to be performed.

II. NONDISCRIMINATION AND SUBCONTRACTING REQUIREMENTS

The following requirements apply to all contracts and subcontracts on FHWA federally-assisted contracts.

A. Non-discrimination. The Consultant, with regard to the work performed by it during the contract term, will not discriminate on the grounds of race, color, or national origin in the selection and retention of Subconsultants, including procurement of materials and leases of equipment. The Consultant will not participate either directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

CDOT PROFESSIONAL SERVICES LOCAL AGENCY CIVIL RIGHTS AND DISADVANTAGED BUSINESS ENTERPRISE (DBE) CONTRACT REQUIREMENTS

B. *Civil Rights Act of 1964 Title VI*. CDOT, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

C. *Consultant Assurance*. By submitting a proposal for this contract, the Consultant agrees to the following assurance: The consultant, sub recipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Consultant shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the Consultant to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract. Such other remedy as deems appropriate, which may include, but is not limited to:

- Withholding monthly progress payments
- Assessing sanctions
- Liquidated damages
- Disqualifying the consultant from future bidding as non responsible

D. *Prompt Payment*. Payments to all Subconsultants shall be made within seven (7) calendar days of receipt of payment from the Local Agency, or no later than ninety (90) calendar days from the date of the submission of a complete invoice from the Subconsultant, whichever occurs first. The Local Agency will assist in enforcing the Civil Rights Requirements outlined above as well as prompt payment as outlined in 49 CFR, Part 26. If the Consultant has good cause to dispute an amount invoiced by a Subconsultant, the Consultant shall notify the Subconsultant no later than the required date for payment. Such notification shall include the amount disputed and justification for the withholding. The Consultant shall maintain records of payment that show amounts paid to all Subconsultants. Good cause does not include failure to timely submit an invoice or to deposit payments made. The Consultant shall electronically submit prompt payment audit reports in B2GNow by the fifteenth (15th) of each month through the B2GNow software. If no payment has been made, the Consultant shall document this in the prompt payment audit reporting.

E. *Subcontract Terms*. Parts A-D of this section shall be included in all subcontracts or other agreements for the performance of work on the contract.

III. CONTRACT COMMITMENT

At the time of initial proposal, the Consultant must make a contractually binding guarantee to meet the Contract Goal in accordance with 49 CFR 26.53.

A. *Affidavit of Small Business Participation*. The Affidavit of Small Business Participation is the Consultant's contractually binding guarantee to meet the Contract Goal or make Good Faith Efforts to do so. CDOT's *Affidavit of Small Business Participation* form must be submitted with the Consultant's statement of interest proposal. Failure to submit the CDOT *Affidavit of Small Business Participation* form will result in the Consultant being deemed non responsive and ineligible for award. The Local Agency will copy the top preferred proposals to CDOT's Civil Rights and Business Resource Center (CRBRC) for approval of CDOT's *Affidavit of Small Business Participation* form. This form includes the commitments to meet the DBE goal.

B. *Contract Utilization Plan (UP)*. Once the contract is awarded and the Local Agency receives a signed contract, the Local Agency will submit the *Local Agency Professional Services B2GNow Contract Information*

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ENTERPRISE (DBE) CONTRACT REQUIREMENTS**

form for CDOT to set up the contract in the B2GNow system. Once the contract is setup in the system, the Consultant will receive a notice from CDOT within five (5) calendar days of selection, to complete and submit a Utilization Plan via B2GNow. In order to complete the Utilization Plan, the Consultant shall list all DBE, ESB, and nonDBE/ESB Subconsultants and Suppliers/Vendors included as part of its “most qualified” team. The Utilization Plan shall also include all Commitments by percentage.

C. Consultant Responsibility. The Consultant is solely responsible for ensuring that the Contract Goal is achieved upon completion of the work, expenditure of funds, and/or expiration of the Contract, whichever occurs first. The Local Agency and CDOT assists in the monitoring as oversight agencies.

D. Contract Good Faith Effort Requirement. The UP will not be approved by CDOT until the Consultant documents sufficient Commitments to meet the Contract Goal or demonstrates Good Faith Efforts to meet the Contract Goal even though it did not succeed in obtaining sufficient Commitments to do so.

1. Good Faith Efforts mean that the Consultant:
 - a. Documents it has obtained enough DBE participation to meet the Contract Goal, or
 - b. Documents that it made adequate good faith efforts to meet the Contract Goal, even though it did not succeed in obtaining enough DBE participation to do so
2. If the Consultant has not documented sufficient Commitments to meet the Contract Goal, the Consultant shall provide an explanation of its efforts to obtain Commitments by submitting the CDOT’s *Professional Services Good Faith Efforts Report* form and supporting documentation to CRBRC.
 - a. The CRBRC will conduct a review to determine whether the Consultant has demonstrated Good Faith Efforts to meet the Contract Goal
 - b. The CRBRC will approve the Contract Utilization Plan if it determines that the Consultant has made Good Faith Efforts to meet the Contract Goal
3. In conducting Good Faith Effort reviews, the CRBRC will utilize the guidance found in Appendix A to 49 CFR Part 26, where applicable. The CRBRC may also consider, but is not limited to, the following factors in evaluating the Consultant’s Good Faith Efforts:
 - a. Performance of other consultants in meeting DBE goals on contracts that have a similar scope of work, contract amount, location, and time frame
 - b. Reason(s) for choosing a nonDBE subconsultant over an interested DBE
 - c. Documentation of DBEs solicited by the Consultant and verification from the DBEs that they were actually contacted by the Consultant
 - d. Past performance by the Consultant on contracts that have a similar scope of work, contract amount, location and time frame
 - e. Any other factors that may be pertinent to the factual circumstances

If the CRBRC determines the Consultant has made Good Faith Efforts to meet the Contract Goal, the Master Contract Utilization Plan will be approved and all documentation of the determination will be uploaded into B2GNow.

E. Administrative Reconsideration. If the CRBRC determines that the Consultant did not demonstrate Good Faith Efforts to meet the Contract Goal, the Consultant will be provided a written notice of its determination and an opportunity for administrative reconsideration by the CDOT Chief Engineer or a designee.

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1. The Chief Engineer or a designee will conduct administrative reconsideration.
 - a. The Consultant will have five (5) calendar days from the written notice to request administrative reconsideration of an adverse Good Faith Efforts determination
 - b. The request shall include the basis for reconsideration and any supporting documentation that the Consultant would like to be considered as part of the reconsideration
 - c. The reconsideration should also specify whether the Consultant is requesting an informal, in person or telephonic hearing with CDOT to address the issues in the Good Faith Efforts determination
 - d. If a request for an informal hearing is not made, the Consultant will be deemed to have waived this opportunity
2. Upon a hearing request, the Civil Rights and Business Resource Center will establish a date and time for the hearing and send written notice via email to the Consultant, the Local Agency and Civil Rights at least two (2) business days in advance of the hearing.
 - a. If schedules permit, the parties may waive the two (2) business day requirement
 - b. The CDOT Chief Engineer or designee may request additional documentation from the Consultant and/or the Local Agency
 - c. A copy of all requests and responses should be provided to the other party and the other party shall be given an opportunity to respond
3. The CDOT Chief Engineer or a designee shall issue the final determination as to whether the Consultant made Good Faith Efforts to meet the Contract Goal.
 - a. The determination will be in writing and explain the basis for the CDOT Chief Engineer's or designee decision regarding whether or not the Consultant demonstrated Good Faith Efforts to meet the Contract Goal
 - b. The Good Faith Efforts determination of the CDOT Chief Engineer or designee is not appealable

IV. ELIGIBLE DBE PARTICIPATION

In order to count towards the Contract Goal, (1) the work performed by the DBE Consultant, Subconsultant, or Supplier/Vendor must be identified in an approved Commitment, and (2) the Consultant, Subconsultant, or Supplier/Vendor must be DBE certified in the committed work upon submission of the Commitment. The Local Agency will evaluate whether the work it is committed to perform can reasonably be construed to fall within the work areas for which the DBE Consultant, Subconsultant, or Supplier/Vendor is certified. The Local Agency may request assistance from CDOT if needed.

- A. If a Consultant, Subconsultant, or Supplier/Vendor is decertified as a DBE following the approval of a Contract, its participation on that Contract may continue to count as DBE participation.
- B. DBE participation will be tracked through the B2GNow.
- C. Only work actually performed by the DBE will count towards the Contract Goal.

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1. The Consultant may count the entire amount of fees or commissions charged by a DBE firm for:
 - a. Providing a bona fide service, such as professional, technical, consultant, or managerial services; and/or
 - b. Providing assistance in the procurement of essential personnel, facilities, equipment, materials or supplies required for the performance of work, provided that the fee or commission is determined by the Local Agency to be reasonable and not excessive as compared with fees customarily allowed for similar services
2. When a DBE subcontracts part of the work of its contract to another firm, individual, or entity, the value of the subcontracted work may only be counted if the subcontractor is also a DBE certified firm.
 - a. Work that a DBE subcontracts out to a non-certified firm will not count toward the goal
 - b. DBE firms may use an employee leasing company for the work
 - i. The participation of the leased employees will count only if the certified DBE firm maintains an employer-employee relationship with the leased employees
 - ii. This includes being responsible for hiring, firing, training, assigning, and otherwise controlling the on-the-job activities of the leased employees, as well as ultimate responsibility for wage and tax obligations related to the employees
 - c. Unless certified in the work to be performed, staffing agencies only count toward the Contract Goal for placement fees and any hourly fee beyond the temporary employee's actual rate of pay
3. When a DBE performs as a participant in a joint venture:
 - a. Only the portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work that the DBE performs with its own forces may count toward the Goal
 - b. In order to receive credit, the joint venture agreement must be submitted as an attachment in the utilization plan submitted through B2GNow for review and approval by CDOT

C. A DBE must be performing a Commercially Useful Function, as defined by 49 CFR 26.55(c), in order for its participation to count towards the Contract Goal.

1. To perform a Commercially Useful Function:
 - a. The DBE must be responsible for the execution of the work to be performed and
 - b. Actually performing, managing, and supervising the work
2. In evaluating whether a DBE is performing a Commercially Useful Function, the Local Agency will consider factors, including but not limited to:
 - a. The amount of subcontracted work
 - b. Industry practices, and
 - c. Whether payment to the DBE is commensurate with the work for which the DBE is claiming credit, and any other relevant factors
3. DBE does not perform a Commercially Useful Function if its role is limited to that of an extra participant in a transaction through which funds are passed in order to obtain the appearance of DBE participation.

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4. A DBE is presumed as not performing a Commercially Useful Function:
 - a. When it does not perform or exercise responsibility for at least thirty (30) percent of the total cost of the work it is contracted to perform with its own workforce; or
 - b. When the DBE subcontracts a greater portion of its work than would be expected based on normal industry practice for the type of work involved.
 - c. In these circumstances, the DBE may present evidence to CDOT in order to rebut the presumption.
5. In order to finalize the Contract, the Consultant must have submitted a *Professional Services Commercially Useful Function Questionnaire* form for each DBE firm that performed work or provided supplies toward meeting the contract goal. The DBE, Consultant and Engineer must sign the *Professional Services Commercially Useful Function Questionnaire* form.
6. The Local Agency's determinations regarding Commercially Useful Function matters are not appealable.

V. UTILIZATION PLAN MODIFICATIONS

A. Reduction, Substitution, Termination. Reduction, Substitution, or Termination during the life of the Contract shall only be permitted at the discretion of the Local Agency based upon a demonstration of Good Cause by the Consultant. The Consultant may not Reduce, Substitute, Terminate, or add Commitments without the Local Agency's approval. Consultants may request modification approval to the Local agency. The Local Agency may request for CDOT's assistance and/or use CDOT's *Professional Services DBE Participation Plan Modification Request* form.

1. *Notice to Subconsultant.* Before requesting the Local Agency approval, the Consultant must give the DBE Subconsultant notice in writing of the Consultant's intent to Reduce, Substitute or Terminate the Subconsultant's work. Unless otherwise waived in writing by the DBE, the Consultant must give the DBE five (5) calendar days to respond to the Consultant's notice and advise the Local Agency of objections, if any, that it objects to the proposed Reduction, Termination and/or Substitution and why the Consultant's proposed action should not be approved. If required as a matter of public necessity (e.g., safety), the Local Agency may waive or reduce the period to respond. The DBE firm may also voluntarily waive the response period.
2. *Good Cause Requirement.* A Consultant must demonstrate Good Cause before a request for Reduction, Substitution or Termination can be approved by the Local Agency. Good Cause does not exist if Reduction, Substitution or Termination of a DBE is sought solely so that the Consultant can self perform the work for which the DBE was engaged or so that the Consultant can substitute another firm to perform the work. In evaluating whether Good Cause exists, the Local Agency will consider, but is not limited to, the following factors:
 - a. Changes in the scope of work or scheduling that directly impacts the work committed to the DBE
 - b. Failure or refusal by the DBE to execute a written contract
 - c. Failure or refusal by the DBE to perform the work of its subcontract consistent with normal the industry standards, provided that such failure is not the result of bad faith or discriminatory actions of the Consultant or one of its Subconsultants

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- d. The DBE fails to meet reasonable, nondiscriminatory insurance requirement
 - e. The DBE becomes bankrupt, insolvent, or exhibits credit unworthiness
 - f. The DBE is ineligible to work because of suspension or debarment proceedings or other state law
 - g. The DBE is not a responsible Consultant
 - h. The listed DBE voluntarily withdraws from the project and provides to the Consultant written notice of its withdrawal
 - i. The listed DBE is ineligible to receive credit for its participation
 - j. The DBE owner dies or becomes disabled and the firm is unable to complete the work it is committed to perform
 - k. The DBE ceases business operations or otherwise dissolves; and/or
 - l. Other documented good cause reasons determined by the Local Agency to compel the termination of the DBE Subconsultant
3. *Good Faith Effort Requirement.* When a Commitment is Reduced or Terminated (including when a DBE withdraws), the Consultant shall make Good Faith Efforts to find a Substitution up to the Contract Goal for the DBE whose Commitment has been Terminated or Reduced, Substitutions do not have to be in the same type of work that was Terminated or Reduced.
- a. Prior to making a Substitution, the Consultant must receive the Local Agency's approval for the Substitution.
 - b. An approval of the modification constitutes a modification of the Utilization Plan through CDOT. Each substitute DBE approved by the Local Agency must have documentation. Documentation similar to a Project Cost Worksheet for Subconsultants or Letter of Intent for a Supplier/Vendor that shows commitments to the firm on the contract are required. Once approved, the Local Agency will work with the CRBRC to modify the UP in B2GNow.

VI. ENFORCEMENT

It is the responsibility of the Local Agency and Consultant to ensure that Commitments are fulfilled or to request Utilization Plan modifications in a timely manner as described in Section VI. Approvals under the Contract are not an explicit or implicit approval by the Local Agency or CDOT of any Commitment Terminations, Reductions, Substitutions, or any other waiver of the Contract Civil Rights requirements.

A. The Local Agency may conduct reviews or investigations of participants as necessary. All participants on the Contract, including, but not limited to, DBE Subconsultants or Suppliers/Vendors are required to cooperate fully and promptly with compliance reviews, certification reviews, investigations, and other requests for information. This also includes applicants for DBE certification, ESB Subconsultants and applicants for ESB certification, complainants, and Consultants using Subconsultants to meet the Contract Goal.

B. If the Local Agency determines that a Consultant, Subconsultant or Supplier/Vendor was a knowing and willing participant in any intended or actual subcontracting arrangement contrived to artificially inflate DBE participation or any other business arrangement determined by the Local Agency to be unallowable, or if the Consultant engages in repeated violations, falsification or misrepresentation, the Local Agency may:

1. Refuse to count any fraudulent or misrepresented DBE/ESB participation
2. Withhold progress payments to the Consultant commensurate with the violation
3. Reduce the Consultant's prequalification status

**CDOT PROFESSIONAL SERVICES LOCAL AGENCY CIVIL RIGHTS AND DISADVANTAGED BUSINESS
ENTERPRISE (DBE) CONTRACT REQUIREMENTS**

4. Refer the matter to the Office of Inspector General of the US Department of Transportation for investigation; and/or
5. Seek any other available contractual remedy

VI. CONTRACT CLOSEOUT

The Local Agency will collect a completed CDOT *Professional Services Closeout Report* form upon completion of the work, expenditure of funds, and/or expiration of the Contract, whichever comes first. This form will report the final actual DBE participation on the Contract and any amounts for which CDOT will be seeking reimbursement due to the Consultant not meeting Commitments. The Local Agency will submit the form to CDOT Civil Rights with submission of the final invoice.

SECTION VII REQUEST FOR BUSINESS SIZE STATUS

Please provide us with the information requested below to help us do a better job of soliciting City of Aurora requirements.

The North American Industry Classification System (NAICS) code for this award is **541330**

The small business size standard the City of Aurora designates for this award is
12.5 million ☒ U.S. dollars ☐ Employees

Identify the business size status of your firm based on the above small business size standard:

- ☐ Large Business
- ☐ Small Business Enterprise

If your business is a Small Business Enterprise, please identify if your firm is in one of the following categories:

- ☐ Minority-owned vendor
- ☐ Woman-owned vendor
- ☐ Minority/woman-owned vendor
- ☐ Veteran
- ☐ Disabled Veteran
- ☐ Other

From what source did you learn about his solicitation to which you are now responding?

- ☐ Website;
- ☐ Newspaper (please name the paper);
- ☐ Fax;
- ☐ Automatic notice by E-mail;
- ☐ Telephone call from buyer;
- ☐ Other (please describe): _____

Name, address, phone #, e-mail of business, and point of contact preparing this information.

SECTION VIII
LETTER OF INDEMNIFICATION FOR WITHHOLDING CONFIDENTIAL INFORMATION

City of Aurora

Finance/Purchasing & Contracts
15151 E. Alameda Parkway
Suite 5700
Aurora, Colorado 80012
Phone: 303.739.7100
www.auroragov.org



Re: **Request Under the Colorado Open Records Act**
Request for Proposal Number R-2448 – 13th Avenue Multimodal Design Project.

Proposals submitted by consultants in response to the City of Aurora's Request for Proposal R-2448 are subject to the Colorado Open Records Act. Should the City receive a request for the release of any information in the Consultant's proposal in accordance with the open records law, the City will review the Consultant's proposal, giving consideration to the portions that the Consultant indicated contained trade secrets, privileged information, or confidential commercial, financial, geological, or geophysical data, and may release only that information which has not been identified as confidential and/or proprietary in your proposal pursuant to C.R.S. 24-72-201.

By having an authorized officer of the company sign below, consultant agrees to indemnify the City of Aurora for any and all attorney fees that the City may incur in defending the withholding of such information.

Consultant

Signature

Name (Type or Print)

Title

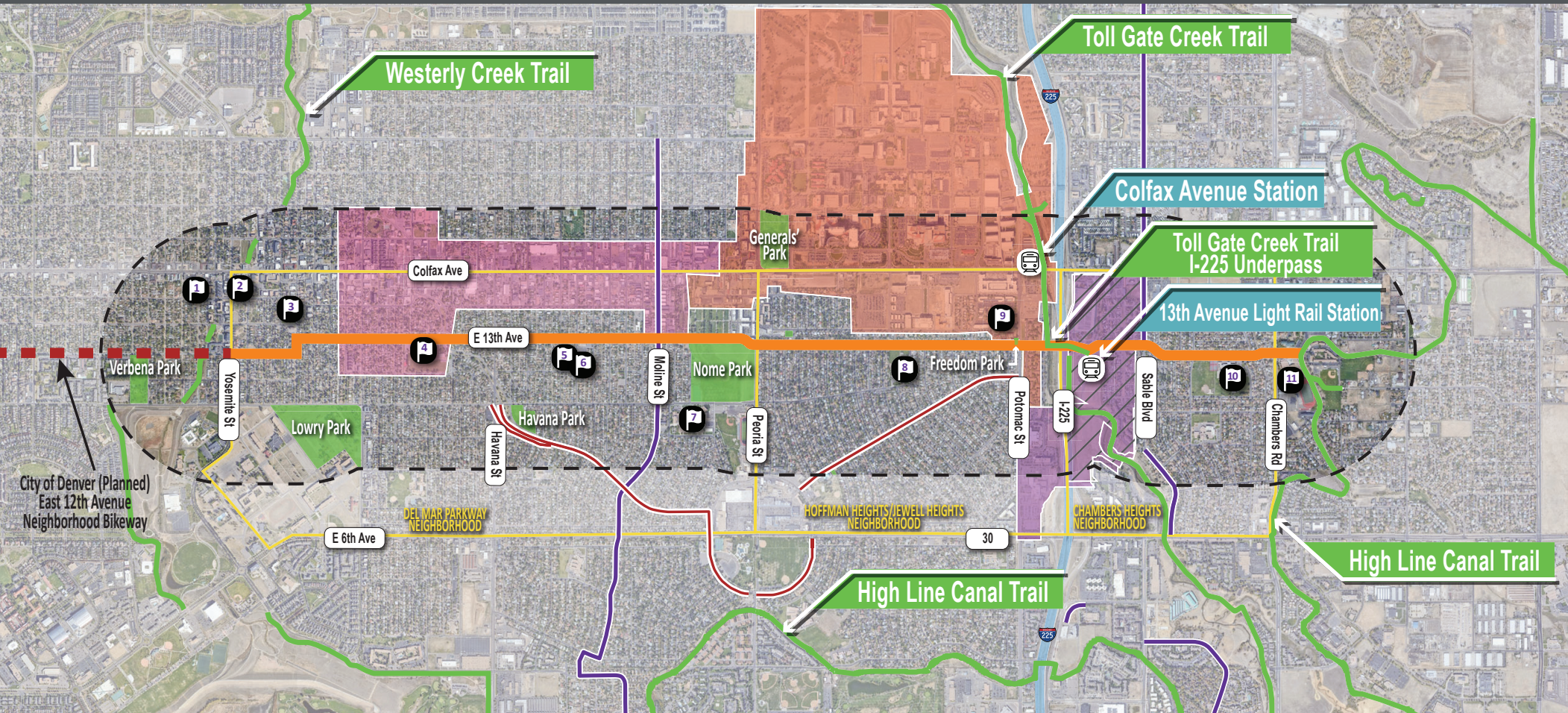
Date

SECTION IX
REQUEST FOR TAX-PAYER IDENTIFICATION (Form W-9)

Form W-9 may be found at the following link <https://www.irs.gov/uac/about-form-w9>

Exhibit 1 - General Limits of Construction

Attachment 1 - Project Area Key Features



LEGEND

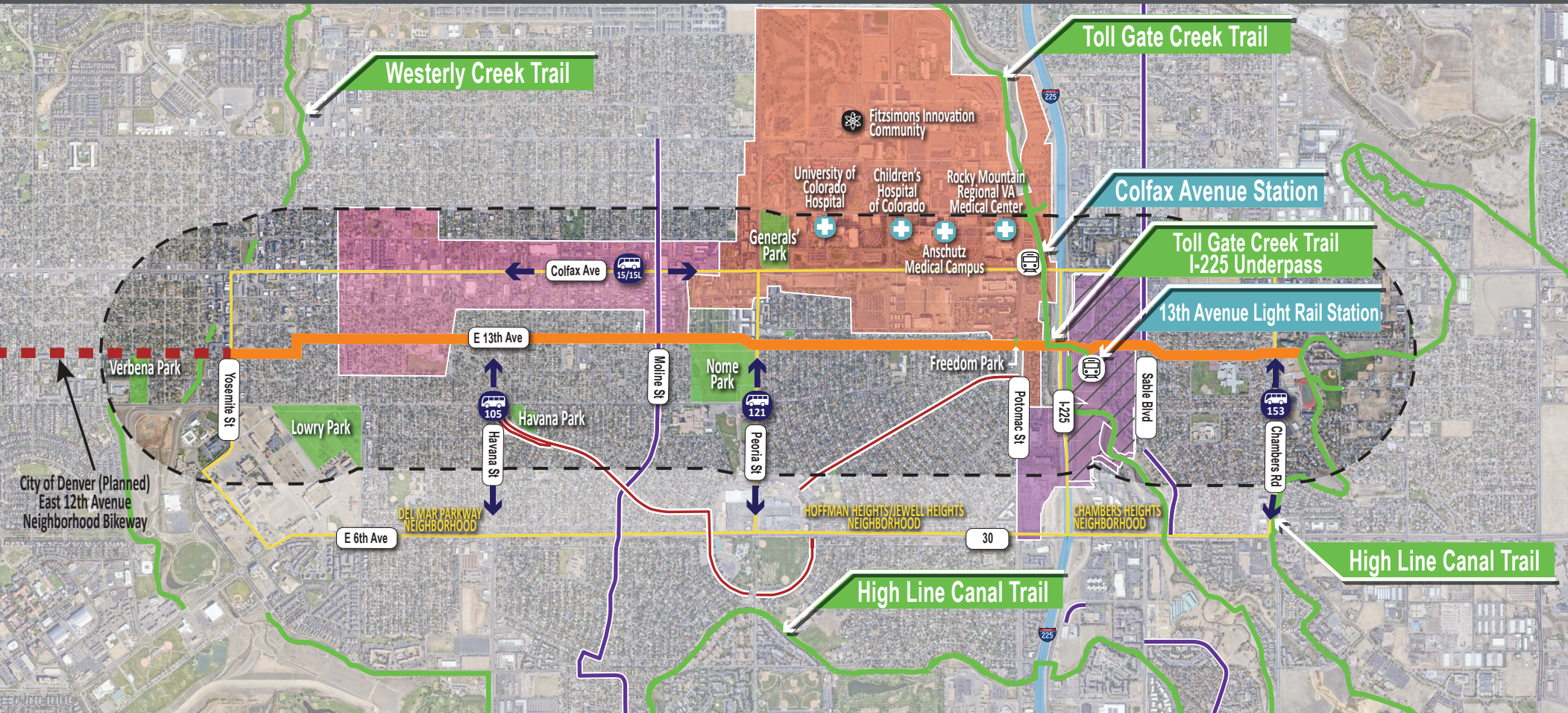
	Project Corridor		Bicycle Lanes		Colfax Avenue Urban Center		Education Facilities
	1/2-mile Radius Around Project Site		Bicycle Routes		Fitzsimons Urban Center	1. Cannon Learning Center	6. St. Therese Catholic School (grades K-8)
	Light Rail Transit Station		Trail		13th Avenue Urban Center	2. Vega Collegiate Academy (grades K-8)	7. Aurora Central High School
			Park		13th Avenue TOD District	3. Boston K-8 School	8. Vaughn Elementary School
					Neighborhood	4. Aurora West College Prep Academy (grades 6-12)	9. St. Pius X Catholic School
						5. Kenton Elementary School	10. East Middle School
							11. Hinkley High School
















Source: Google Earth, 2022

Exhibit 1 - General Limits of Construction

Attachment 1 - Project Area Key Features (continued)



LEGEND

- | | | | |
|--|--|--|--|
|  Project Corridor |  Bicycle Lanes |  Colfax Avenue Urban Center |  Neighborhood |
|  1/2-mile Radius Around Project Site |  Bicycle Routes |  Fitzsimons Urban Center |  Bus Transit Routes |
|  Light Rail Transit Station |  Trail |  13th Avenue Urban Center | |
| |  Park |  13th Avenue TOD District | |



Source: Google Earth, 2022

Exhibit 2
Colorado Department of Transportation
AFFIDAVIT OF SMALL BUSINESS PARTICIPATION

Project Description		Contract NTE \$	
		DBE Contract Goal % 6.00%	
SECTION 1. CONSULTANT INFORMATION			
Prime Consultant		Consultant is an ESB <input type="checkbox"/>	
Compliance Contact Name		Consultant is a DBE <input type="checkbox"/>	
Email	Address	Phone	
		B2GNow Vendor #	
SECTION 2. DBE PARTICIPATION PLAN			
Fill in All Lines:			
* The consultant is committing to _____ # of DBE firm(s) not teamed with in the past 2 years (as of ad date of RFP, firms with unsuccessful bids allowed, each firm must be listed in this section).			
* The consultant is committing to approximately \$ _____ of DBE participation based on NTE \$.			
* The consultant is committing to approximately _____ % DBE goal based on the NTE \$.			
The Prime Consultant shall submit a Professional Services Commercially Useful Function Questionnaire for every DBE on this contract that provides work or provides supplies whose participation counts toward the DBE contract goal for this contract.			
All DBE firms (Subconsultants, Supplier/Vendors, Prime if self performing)		Work Descriptor (i.e. survey, testing)	NEW DBE Teaming Partner?
	<input type="checkbox"/> Vendor		<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Vendor		<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Vendor		<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Vendor		<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Vendor		<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Vendor		<input type="checkbox"/> Yes <input type="checkbox"/> No
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	<input type="checkbox"/> Vendor		<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Vendor		<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Vendor		<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Vendor		<input type="checkbox"/> Yes <input type="checkbox"/> No
If more DBE subs/suppliers vendors, add additional sheet			

Colorado Department of Transportation

AFFIDAVIT OF SMALL BUSINESS PARTICIPATION

SECTION 3. ESB PARTICIPATION PLAN

Fill in All Lines:

- * The consultant is committing to _____ # of ESB firm(s) not teamed with in the past 2 years
(as of ad date of RFP, firms with unsuccessful bids allowed, each firm must be listed in this section).
- * The consultant is committing to approximately \$ _____ of ESB participation on this RFP/SOI.
- * The consultant is committing to approximately _____ % ESB goal based on the NTE \$.

All ESB firms (Subconsultants, Suppliers/Vendors, Prime if self performing) and Level		Work Areas (i.e. survey, testing)	New ESB Teaming Partner?	ONLY for <i>Project/Program Specific</i> RFP/SOIs Approximate % of Participation
	<input type="checkbox"/> Vendor		<input type="checkbox"/> Yes <input type="checkbox"/> No	
	<input type="checkbox"/> Vendor		<input type="checkbox"/> Yes <input type="checkbox"/> No	
	<input type="checkbox"/> Vendor		<input type="checkbox"/> Yes <input type="checkbox"/> No	
	<input type="checkbox"/> Vendor		<input type="checkbox"/> Yes <input type="checkbox"/> No	
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	<input type="checkbox"/> Vendor		<input type="checkbox"/> Yes <input type="checkbox"/> No	
	<input type="checkbox"/> Vendor		<input type="checkbox"/> Yes <input type="checkbox"/> No	
	<input type="checkbox"/> Vendor		<input type="checkbox"/> Yes <input type="checkbox"/> No	

If more ESB subs/suppliers/vendors, add additional sheet

SECTION 4. DECLARATION OF AFFIDAVIT

By signing below the Consultant affirms the statements made in this document are true and complete:

The Consultant shall make good faith efforts to meet the contract goal for each task order under the overall contract. The Consultant understands that making good faith efforts to achieve the contract goal is a condition of contract award. The Consultant understands that promised participation is a binding obligation of the contract if awarded. The Consultant attests that the information above is true and understands that a fraudulent misrepresentation or failure to make good faith efforts to meet the contract commitments or promised participation may result in the withholding of progress payments, reduction of prequalification status, referral of the matter to the Office of Inspector General of the USDOT and/or other contractual remedies.

I, _____
(Owner or Executive Officer Name AND Title)

of _____
(Consultant Company Name)

(Tracked Signature Accepted)

(Date)

Attached with proposal (RFP) and small business plan (for scoring)

Jul-22