



**El Paso County**  
**Contracts and Procurement**  
**15 East Vermijo Avenue**  
**Colorado Springs, Colorado 80903**  
**REQUEST FOR PROPOSAL #RFP-23-070**  
**COVER SHEET**

Release Date	May 24, 2023
Solicitation Number	RFP-23-070
Solicitation Title	<b>ENGINEERING AND DESIGN SERVICES FOR THE COLORADO CENTRE DRAINAGE IMPROVEMENTS PROJECT</b>
Services to be performed for	El Paso County - Department Public Works- Engineering Department
Responses will be received until	3:00 P.M., MST, Tuesday, June 21, 2023 Electronically through the Rocky Mountain E- Purchasing System
For additional information please contact	Becky Schaffstein, CPPB, Lead Procurement Specialist Email: <a href="mailto:beckyschaffstein@elpasoco.com">beckyschaffstein@elpasoco.com</a> 719-520-6392
Documents included in this package	Response for Proposals Cover Sheet Executive Summary Specifications Special Terms and Conditions General Terms and Conditions Response Submittal Requirements Attachments

The undersigned hereby affirms that (1) he/she is a duly authorized agent of the Consultant, (2) he/she has read all terms and conditions and technical specifications which were made available in conjunction with this solicitation and fully understands and accepts them, (3) that the offer is being submitted on behalf of the Consultant in accordance with any terms and conditions set forth in this document, and (4) that the Consultant will accept any awards made to it as a result of the offer submitted herein for a minimum of ninety calendar days following the date of submission. Offers must contain, in blue ink, a manual signature of an authorized agent of the Consultant or a verifiable electronic time and date stamped signature in the space provided on all appropriate signature lines in this solicitation. **Typed names as signatures are not allowed.**

PRINT OR TYPE YOUR INFORMATION

Company Name: _____	Fax: _____
Address: _____	City/State/Zip: _____
Contact Person: _____	Title: _____
Email: _____	Phone: _____
Authorized Representative's Signature: _____	Date: _____
Printed Name: _____	Title: _____
Email: _____	Phone: _____

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Cover Sheet	Page 1
Table of Contents	Page 2
Executive Summary	Page 3
Summary of Work / Specifications	Page 5
Fee Schedule	Page 17
Special Terms and Conditions	Page 18
General Terms and Conditions	Page 27
Consultant Information	Page 33
Proprietary / Confidentiality Statement	Page 37
No Bid Statement	Page 38
Submission Form	Page 39
Exhibit 1 – Exceptions Form	Page 40
Exhibit 2 – Debarment Certification	Page 41
Exhibit 3 – Lobbying Restriction Certification	Page 42
Exhibit 4 – Non-Collusion Affidavit	Page 43
Exhibit 5 – Minimum Insurance Requirements	Page 44
Attachment A, Insurance Requirements	Page 46
Reference and Instructions Regarding Attachment B, Agreement	Page 47
Substitute W9 Form	Page 48

**OFFICIAL SOLICITATION DOCUMENTS:** El Paso County officially distributes solicitation documents through the Rocky Mountain E-Purchasing System and the County’s website. **Copies of solicitations obtained from any other source are not considered official copies.** Only those Consultants who obtain solicitation documents from the Rocky Mountain E-Purchasing System or El Paso County website will be in receipt of officially posted and relevant information regarding solicitations issued by El Paso County. The County cannot be held responsible for incorrect information, nor can it attest to the accuracy of information found on websites other than the Rocky Mountain E-Purchasing System or the County’s website.

**PURPOSE OF SOLICITATION:** El Paso County is soliciting responses from qualified Consultants with experience in drainage design and roadway improvements for the Colorado Centre Drainage Improvements Project. The Project scope will include: drainage study and analysis, survey, geotechnical study; alternative analysis, and preliminary and final engineering design.

There will be direct El Paso County oversight of the Project with potential for Federal audit.

This Project **is not** subject to Davis Bacon requirements. There is no DBE goal or OJT requirement associated with the Project.

**TERM OF CONTRACT:** The awarded contract shall commence on August 1, 2023 and shall remain in effect through December 31, 2024.

**NON-APPROPRIATION.** Pursuant to C.R.S. § 29-1-110, as amended, the financial obligations of the County and PPRTA as set forth herein after the current fiscal year are contingent upon funds for the purpose of being appropriated, budgeted and otherwise available. The awarded agreement will automatically terminate on January 1<sup>st</sup> of the first fiscal year for which funds are not appropriated. The County shall give the Consultant written notice of such non-appropriation.

**SCHEDULE OF ACTIVITIES:** The following activities and dates tentatively outline the process to be used to solicit Consultant responses and to review each Consultant Response.

May 24, 2023	Release Request for Proposals
June 7, 2023 @ 3:00 p.m.	RECOMMENDED Pre-Solicitation Conference
June 9, 2023 @ 3:00 p.m.	Deadline for Submitting Questions
June 21, 2023 @ 3:00 p.m.	Response Submission Deadline
July 2023	Issue Notice of Intent to Award

**PRE-SOLICITATION CONFERENCE:** A pre-solicitation conference will be held as shown above in the Schedule of Activities, at 3275 Akers Drive, Colorado Springs, CO 80922. A representative of the Consultant is encouraged to attend this conference in order to become familiar with the Scope of Work.

**EXAMINATION OF SITE IS RECOMMENDED:** To ensure competitive responses, the County’s Contracts and Procurement Division recommends Consultants to visit the Project site to determine existing conditions prior to bidding. The site is bounded by Bradley Road to the South and Flagstone Street to the North, with Horizonview Drive

acting as the center of the site and encompasses 12 roadways abutting Horizonview Drive. The County will not provide any additional allowances to the Consultant based on the Consultant's lack of knowledge of site conditions.

**EXAMINATION OF CONTRACT DOCUMENTS IS RECOMMENDED** The Consultant is advised to carefully examine the requirements outlined in this request and associated attachments. It is not the intent of the specifications to cover each and every detail of the proposed work. Any problems that may arise must be promptly reported to the County and will be subject to the decision of the County. The Consultant is expected to carefully examine the size and scope of the proposed work prior to submitting its proposal. The Consultant certifies that it has examined the location of the proposed Work and is familiar with the requirements, specifications, and all contract documents related thereto, and the local conditions at the place where the Work is to be done. The Consultant should carefully check all the requirements and understand that the County will not be responsible for any errors or omissions on the part of the Consultant in making their proposal.

**RESPONSE TO QUESTIONS:** Questions which arise during the Response preparation period regarding issues around this Solicitation, purchasing and/or award should be directed electronically, via the Rocky Mountain E-Purchasing system, to Becky Schaffstein, CPPB, Lead Procurement Specialist, Contracts and Procurement Division, El Paso County. The Consultant submitting the question(s) shall be responsible for ensuring that the question(s) is received by the date and time listed above in the Schedule of Activities for submitting the question(s).

El Paso County is soliciting responses for qualified Consultants with experience in drainage design and roadway improvements for the Colorado Centre Drainage Improvements Project. The Project scope will include: drainage study and analysis, survey, geotechnical study, alternative analysis, and preliminary and final engineering design.

It is expected that the Consultant and their team members have significant experience with this type of Project and that licensed professionals will be overseeing and managing the work. Consultant shall have a minimum of five (5) years of experience related to drainage design work and must have worked on at least three (3) projects of similar characteristics and scope in the last five (5) years. Project experience must be detailed in responses received via the proposal received and forms contained herein.

The successful Consultant shall be solely responsible for scheduling and coordinating the work of any sub-consultants, suppliers, and other individuals or entities performing or furnishing any of the work under contract with the successful Consultant.

The successful Consultant shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, temporary facilities, and all other facilities and incidentals necessary for performance, testing, start up, and completion of the services outlined in this solicitation.

## **I. BACKGROUND**

The Colorado Centre Drainage Improvements Project (“Project”) is located within the Colorado Centre Residential Development (Filings No. 1 through 6) in the Colorado Springs area of El Paso County, Colorado. The Development is located approximately 10 miles southeast of downtown Colorado Springs at the intersection of Bradley Road and Horizonview Drive. The 190-acre development encompasses 500 private residential parcels and 4.2 miles of County-maintained roadway.

The Project is being funded through the following sources: American Rescue Plan Act (ARPA) Funding, which are Federal Funds. There will be direct El Paso County (EPC) oversight of the Project with potential Federal audit. There is no Colorado Department of Transportation (CDOT) oversight of this Project. Further, this Project has a 0% DBE goal and is NOT subject to Davis-Bacon requirements for any relevant trades.

The existing condition of the Project site is primarily composed of urban local classified roadways with attached sidewalk and mountable curb. Drainage is mainly controlled through street flow that enters fourteen (14) total inlets to outfall from the site through four (4) outlets. The Development is split into two sides by Horizonview Drive, with varying conditions between existing infrastructure between the east and west sides. Over time, the asphalt and sidewalk of the western side has experienced raveling assumed to result from settlement and existence of expansive soils, and drainage issues are shared with the eastern side due to the reliance on street-flow and minimal underground storm systems throughout the development. This Project will contemplate evaluation of existing drainage, geotechnical, and roadway conditions, including subgrade, and expansion of the existing storm system, both overland and underground, to improve drainage conditions throughout the Project site.

The Development parcels are privately owned, with El Paso County owning 50 ft Right of Way (“ROW”) for all roadways within the Development. The Project site is bounded by City of Colorado Springs ROW to the west, Colorado Centre Metropolitan District property to the east, and Private Development parcels to the north. Construction of improvements shall not impact private property, but access to the drainage outfalls, and possible

staging for construction on adjacent private property(ies) will be required. Acquisition of temporary easements on behalf of the County is anticipated for these purposes. There may be impacts to privately owned improvements, such as fences, driveways, and landscaping, within the Development.

Underground utility impacts are anticipated with this Project. Improvements and access shall minimize utility impacts to the extent practicable. Coordination with utility companies will be required. There may be a need to acquire new utility easements based on recommendations from the drainage study, alternative analysis, and preliminary engineering.

The Project is adjacent to and outfalls into Jimmy Camp Creek's Zone AE Floodplain (FEMA Map Panel 0769G).

## II. REQUIRED DOCUMENTATION

Failure to provide required information may deem your submittal non-responsive. Submittals must contain, in blue ink, a manual signature of an authorized agent of the Consultant or a verifiable electronic time and date stamped signature in the space provided on all appropriate signature lines in this solicitation. **Typed names as signatures are not allowed.**

1. Consultant Information Form
2. Proprietary / Confidential Statement
3. Exhibit 1 – Exceptions Form
4. Exhibit 2 – Debarment Certification
5. Exhibit 3 – Lobbying Restriction Form
6. Exhibit 4 – Non-Collusion Affidavit
7. Exhibit 5 – Minimum Insurance Requirements
8. Completed and signed Cover Sheet
9. Addendum(s) Acknowledgement, if applicable
10. Submission Form
11. Completed W9
12. Universal Entity Identifier (UEI) Number
13. Proof of SAM.gov eligibility (documentation of good standing)
14. Work Plan and Schedule - Schedules submitted for this request shall assume a contract award in early August

## III. SCOPE OF WORK

### A. PROJECT MANAGEMENT/ADMINISTRATION

This task shall include general administration, coordination, documentation, scheduling, reporting, and related activities for the overall successful completion of the project.

**Project Manager:** The Consultant shall identify a project manager for this project who will work directly for and support the County Project Manager (EPC PM) in the management and administration of the project. The Consultant's project manager shall be responsive on a daily basis Monday through Friday to the County Project Manager throughout the project. The Consultant shall also identify an assistant project manager capable of filling in for the project manager in the event that the project manager is not available due to travel, illness, or other event that will be longer than one week in length.

**Schedule:** The Consultant shall provide, track, and update the project schedule and milestones utilizing *Microsoft Project* critical-path-method project management software or similar. The schedule shall be developed in sufficient detail to track all project tasks reflected in the statement of work submitted in the approved proposal. Additional tasks and sub-tasks shall also be included in the schedule where appropriate. An updated schedule along with a narrative report detailing progress, key issues, as well as a one-month "look ahead" of upcoming work efforts, shall be provided to the EPC PM with the monthly invoice at the end of each month for the project duration.

The Consultant will be held responsible for meeting the milestone dates established and approved by the County for the duration of the Project. If milestones cannot be met or the schedule slips, the Consultant shall provide an update to the EPC PM with justification for not meeting the milestone date(s) and a recommended way forward for the County's approval. If the schedule slip is determined to be within the Consultant's control, the Consultant shall be prepared to assign additional staff, as appropriate, to "catch up".

**Invoicing and Payment:** The Consultant shall prepare and submit to the County, no more than monthly, charges for costs incurred relative to the project. An itemized invoice with backup, including schedule must be submitted to the County PM and approved by County staff prior to payment. Supporting documentation may include timesheets, receipts, subconsultant invoices, travel log or other similar documents.

**Project Updates and Presentations:** The Consultant shall be prepared to provide periodic project updates ready for publishing to the El Paso County website. This data shall be provided in an editable format and/or PDF format and may include aerial photography, AutoCAD/digital planimetric, digital photographs, as well as verbiage. The Consultant shall also be ready to prepare presentation materials including PowerPoint presentations in accordance with project outreach and communications efforts.

## **B. PROJECT COORDINATION**

The Consultant shall work closely with the EPC PM to identify impacted or interested parties and to develop strategies and action plans for facilitating communications, obtaining information, and coordinating regulatory approvals, utility issues, and property acquisition as required for advancing the project. Continuous coordination with Utility Providers will be required from concept to final design and into construction. The Consultant should also expect coordination with permitting agencies, individual property owners / developers, and the City of Colorado Springs.

The Consultant shall take the lead in scheduling and coordinating all meetings necessary to coordinate with the stakeholders, other affected parties, agencies, and utilities with respect to the project schedule. The Consultant shall facilitate these meetings and provide meeting agendas to all participants prior to the meeting. The Consultant shall provide meeting minutes and track discussion and action items generated by the meeting attendees. The Consultant shall not schedule or attend meetings with agencies, developers, or other outside parties without the direction and approval of the EPC PM. EPC PM shall review the project schedule and the Consultant will maintain it throughout the project.

Progress meetings will be held with the EPC PM every two weeks and informal progress plans will be provided for discussion. Assume half telecom and half face-to-face meetings for the duration of the design. Milestone meetings will be required, such as, the kickoff meeting with El Paso County (EPC), alternatives analysis and/or scoping review, Field Inspection Review (FIR) plan evaluation, drainage study evaluations, and Final Office Review (FOR) plans and specifications review with EPC. The Consultant shall not proceed with project tasks until approved by the EPC PM.

Unless otherwise specified in writing, all deliverables shall be submitted to the EPC PM for distribution. Following review by County staff and other team members, requested changes, modifications or additions to plans shall be made by the Consultant.

## **C. ENGINEERING REQUIREMENTS / TASKS**

The goal of this task is to develop drainage studies and drainage report, geotechnical report and pavement design, survey control and subsurface utility engineering, alternative analysis, and construction plans and specifications. This task will require assessment of existing available information necessary to define the drainage capacity, soil conditions, utility issues, property boundaries and ownership and easement requirements, and environmental and permitting requirements. The design (Construction Plans) shall be in general accordance with the Colorado Department of Transportation (CDOT) Standard Specifications for Road

and Bridge Construction (2022), CDOT M&S Standards (2019 and recently updated M&S Standards) and the El Paso County Engineering Criteria Manual (ECM) (October 2020).

Permission to Enter (PTE) forms must be prepared by the Consultant and have signed approval by the property owners adjacent to the outfall areas prior to entry. PTE forms will be needed for all work on private property, including, but not limited to: survey work, utility locates, geotechnical explorations, environmental permitting surveys and easement staking. Multiple work activities may be included on a single PTE form.

**Work in the Right of Way Permits:** The Consultant AND its subconsultant(s) shall obtain Work in the Right of Way permit(s) from El Paso County (EPC) for all work in the EPC ROW. This includes, but is not limited to surveying, potholing, etc. EPC work in the Right-of-Way permit fees will be waived.

The EPC Work in the ROW permit will require the following:

- Provide traffic control in accordance with the Manual on Uniform Traffic Control Devices. A Method of Handling Traffic plan shall be submitted with the Work in the ROW application.
- The Consultant shall have, and will need to provide proof of, the appropriate bond (\$20,000) and insurance (\$1,000,000) per Section 5.2.7.F of the El Paso County Engineering Criteria Manual ECM. *Bonding will be waived in its entirety for all work that does not cause a disturbance i.e. topographic surveying, environmental surveys, traffic counts or similar.*

The EPC Work in the ROW permit application can be found here:

<https://publicworks.elpasoco.com/forms-applications/>

EPC applications shall be submitted to a central email address: [rowpermit@elpasoco.com](mailto:rowpermit@elpasoco.com)

**Design Survey:** The Consultant shall provide a design survey to establish control, determine property boundaries, identify existing monumentation, verify existing topography and planimetric, determine public and private utility locations, depths, and existing conditions, including stormwater systems and their outfalls, and identify fencing, trees, and vegetation. The topographic survey coverage should extend to a sufficient distance either side of the existing County ROW limits to provide adequate data for the proposed improvements. The Consultant shall provide base mapping for 0.1-foot final design drawing accuracy and to include a one (1) foot contour interval for topography. The mapping shall utilize ground coordinates and NAD83/ NAVD88.

**Geotechnical and Subsurface Investigation:** The Consultant shall perform a geotechnical engineering study for the Colorado Centre development to develop rehabilitation recommendations for the existing pavement, sidewalks, and drainage facilities. The study and subsequent report shall include field exploration with exploratory borings and sampling, laboratory testing in accordance with ASTM and AASHTO test procedures and standards, analysis of subsurface conditions, and recommendations for site grading and pavement design. *For estimating, the Consultant shall assume that forty-five (45) exploratory borings will be required.* The County will provide previous geotechnical reports used within the Project area for background.

**Utility Engineering and Coordination:** The improvements may impact on existing utilities. The Consultant shall contact and coordinate with utility companies throughout the design. Upon notice to proceed, a letter with exhibit notifying utilities of potential impacts and requesting information will be sent by the Consultant via email to all known utility providers within the project area. The County will provide the letter template.

The Consultant shall provide Utility Engineering per ASCE 38-22 and ASCE 75-22. The Consultant shall provide ASCE 38 Quality Level A (QL A) within the Development Parcels and County ROW. The location of service lines and privately owned and maintained utilities such as sprinkler systems or similar shall be included in the work. Potholing / Utility Test Holes shall be completed upon FIR Plan approval to establish QL A. *For estimating, the Consultant shall assume that sixty (60) potholes will be required.* If the Proposer believes that additional potholes will be necessary, this should be stated in the proposal and included in the estimated cost.



Plans shall clearly identify the existing location and proposed relocation of the utilities. The Consultant shall determine utility requirements that may be necessary for relocation. The preliminary construction plans and utility engineering plans shall be distributed to all affected utility companies in the corridor for review and comment. A utility coordination meeting and individual utility provider meeting(s) will be held as required, and the Consultant shall implement the results of the investigations and recommendations into the plans.

The final plans shall be distributed to all affected utility companies in the corridor for final review and comment. If required, a utility coordination meeting will be held prior to advertisement for construction. Comments will be incorporated, as appropriate, in the final bid documents. The Consultant shall coordinate requirements for utilities relocation with the County and Utility Providers.

**Environmental Clearances / Permitting:** The Consultant shall obtain, on behalf of the County, all necessary environmental clearances and permits to advance the Project. The Consultant shall investigate conditions within the project area and identify any required environmental permitting or environmental clearance requirements necessary to advance the Project. Formal NEPA clearance is NOT required, but the Work shall be in general accordance with the requirements of the current federal and state environmental regulations including the National Environmental Policy Act of 1969 (NEPA)<sup>2</sup>. *For estimating purposes, the Consultant shall assume a level of effort associated with a FEMA No-Rise Certification.*

**Drainage Memo and No Rise Certification:** Compilation and review of existing drainage reports, drainage basin studies, and FEMA floodplain information for the project area will be required. Project-specific hydrology and hydraulics calculations and analysis will be required. The Consultant shall provide a drainage report that shows the existing drainage capacity of the development and the effect of proposed improvements. The report shall generally follow the format and topics outlined in the Final Drainage Report Checklist and address all County ESQCP criteria. The Consultant shall complete and submit the Drainage Report Checklist, and the final report shall be signed and sealed by the Professional Engineer responsible for the report. The Final Drainage Report Checklist can be accessed on the Planning and Community Development Department's website using the following link:

<https://assets-planningdevelopment.elpasoco.com/wp-content/uploads/Checklists/FDR.pdf>

Drainage analysis and reports shall be utilized by the Consultant to prepare alternatives analysis memos and/or reports for the construction of improvements. This analysis should address findings from preliminary analysis and investigations within or about the project site, define and develop project criteria based on the purpose of drainage improvements within the site, and identify and evaluate potential alternatives to determine potential improvements or impacts. Alternative analysis shall include budget estimates for planning and scoping purposes.

This Project is adjacent to and outfalls into Jimmy Camp Creek's Floodplain and therefore, a Floodplain Development Permit through the Regional Building Department (Pikes Peak Regional Development Center) may be required. The Consultant shall provide a "no rise" certification letter stating that the improvements will not cause a rise or fall of more than six inches to the 100-year base flood elevation should a development permit be required. It shall be signed and sealed by a Professional Engineer.

**Preliminary (60%) Design Plans:** The Consultant shall develop a design package that defines the improvements that will be advanced to final design/bid set and incorporates the findings from the investigations and items identified above. Construction plans standard plan sheet size shall be 11x17. Production of plan and profile sheets will be developed on a 1" = 100' scale horizontal, and 1" = 20' scale vertical, unless otherwise approved. At a minimum, construction drawings shall include base mapping and plan drawings showing existing conditions, horizontal and vertical alignment information, proposed improvements, existing utility infrastructure, existing property lines and proposed easements, environmentally sensitive lands that are affected by the improvements, as well as typical section(s). All data (i.e., control, construction centerline line and curve data) for construction shall be delineated and labeled on the plan and profile drawings. Horizontal control drawings

may not be necessary. Special details required for construction shall be prepared and included in the plan set. Utility relocations, as well as existing utilities, shall be included and clearly delineated in the plan set.

- **Quantities:** The plans shall include a Summary of Approximate Quantities (SAQ). Tabulations of Quantities shall be created for the benefit of the Consultant and for appropriate line items only. The SAQ will likely serve this purpose for most items.
- **Staging and Phasing Plans and Traffic Control:** The Consultant shall provide recommendations and prepare construction phasing and construction traffic control plans to be incorporated in the construction plan set. Recommendations for the most cost-effective construction traffic control shall be provided. **The phasing plan and traffic control plans shall be very high level and will be for the Consultant's consideration for bidding purposes only.** The construction traffic control plans will be prepared for the project in specific conformance with the *Manual of Uniform Traffic Control Devices* (MUTCD). These plans shall clearly delineate traffic control signage (For Information Only) for each construction phase. Traffic control devices such as cones, barrels, etc. will NOT be delineated nor quantified.

The construction traffic control plans shall be separate sheets, and each phase of traffic control which is assumed to be in place for more than 48 hours shall be delineated separately within the plans and included within the plan set. (This plan is not to be confused with the requirement of a method for handling traffic (MHT) which shall be provided by the prime contractor during construction.)

- **Cross sections** shall be included in the plan set for preliminary and final construction plans. Provide cross sections at minimum 50-foot increments and at helpful locations. Site grading and any required cut/fill information shall be included for each section, either on the cross-section sheets or in a summary report for final design.

**Erosion Control / Stormwater Management / Water Quality:** The Consultant shall prepare a design that defines the best management practices (BMPs) that will be incorporated into the plans for managing construction stormwater quality. The Consultant shall fill out the Post Construction Stormwater Management Applicability Evaluation Form to determine water quality applicability. Design for permanent water quality will *not* be required. A Grading and Erosion Control (GEC) Plan, applicable CDOT M&S Standard sheets, additional detail sheets (as appropriate) and CDOT's standard SWMP sheets shall be incorporated into the construction plan set. The GEC shall include all drainage and water quality related information for all existing and proposed drainage structures, channels, etc. and applicable BMPs. It shall also be produced at a scale no smaller than 1" = 100' and shall be formatted so that it may be an independent document.

The Post Construction Stormwater Management Applicability Evaluation Form and GEC Control and SWMP Checklist can be accessed on the EPC Stormwater page of the Public Works website using the following links:

[https://assets-publicworks.elpasoco.com/wp-content/uploads/Stormwater/Current\\_Website/PBMP-Applicability-Form-1.pdf](https://assets-publicworks.elpasoco.com/wp-content/uploads/Stormwater/Current_Website/PBMP-Applicability-Form-1.pdf)

[https://assets-publicworks.elpasoco.com/wp-content/uploads/Stormwater/Current\\_Website/GEC-Checklist-Template-1.pdf](https://assets-publicworks.elpasoco.com/wp-content/uploads/Stormwater/Current_Website/GEC-Checklist-Template-1.pdf)

[https://assets-publicworks.elpasoco.com/wp-content/uploads/Stormwater/Current\\_Website/SWMP-Checklist-Template.pdf](https://assets-publicworks.elpasoco.com/wp-content/uploads/Stormwater/Current_Website/SWMP-Checklist-Template.pdf)

An ESQCP will be required for construction of the improvements as this project will exceed 1 acre of disturbance. The ESQCP application will be filled out and submitted by the construction contractor.

**Specifications:** The Consultant shall produce Project Specifications in accordance with the Colorado Department of Transportation *Standard Specifications for Road and Bridge Construction* (2022), supplemented by the El Paso County *Engineering Criteria Manual* and the CDOT Construction Manual, as applicable. The

Project Specifications will include the technical specifications and CDOT standard special provisions. As required, the Consultant shall prepare project special provisions to address project specific construction requirements that vary from or are not addressed in the CDOT Standard Specifications. All applicable inserts for the specifications shall be included in the Plans, Specifications and Estimate (PS&E) submittal/specification set such that the submittal shall be ready for advertisement.

- **A Testing Frequency Schedule** will be created that defines the required Contractor Quality Control testing frequencies for applicable materials. It will generally follow the CDOT Construction Manual in format.

**Cost Estimate and Construction Timeline/Schedule:** Cost estimates and construction schedule shall be provided based upon the construction drawings, phasing and access requirements/limitations. The estimate and schedule will include all elements that will impact the project, including, but not limited to: utility relocations, construction, and contingencies. Estimates will include all construction material items, construction survey, mobilization, construction traffic control, and force account work required. Costs for utility relocations and construction management shall supplement the estimate. The CDOT cost data book and/or similar recently bid or constructed projects will be the basis for the unit prices unless more accurate local information is available. A detailed construction cost estimate shall be updated based upon the completed and approved final design construction drawings.

**Property Impacts, Easement Plan and Acquisition Legal Exhibits:** The Consultant shall provide a list and exhibit(s) to the EPC PM identifying all properties that are likely candidates for construction access to the development parcels and/or staging for the Project. The Consultant shall use deeds and/or other public records to determine property boundaries. If approved by the County PM, the Consultant may obtain TBD title commitments for an approved list of properties to assist with property boundaries. Applicable information will be included in the plans. *For estimating purposes, the Consultant shall assume that five (5) TBD commitments will be required.*

The Consultant shall prepare an easement overview plan showing ROW, property boundaries and proposed temporary easements on behalf of El Paso County.

**Legal Descriptions and Sketch Exhibits Preparation:** The Consultant shall prepare all legal descriptions and sketch exhibits required for the property acquisition process as specified in the Uniform Act. As applicable, the County will honor existing “prescriptive” ROW, per the title commitments, BoCC resolution and/or fence lines, and the exhibits shall reflect this as ROW. The format shall follow CDOT criteria. Individual sketches shall be prepared for each easement to be acquired, i.e., not combined on one sketch. Upon approval by the County, the legal descriptions shall be signed and sealed by the Professional Land Surveyor (PLS) of record prior to submittal to the property owners. *For estimating purposes, the Consultant shall assume that five (5) legal descriptions shall be written.* Example legal can be found at:

<https://www.codot.gov/business/manuals/right-of-way-manual/rowplans-chapter2/CDOT%20Legals>

**Property / Valuation Staking:** The Consultant shall provide preliminary survey and temporary staking, as required, for temporary easements for valuation, property owner viewing, and/or design accuracy. Staking or marking of the Development’s property boundary may be required. *For estimating purposes, the Consultant shall assume that five (5) acquisitions shall be staked, and the entire perimeter of the dedicated drainage easements may require staking.*

**Deliverables:** All deliverables shall be provided electronically. They shall be clearly organized and indexed for easy access and retrieval. The Consultant shall schedule work efforts and resources to produce the required reports and documents identified for this task immediately following Notice to Proceed. Prior to document submission, the Consultant shall also provide draft and/or progress documents to the County in sufficient time to allow County review and incorporation of comments into the document submittal. For scheduling purposes, the Consultant should allow 10 to 15 working days for County review, depending on the size and complexity of the report/document submission. Draft and final submissions should be reflected on the project schedule.

**Informal progress plans / specifications / reports (as applicable) will be provided by the Consultant for discussion at all progress meetings.** Hard copy or electronic format will be dependent upon the type of meeting (i.e., telecom or face to face).

- **Preliminary (60%) Deliverables include:**

- Utility Engineering
- Environmental / Permitting Reports
- Drainage Memo
- Geotechnical Report
- Stormwater Checklists
- Phasing Recommendation, Cost Estimate, and Construction Timeline
- Design Drawings (11x17 set), including cross sections.
- Grading and Erosion Control Plan
- Project Specifications & CDOT Standard Special Provisions Outline
- Construction Cost Estimate and Schedule / Timeline
- Easement Plan
- Legal Descriptions and Sketches
- Property Staking
- Plan review meeting

- a. **Final / Bid Set Construction Documents:** Based on the preliminary design and contract documents approved by the County, the Consultant shall prepare Final documents in electronic format for bidding. The Consultant shall comply with the following requirements, as applicable:

- Provide the Plans and Reports to the extent required by the nature of the Work.
- Afford the County ample opportunity to review the Plans and make any changes in the Plans as directed.
- Plans and Reports produced and sealed by a Colorado Registered Professional Engineer to ensure Utility Clearance, Environmental Clearance, and Right-of-Way Clearance generally following CDOT requirements.
- Provide final assembly of Plans and Contract Documents.
- Be responsible for the Plans being accurate and complete.
- Make no further changes in the Plans following the award of the construction contract except by agreement in writing between the parties. The Plans shall be considered final when approved and accepted by the parties hereto.
- All deliverables shall be signed and sealed by a Colorado Registered Professional Engineer or Professional Land Surveyor unless otherwise noted. Bid Set deliverables shall be provided with a .pdf format, unless specified otherwise.

**Final Design Deliverables (Bid Set Requirements) include:**

- a. Utility Engineering
- b. Environmental Reports
- c. Final Drainage Report
- d. Final Geotechnical Report/Pavement Design Report
- e. Stormwater checklists (signed and sealed by PE and signed by EPC PM)
- f. "No Rise" Certification (signed and sealed by PE)
- g. Construction Plans
- h. Grading and Erosion Control Plan (GEC)
- i. Project Specifications & CDOT Standard Special Provisions
- j. Construction Cost Estimate (.pdf and Excel file)
- k. Construction Schedule / Working Days
- l. AutoCAD files (to be provided with advertisement for construction)

- m. One copy of the Final Plans in a .KMZ format showing all proposed work and right-of-way limits. To have the .KMZ file accurately reflect the plans, an accurate geo-location needs to be embedded in the plan's CADD file. The .KMZ file should be compatible with Google Earth.

#### **D. PROPERTY ACQUISITION SERVICES**

Based on the Easement Plan and preliminary construction plans approved by the County, the Consultant will provide property acquisition services for temporary easements and/or utility easements. All acquisition/relocation activities must comply with all federal and state statutes, regulations, 49 CFR Part 24, and the government wide Uniform Act regulation.

**Letters, Memorandum of Agreement (MOA), and Conveyance Document Preparation:** The Consultant shall prepare all letters required for the property acquisition process as specified in the Uniform Act. The Consultant shall prepare the MOA and conveyance documents for recording temporary easements and permanent utility easements, if required. The format shall follow El Paso County criteria. The County PM and County Attorney shall approve the documents prior to submittal to the property owners. Examples of the acquisition letters, MOAs, and conveyance documents shall be provided to the selected Consultant.

**Valuations:** Waiver valuations or value finds are anticipated and will be allowed for property acquisitions with values estimated to be less than or equal to \$10,000. *For estimating purposes, the Consultant shall assume that five (5) waiver valuations will be required.*

Appraisals are not anticipated. An appraisal will be required if the total acquisition value on a parcel is estimated to exceed \$10,000. If required, the Consultant shall coordinate with an independent Certified General Appraiser for property appraisals. The appraiser shall be competent to prepare eminent domain appraisals. The appraisals shall be based on fair market values for the immediate area. *For estimating purposes, the Consultant shall assume that appraisals will NOT be required.*

**Negotiations:** The Consultant shall perform all negotiations with affected property owners. All offers must be approved by the County Project Manager prior to presentation to the property owners. Minimum offers are as follows:

- Temporary easement(s) only: \$500.00
- Permanent easement(s) only or including temporary easement(s): \$800.00.
- Right-of-Way (fee simple) only or including permanent and/or temporary easement(s): \$1,000.00.

When offers are accepted, the Consultant shall provide original signed documents (MOA, PE's and TE's) to the County PM for approval by the Board of County Commissioners (BoCC). A copy of the signed Special Warranty Deed shall be provided in lieu of the original. If a Statement of Authority or similar is required, it shall be recorded in the office of the El Paso County Clerk and Recorder or otherwise approved as appropriate, prior to submitting the acquisition package to the County PM. Upon approval by the BoCC, a copy of the recorded MOA and BoCC resolution will be provided to the Consultant for their records. The original PE's and TE's will be returned to the Consultant to proceed with closings.

**Closings:** The Consultant shall organize acquisition closings with the County and the affected property owners. Unless waived by the County PM, closings through a title company are required if Right-of-Way and/or Permanent Easements are acquired on behalf of the County. *For estimating purposes, the Consultant shall assume that closings through a title company will NOT be required.*

- The Consultant shall ensure that the property owner has paid all prior year(s) property taxes and current year prorated property taxes prior to, or at closing, for Right-of-Way and/or Permanent Easement acquisitions on behalf of the County.

- The Consultant shall obtain partial lien releases for land encumbrances for all acquisitions that include Right-of-Way. Subordination agreements shall be obtained for Permanent easement(s) only or that also include Temporary easement acquisitions on behalf of the County.
- Coordination with the County Attorney will be required to obtain County signatures on closing documents for closings through a title company.
- The Consultant shall provide title insurance for each parcel requiring Right-of-Way and/or permanent easement acquisition on behalf of the County.
- All fees associated with partial releases, subordination agreements, closing costs, and title insurance shall be invoiced through the Consultant for reimbursement by the County. El Paso County recording fees shall be waived.

**ROW & Easement Status Report:** The Consultant shall keep a ROW and easement status report spreadsheet including, but not limited to: all pertinent property information, type, area, and status of the acquisition, milestone dates, negotiation details, and next steps with an anticipated timeline. Anticipated costs for property and other negotiated items shall be included. An electronic example copy will be provided by the County if requested. The updated report shall be presented to the County Project Manager on a weekly basis, as appropriate. Bi-weekly meetings shall be anticipated.

#### IV. EVALUATION CRITERIA

The evaluation committee will score Responses based on the following criteria listed in order of importance:

- Understanding and Approach: Provide a summary narrative describing the Company's understanding and approach for completing the proposed work as described in this RFP.
  - Provide a clear understanding of the Project requirements and unique approach to the management of the project (i.e., budget, schedule, etc.)
  - Provide an overall estimated timeline to include key tasks and milestones.
  - Provide the same information as requested above for subconsultants, as applicable.
- Ability of the Company's Key Personnel/Team to meet or exceed the requirements defined in this RFP:
  - Describe/summarize Key Personnel's relevant experience. Include relevant projects with similar services, timelines and/or magnitudes. This may include experience with a different company.
  - Generally, describe project scope and key personnel's role in the project. Summarize/list applicable qualifications, licenses, training and/or certifications of Key Personnel. The County may request proof of the listed training, certifications, and/or licenses prior to performing work.
  - Resumes for Key Personnel may be included if additional information is deemed necessary. If included, resumes shall be located in an appendix and referenced in the proposal as applicable.
  - Provide the same information as requested above for subconsultants, as applicable.
- Ability of the Company to meet or exceed the requirements defined in this RFP:
  - Provide a brief description of your firm including location(s), office locations, size of firm, and financial stability (annual public reports or private financial statements shall be included in an appendix or under separate cover; private financial information will be kept confidential by the County).
  - Summarize/list the Company's applicable qualifications and/or certifications. The County may request proof of the listed certifications prior to performing work.
  - Describe/summarize the Company's relevant experience. Include a maximum of three (3) relevant projects with similar services, timelines and/or magnitudes, as applicable.
  - Provide the same information as requested above for subconsultants, as applicable.

- References: Provide minimum of three (3), maximum five (5) references where your firm provided similar services, one of which must be a government entity of the same size and scope as El Paso County. Summarize type of service(s) provided and past performance. Provide Firm names, contact names and titles, phone numbers, and email addresses.

Upon completion of the initial review of proposals, the committee may contact at least the three (3) highest ranked firms and schedule interviews with each. Based on the County's initial review of the foregoing, if an Offeror's score is within five (5) points of the highest ranked firm, the County has the option to schedule interviews with the firm(s).

The selection criteria utilized during the interview may differ yet include the following factors:

- Past performance / clarifications of relevant or example projects,
- Willingness to meet the time and budget requirement,
- Current and projected workload,
- Volume of previously awarded contracts, and
- Involvement of minority consultants,
- Comfort level with presentation and attitude.

## V. RESPONSE FORMAT

Failure to respond in the required format or failure to provide required information may deem your submittal non-responsive.

**To facilitate an effective review process, responses must be submitted on 8.5" x 11" paper, with a minimum font of 10, and all pages should be numbered in the following manner: page \_\_\_\_ or \_\_\_\_ pages, with a maximum of fifty (50) pages. All acronyms in the response must be defined.**

Attachments/Exhibits included in this solicitation, that require signature and/or are a required document to be returned with your Responses shall be included as an exhibit to your Responses and will not be included in the page limit. Requested items in the appendices will not be included in the page limit. Schedules may be submitted on 11" x 17" sheets and are counted as one page.

Submittals should be prepared simply and economically providing a straightforward, concise description of the Consultant's ability to fulfill the requirements of this Solicitation.

**ELECTRONIC SUBMISSION OF OFFERS:** El Paso County will only accept electronic bid Responses submitted through the Rocky Mountain E-Purchasing system. A Submittal Log will be posted after the County has had an opportunity to review and verify the submittals offered to the County.

The original Offer must be received before the due date and time through an electronic package transmitted through the Rocky Mountain E-Purchasing system. The Consultant is responsible for ensuring its Response is posted by the due date and time outlined in the solicitation document.

If the submittal arrives late, it will not be included in the electronic lockbox.

The Solicitation Opening for RFP-23-070 will take place VIA TELECONFERENCE on June 21, 2023 @ 2:00PM utilizing the call-in information below:

Participant-guest login:

1. Dial access number: 1-719-520-7660
2. Enter the participant-guest pass code: 51488#
3. Attendee access code: 1234#

Proposers are NOT required to participate. No in-person entry to our building will be permitted.

To enable the County to conduct a uniform review of the information submitted in response to this Solicitation, Consultants must address the following information, numbered to directly correspond with the number of the Table of Contents section of the submitted Response. The County reserves the right to reject submittals that do not follow the required format. Include concise, complete information which will demonstrate that your firm is uniquely qualified to provide the products and services specified in this Solicitation.

**ALL signatures on required documents must be in blue ink or a verifiable electronic time and date stamped signature in ONE PDF document.**

1. Provide response without reference to El Paso County logo or company logo in **one** PDF document.
2. Submit response in a tab format that follows a clearly outlined Table of Contents that identifies all material and attachments that comprise your response by section and by page number. I.e. – Required Documentation section, Evaluation Criteria section, etc. as outlined on the Response Submittal Requirements page.
3. Cover Letter, one-page limit. Submit a Cover Letter on official business letterhead that:
  - a. Positively states your willingness to comply with all work requirements and other terms and conditions as specified in this Solicitation.
  - b. Provides, in brief concise terms, a summation of your submittal and identifies the points that make your firm uniquely qualified for this project.
  - c. Is signed by an Authorized Representative of your firm who has the authority to commit to the proposed work.
4. Provide documentation that satisfies the Required Document Requirements
5. Provide documentation that satisfies the criteria to be evaluated.
6. Provide the completed and signed Cover Sheet
7. Addendum(s) Acknowledgement, if applicable
8. Submission Form
9. Work Plan and Schedule shall:
  - a. Be broken out by tasks for work, availability of personnel and/or sub-consultants, investigations, studies and labor, etc. to maximize design efficiency,
  - b. Include start date, key tasks, project milestones, phasing, completion date, etc.,
  - c. Be as comprehensive as practicable,
  - d. Assume a Contract Award per the RFP Schedule of Activities.
  - e. If the schedule does not meet all of the qualifications stated herein, the bid will be considered non-responsive.
10. Completed W9
11. Universal Entity Identifier (UEI) Number
12. Additional Attachments, if applicable

**VI. ATTACHMENTS:**

1. EPC Geotechnical Report for Colorado Centre
2. Colorado Centre Residential Filing No 1 through 6 Final Plats
3. Colorado Centre Residential Filing No 1 through 6 Final Drainage Reports
4. Colorado Centre Residential Filing No 1 through 6 Street Improvement Plans



**Fee Schedule: SUBMIT IN A SEPERATE SEALED ENVELOPE:** The fee schedule shall be provided as a separate document in a sealed envelope, independent of the technical proposal. Please provide a detailed fee schedule like the format shown on the fee schedule page that includes the following at minimum:

- a. Names of Key Personnel
- b. Attach subconsultant fee schedule(s) in similar format as shown on the fee schedule page.
- c. Submit a comprehensive rate sheet.
- d. Hourly rates, unit rates, and markups shall be a fixed rate and not a range.
- e. A multiplier on personnel rates for overtime/off-hours work or fieldwork conducted using upgrade levels of personal protection (i.e., Level C, B, or A) will not be considered.
- f. Non-labor expenses shall be listed at cost (no loading on non-labor)
- g. List any additions to Miscellaneous Expenses – be specific.

**PROJECT NAME**  
**FEE SCHEDULE**                      **EXAMPLE**

<b>Labor</b>						
PROJECT ROLE		Project Manager			<b>SUBTOTAL HOURS BY TASK</b>	<b>SUBTOTAL FEE BY TASK</b>
STAFF NAME		Smith				
TITLE / LABOR CATEGORY OF KEY PERSONNEL		Professiona I III				
BILLING RATE		\$55.00				
<b>1</b>	<b>TASK NAME 1</b>					
1.1						
1.2						
<b>2</b>	<b>TASK NAME 2</b>					
2.1						
2.2						
<b>3</b>	<b>TASK NAME 3</b>					
3.1						
3.2						
<b>Total Labor Hours</b>						
<b>Total Labor Fee</b>						
<b>Direct Expenses</b>					<b>\$0.00</b>	
Mileage						<b>\$0.00</b>
Equipment						<b>\$0.00</b>
OTHER						<b>\$0.00</b>
OTHER						<b>\$0.00</b>
						<b>\$0.00</b>
<b>Subconsultants</b>					<b>\$0.00</b>	
						<b>\$0.00</b>
						<b>\$0.00</b>
						<b>\$0.00</b>
						<b>\$0.00</b>
<b>TOTAL PROJECT FEE</b>						

**1. METHOD OF AWARD - BEST EVALUATIVE SCORE BASED ON WRITTEN RESPONSE:** It is the intent of the County to award this Solicitation to the Consultant who receives the highest score when the Responses submitted by interested Consultants are reviewed by the County's Response Evaluation Committee. For this Solicitation, the Evaluation Committee will score Responses based on the following criteria listed in order of importance:

- Ability of Company's Key Personnel
- Understanding and Approach
- Company's Qualifications and Experience
- Fee Proposal

A more detailed description of these criteria can be found on Page 14 of this document.

If it is in the best interest of the County, the Evaluation Committee may invite a limited number of Consultants who received the highest scores during the written phase to provide an oral presentation and discussion. The number of Consultants who may be invited to participate in this discussion will be determined by the Evaluation Committee after the written Responses have been scored.

The County reserves the right to conduct negotiations with Consultants and to accept revisions of Responses. During this negotiation period, the County will not disclose any information derived from Responses submitted, or from discussions with other Consultants. Once an award is made, the Solicitation file and the Responses contained therein are in the public record.

- 2. POST INTENT TO AWARD MEETING:** The Consultant may be required to attend a post intent to award meeting with the County to discuss the terms and conditions of the contract. This meeting will be coordinated by the Contracts and Procurement Division once a Notice of Intent to Award has been issued.
- 3. LOCATION OF WORK:** The work described in this Solicitation shall be performed within the Colorado Centre Residential Development(s) in Colorado Springs, CO, approximately ten (10) miles southeast of downtown Colorado Springs.
- 4. PROOF OF REGISTRATION WITH THE COLORADO SECRETARY OF STATE:** Successful Consultants that are corporations or limited liability companies will be required to furnish a Certificate of Good Standing from the Colorado Secretary of State's Office, as proof that they are properly registered to do business in the State of Colorado, prior to finalization of award.
- 5. LOBBYING PROHIBITED:** Consultants are prohibited from directly or indirectly communicating with members of the Board of County Commissioners regarding their qualifications or any other matter related to the eventual award of a contract for the goods and/or services requested in this Solicitation. Consultants are prohibited from contacting County employees or evaluation committee members regarding their qualifications or the award of a contract unless in response to an inquiry from an employee or committee member as part of the formal evaluation process outlined in the Solicitation. Any violation of these provisions will result in the Consultant's immediate disqualification from the selection process.
- 6. CONFLICTS WITHIN THE CONTRACT DOCUMENTS:** In the event that conflicts exist within the Contract Documents, addenda shall supersede all other Contract Documents to the extent specified. Subsequent addenda shall supersede prior addenda only to the extent specified.

- 7. ELIGIBILITY OF CONSULTANTS:** Solicitations will only be considered from firms which are engaged in the business of performing services as described in this Solicitation. The Consultants must be able to produce evidence that they have an established satisfactory record of performance for a reasonable period of time and have sufficient financial support, equipment, and organization to ensure that they can satisfactorily execute the services if awarded a contract. The term equipment and organization as used herein shall be construed to mean a fully equipped and well-established company in line with the best business practices in the industry and as determined by the proper authorities of the County. The County reserves the right, before awarding the contract, to require a Consultant to submit such evidence of its qualifications as it may deem necessary and may consider any evidence available to it (including, but not limited to, the financial, technical, and other qualifications and abilities of the Consultant, including past performance and experience with the County) in making the award in the best interest of the County.
- 8. QUALIFICATIONS OF CONSULTANT:** The County may make such investigations as deemed necessary to determine the ability of the Consultant to perform work, and the Consultant shall furnish all information and data for this purpose as the County requests. Such information includes but not limited to: current licensing information, audited financial statements, history of the firm on assessments of liquidated damages, contracts cancelled prior to completion and/or lawsuits and/or pending lawsuits against the firm and/or its principals. The County reserves the right to reject any Response if the evidence submitted by, or investigation of, such Consultant fails to satisfy the County that such Consultant is properly qualified to carry out the obligations of the Solicitation and to complete the work contemplated therein. Conditional Responses will not be accepted.
- 9. PAST PERFORMANCE:** The County may evaluate Past Performance with El Paso County or another entity and/or make such investigations as deemed necessary to determine the ability of the Consultant to perform work outlined in this solicitation. If the County has terminated a contract with the Consultant within the past three (3) years, the Consultant may be asked to furnish information for this investigation as the County requests. Such information includes but not limited to: current/past company references, current licensing information, history of the firm on assessments of liquidated damages, contracts cancelled prior to completion and/or lawsuits and/or pending lawsuits against the firm and/or its principals. The County reserves the right to reject any Response if the evidence submitted by, or investigation of, such Consultant fails to satisfy the County that such Consultant is properly qualified to carry out the obligations of the Solicitation and to complete the work contemplated herein. Conditional Responses will not be accepted.
- 10. DEBRIEFING:** Offeror(s) not selected for award may request a debriefing on the selection process as well as discussion of the strengths and weaknesses of their firm's proposal upon the Final Notice of Award being posted on the Rocky Mountain E-Purchasing website.

A debriefing may be scheduled by contacting the Procurement Specialist listed on the Cover Sheet of this Solicitation once the Final Notice of Award has been posted.
- 11. CONSIGNMENT OF CONTRACT NOT ALLOWED:** Responses will only be considered from firms which are directly engaged in the business of performing the services described in this Solicitation. Accordingly, no part of this contract can be consigned to another Consultant.
- 12. SUBCONSULTANTS OF WORK SHALL BE IDENTIFIED:** As part of its Response, the Consultant shall be required to identify any and all subconsultants that will be used in the performance of the contract resulting from this Solicitation. The Consultant shall also identify the capabilities, experience, and portion of the work to be performed by the subconsultants(s). The competency of the subconsultant(s) with respect to skill, responsibility and business standing shall be considered by the County when making the award in the best interest of the County.

- 13. CURRENT LICENSES REQUIRED:** Consultant must obtain and pay for all required licenses, fees, certifications, etc., and will comply with all laws, ordinances, and regulations. Damages, penalties and/or fines imposed by the County on the Consultant for failure to obtain required licenses, certifications or fees shall be borne by the Consultant. The County may request the Consultant to provide a current copy of their licenses and certificates prior to award.
- 14. LABOR, MATERIALS AND EQUIPMENT TO BE SUPPLIED BY THE CONSULTANT:** Unless otherwise provided in this Solicitation, the Consultant shall furnish all labor, materials, and equipment necessary for satisfactory contract performance. When not specifically identified in this Solicitation, such materials and equipment shall be of a suitable type and grade for the intended purpose. All materials, workmanship, and equipment shall be subject to the inspection and approval of the County's Project Manager.
- 15. ACCIDENT PREVENTION:** The Consultant shall be required to take safety precautions in an effort to protect persons and County property. All Consultants and subconsultants shall conform to all OSHA, State and County regulations while performing under the terms and conditions of the awarded contract. Any fines levied by the above-mentioned authorities because of inadequate compliance with these requirements shall be borne solely by the Consultant which is responsible for same. Barricades shall be provided by the Consultant when work is performed in areas traversed by persons or when deemed necessary by the County's Project Manager.
- 16. RATES DEFINED:** The rates quoted by the Consultant shall include full compensation for labor, equipment uses, travel time, and any other costs incurred by the Consultant. Hourly rates shall be straight time for all labor. Overtime is not allowed under this Solicitation. Mileage rates shall be consistent with the current Federal rate at all times.
- 17. COMPLETION OF WORK:** The Consultant shall adhere to the timeline and milestones provided in its Response in which it will commit to performing the work and/or service. The timeline may be considered a factor in determining the successful Consultant. All work shall be performed in accordance with good commercial practice and the timeline and milestones shall be adhered to by the successful Consultant, except in such cases where the timeline will be delayed due to acts of God, strikes, or other causes beyond the control of the Consultant. In these cases, the Consultant shall notify the County of the delays in advance of the original timeline so that a revised timeline can be negotiated. Should the Consultant to whom the contract is awarded fail to complete the work within the timeline as stated in its Response or as subsequently approved, it is hereby agreed and understood that the County reserves the right to cancel the contract with the Consultant and to secure the services of another Consultant to complete the work. If the County exercises this right, the County shall be responsible for reimbursing the Consultant for work which was completed and found acceptable to the County in accordance with the Specifications. In addition, the County may, at its sole discretion, request payment from the Consultant, through an invoice or credit memo, for any additional costs over and beyond the original price which were incurred by the County as a result of having to secure the services of another Consultant.
- 18. DEFICIENCIES IN WORK TO BE CORRECTED BY CONSULTANT:** The successful Consultant shall promptly correct all deficiencies in service and/or any service that fails to conform to the Contract Documents. All corrections shall be made immediately after such deficiencies and/or non-conformances are verbally reported to the Consultant by the County's Project Manager. The Consultant shall bear all costs of correcting such rejected services. If the Consultant fails to correct the service within the period specified in this Solicitation, the County reserves the right to place the Consultant in default of its contractual obligations, obtain the services of another Consultant and charge the Consultant for these costs, either through a deduction from the final payment over to the Consultant or through invoicing.
- 19. METHOD OF PAYMENT - MONTHLY INVOICES:** The successful Consultant (s) shall submit monthly invoices. These invoices shall be submitted to the County's Project Manager. The invoice shall reflect the appropriate Purchase Order number, the service location(s) and the type of service provided to the County in the prior month.

**20. SALES TAX:** The County is exempt from paying State or Local Sales Taxes. Consultants should be aware of CONSULTANT APPLICATION FOR EXEMPTION CERTIFICATE Pursuant to Statute Section 39-26.708(1)(a)(XIX) sales tax exemption for construction and building materials. State tax I.D. # 09-803308-0000, Federal tax I.D. # 84-6000764.

**21. FEDERAL FUNDING:** Consultant shall comply with the following:

A. Federal Compliance - This Solicitation will be funded, in whole or in part, with an award of federal funds. Consultant shall comply with all applicable federal laws, regulations, and requirements. These include but are not limited to compliance with the following laws and regulations:

- 1) Rights to Inventions Made Under a Contract or Agreement. If this Agreement is an agreement with a small business firm or nonprofit organization for performance of experimental, developmental, or research, Consultant must comply with the requirements or 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any Implementing regulations issued by the awarding agency.
- 2) Clean Air Act (42 U.S.C. 7401 – 7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387). If this Agreement is in excess of \$150,000, the Consultant is required to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act as amended (42 U.S.C. 7401- 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency of the federal funds for this Agreement and the Regional Office of the Environmental Protection Agency (EPA).
- 3) Debarment and Suspension (Executive Orders 12549 and 12689). The County is prohibited from entering into this Agreement with a party listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- 4) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). If this Agreement is for compensation in excess of \$100,000, Consultant must file the required certification with the County that it will not and has not used Federal appropriated funds received by the Consultant to pay any person or organization for influencing or attempting to influence an officer or employee or any agency, a member of Congress, officer or employee of Congress, or an employee or a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Consultant must also disclose to the County any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.
- 5) Procurement of Recovered Material (2 CFR CH. II §200.322). Consultant must 1) comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; 2) procuring solid waste management services in a manner that maximizes energy and resource recovery; and 3) establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

- 6) Equal Employment Opportunity. If this Agreement is a construction contract Consultant is required to comply with the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11246, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and Implementing regulations at 41 CFR part 60, "Office or Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
- 7) Affirmative Action, it is hereby agreed and understood that Section 60-250.4, Section 60-250.5 and Section 60-741.4 of Title 4 of the United States Code, which addresses Affirmative Action requirements for handicapped workers, is incorporated into this Solicitation by reference.

**22. INDEMNIFICATION: Indemnification – General.** The Consultant shall, to the fullest extent permitted by law, defend, indemnify and hold harmless the County, Board of County Commissioners, officials, officers, directors, and employees, from and against all liability, claims, demands, suits, actions or proceedings of any kind that are not the result of or directly related to the performance of professional services, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, which arise out of or are in any manner connected with this Agreement, including workers' compensation claims, in any way resulting from or arising from the services rendered by the Consultant, its employees, agents or subconsultants, or others for whom the Consultant is legally liable, under this Agreement; provided, however, that the Consultant need not indemnify or save harmless the County Board of County Commissioners, its officers, agents and employees, from damages resulting from the negligence of the County's Board of County Commissioners, officials, officers, directors, agents, and their insurers, and employees. The County cannot and by this Agreement does not agree to indemnify, hold harmless, exonerate, or assume the defense of the Consultant or any other person or entity whatsoever, for any purpose whatsoever.

Indemnification for Professional Services. The Consultant shall, to the fullest extent permitted by law, indemnify and hold harmless the County, Board of County Commissioners, and any of its officials, officers, directors, agents, and their insurers, and employees, from and against damages, liability, losses, costs and expenses, including reasonable attorney's fees, but only to the extent caused by or arising out of the negligent acts, errors or omissions of the Consultant, its employees, agents or subconsultants, or others for whom the Consultant is legally liable, in the performance of professional services under this Agreement. The Consultant is not obligated to indemnify or hold harmless the County for the negligent acts of the County, Board of County Commissioners, or any of its officials, officers, directors, agents, and employees.

Indemnification – Costs. The Consultant shall, to the extent provided by law, investigate, handle, respond to, and provide defense for and defend against, any such liability, claims or demands at the sole expense of the Consultant or, at the option of the County, agrees to pay the County or reimburse the County for the defense costs incurred by the County in connection with any such liability, claims or demands. The Consultant shall, to the extent provided by law, bear all other costs and expenses related thereto, including court costs and attorney fees, whether or not any such liability, claims or demands alleged are groundless, false, or fraudulent. If it is determined by the final judgment of a court of any competent jurisdiction that such injury, loss or damage was caused in whole or in part by the act, omission or other fault of the County, Board of County Commissioners, officials, officers, directors, agents and employees, the County shall reimburse the Consultant for the portion of the judgment attributable to such act, omission or other fault of the County, Board of County Commissioners, officials, officers, directors, agents and employees.

**23. FEDERAL STANDARDS COMPLIANCE:** All services to be purchased in conjunction with this Solicitation shall be in accordance with all governmental standards to include, but not be limited to, those issued by the Office of Safety and Health Administration (OSHA), the National Institute of Occupational Safety Hazards (NIOSH), and the National Fire Protection Association (NFPA).

- 24. VARIATIONS ALLOWED IF INDICATED:** For purposes of Response evaluation, Consultants must indicate any variances to the Specifications, terms, and conditions, and attached Sample Agreement no matter how slight. If variations are not stated in the Consultant's Response, it shall be construed that the Response fully complies with the Specifications, terms, and conditions, and attached Sample Agreement. Notwithstanding the above, it is hereby agreed and understood that the County reserves the right to reject these variations if they individually, or as a whole, do not meet the standards established in the Specifications.
- 25. NON-APPROPRIATION.** Pursuant to C.R.S. § 29-1-110, as amended, the financial obligations of the County as set forth herein after the current fiscal year are contingent upon funds for the purpose being appropriated, budgeted and otherwise available. The awarded agreement will automatically terminate on January 1<sup>st</sup> of the first fiscal year for which funds are not appropriated. The County shall give the Consultant written notice of such non-appropriation.
- 26. EQUAL OPPORTUNITY:** El Paso County intends and expects that the contracting processes of the County and its Consultants provide equal opportunity without regard to gender, race, creed, ethnicity, religion, age, sex, national origin, or disability and that its Consultants make available equal opportunities to the extent third parties are engaged to provide goods and services to the County as subconsultants, Consultants, or otherwise. Accordingly, the Consultant shall not discriminate on any of the foregoing grounds in the performance of the contract and shall make available equal opportunities to the extent third parties are engaged to provide goods and services in connection with performance of the contract (**joint ventures are encouraged**). The Consultant shall disseminate information regarding all subcontracting opportunities under this contract in a manner reasonably calculated to reach all qualified potential subconsultants who may be interested. The Consultant shall maintain records demonstrating its compliance with this article and shall make such records available to the County upon the County's request.
- 27. PURCHASE BY OTHER GOVERNMENTAL AGENCIES:** Each governmental unit which avails itself of this Solicitation will establish its own contract, place its own orders, issue its own purchase orders, be invoiced there from, make its own payments, and issue its own exemption certifications as required by the Consultant. It is understood and agreed that El Paso County is not a legally binding party to any contractual agreement made between any other governmental unit and the Consultant as a result of this Solicitation.
- 28. CONFIDENTIALITY:** Responses to this Solicitation are considered to be working documents while they are under consideration and, as such, are not subject to official bid openings. The only information released at the public opening of Request for Proposals, Statement Qualifications or Request for Quotes that are not cost driven, will be the names of the respondents. Only after staff makes an official recommendation of award and a contract is fully executed will Responses to this Solicitation be available as public record.

In consideration of Invitation for Bids or for Request for Quotes that are cost driven, the only information that will be released is the names of the respondents, the total cost of the bids, and the apparent responsible, responsive Consultant. Only after staff makes an official recommendation of award and a contract is fully executed will Responses to this Bid be available as public record.

Responses submitted to the County for consideration shall be subject to the Colorado Open Records Law, Section 24-72-201, et seq., C.R.S., after award is made. Any confidential information in the Consultant's Response shall be identified as such. Should the County receive a request for the release of any information in the Consultant's Response identified as confidential in accordance with the open records law, the County will notify the Consultant of the request and will exercise best efforts in assisting the Consultant in taking all legally available steps to resist or narrow such request. If, in the opinion of County's legal counsel, the County is nonetheless compelled to disclose any portion of such information to anyone or else stand liable for contempt or suffer censure or penalty, the County may disclose such information without liability.

**29. GRATUITIES AND KICKBACKS:** It shall be a breach of ethical standards for any person to offer, give, or agree to give any employee or former employee (within six months of termination from County employment), or for any employee or former employee (within six months of termination from County employment) to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding of application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefore.

It shall be a breach of ethical standards for any payment, gratuity, or offer of employment to be made by or on behalf of a subconsultant under a contract to the prime Consultant or higher tier subconsultant or any person associated therewith, as an inducement for the award of a subcontract or order. In the event that any gratuities or kickbacks are offered or tendered to any El Paso County employee, the proposal shall be disqualified and shall not be reinstated.

**30. BUDGET:** Budget will not be disclosed.

**31. DEBARMENT:** By submitting this Response, the Consultant warrants and certifies that they are eligible to submit a Response because they are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in a transaction by any Federal, State, or local department or agency.

**32. LOGOS:** The County logo is trademarked and property solely of El Paso County. Consultants do not have permission to use our logo on any documentation or presentation materials and to do so would be a violation of our trademark. We also prefer your company does not utilize its trademark as to not influence an evaluator's evaluation.

**REMAINDER OF PAGE LEFT INTENTIONALLY BLANK**



1. **APPLICABILITY.** These General Terms and Conditions apply, but are not limited, to all bids, proposals, qualifications and quotations (hereinafter referred to as "Offers" and/or "Responses") made to El Paso County (hereinafter referred to as "County") by all prospective suppliers (herein after referred to as "Consultant s") in response, but not limited to, Invitation to Bid, Invitation for Bid, Request for Proposals, Statement of Qualifications, and Request for Quotations (hereinafter referred to as "Solicitations").

2. **CONTENTS OF OFFER**

2.1 **General Conditions.** Consultants are required to submit their Offers in accordance with the following expressed conditions:

2.1.1 Consultants shall make all investigations necessary to thoroughly inform themselves regarding the plant and facilities affected by the delivery of materials and equipment as required by the conditions of the Solicitation. No plea of ignorance by the Consultant of conditions that exist or that may hereafter exist as a result of failure to fulfill the requirements of the contract documents will be accepted as the basis for varying the requirements or the compensation to the Consultant.

2.1.2 Consultants are advised that all County contracts are subject to all legal requirements contained in County ordinances, the Contracts and Procurement policies and state and federal statutes. When conflicts between the Solicitation and these legal documents occur, the highest authority will prevail.

2.1.3 Consultants are required to state exactly what they intend to furnish to the County via this Solicitation and must indicate any variances to the terms, conditions, and specifications of this Solicitation no matter how slight. If variations are not stated in the Consultant's Offer, it shall be construed that the Consultant's Offer fully complies with all conditions identified in this Solicitation.

2.1.4 El Paso County intends and expects that the contracting processes of the County and its Consultants provide equal opportunity without regard to race, color, religion, sex, national origin, age, disability, or any other characteristic protected by law. Accordingly, the Consultant shall not discriminate on any of the foregoing grounds in the performance of the contract.

2.1.5 All Offers and other materials submitted in response to this Solicitation shall become the property of the County and will be a matter of public record. Consultants must identify, in writing, all copyrighted material, trade secrets and/or other proprietary information that it claims are exempt from disclosure under the Open Records Act.

Any Consultant claiming an exemption must identify the specific provision of the Open Records Act that provides an exemption from disclosure for each item that the Consultant claims is not subject to disclosure and must submit an additional original copy of the Response with each exempt item clearly redacted. Any Consultant claiming an exemption must also state in its Response that the Consultant agrees to defend, indemnify, and hold

harmless the County and its officers and employees from any action brought against the County for its refusal to disclose any purportedly exempt material, trade secrets and other proprietary information to any party making a request therefore.

Any Consultant who fails to include an exemption statement along with the additional redacted copy of the Response shall be deemed to have waived any right to an exemption from disclosure as provided by the Open Records Act.

## **2.2 Clarification and Modifications in Terms and Conditions**

**2.2.1** Where there appear to be variances or conflicts between the General Terms and Conditions, the Special Terms and Conditions and the specifications outlined in this Solicitation, the specifications then the Special Terms and Conditions will prevail.

**2.2.2** If any Consultant contemplating submitting an Offer under this Solicitation is in doubt as to the true meaning of the specifications, the Consultant must submit a **written request** for clarification to the County's Contracts and Procurement Manager or their designee as outlined in the Special Terms and Conditions. The Consultant submitting the request shall be responsible for ensuring that the request is received by the County's buyer by the date and time listed in the Schedule of Activities for submitting question(s) or as stated in the Special Terms and Conditions.

Any official interpretation of this Solicitation must be made by the County's Contracts and Procurement Manager or their designee. The County shall not be responsible for interpretations offered by other employees of the County.

The County shall issue a written addendum if substantial changes which impact the technical submission of Offers are required. Addenda will be posted on the Rocky Mountain E-Purchasing System web site (<http://www.rockymountainbidsystem.com>) as well as the El Paso County web site (<http://www.elpasoco.com>). Consultants are responsible for either revisiting one of these websites prior to the due date or contacting the Contracts and Procurement Manager or their designee named on the Cover Sheet of this Solicitation to ensure that they have any addenda which may have been issued after the initial download.

The Consultant shall certify its acknowledgment of the addendum by signing the addendum and returning it with its Offer. In the event of conflict with the original contract documents, addenda shall govern all other contract documents to the extent specified. Subsequent addenda shall govern over prior addenda only to the extent specified.

## **2.3 Prices Contained in Offer-Discounts, Taxes, Collusion**

**2.3.1** Consultants may offer a cash discount for prompt payment. Discounts may be considered in determining the lowest net cost for the evaluation of Offers; discounts for periods of less than twenty days, however, will not be considered in making the award. If the Consultant does not enter a percentage discount, it is hereby understood and agreed that the payment terms shall be net thirty days, effective on the date that the County receives an accurate invoice or accepts the products, whichever is the later date. Payment is deemed to be made on the date of the mailing of the check.

**2.3.2** Consultants shall not include federal, state, or local excise or sales taxes in prices offered, as the County is exempt from payment of such taxes. Materials purchased directly by the Consultant in conjunction with this contract will, however, be subject to applicable state and local sales taxes. These taxes shall be borne by the Consultant. Under no

circumstances shall Consultant be authorized to use the County's tax exemption number in acquiring such materials.

- 2.3.3** The Consultant, by affixing its signature to this Solicitation, certifies that its Offer is made without previous understanding, agreement, or connection either with any persons, firms or corporations making an Offer for the same items, services, or with the County. The Consultant also certifies that its Offer is in all respects fair, without outside control, collusion, fraud, or otherwise illegal action. To ensure integrity of the County's public procurement process, all Consultant s are hereby placed on notice that any and all Consultant s who falsify the certifications required in conjunction with this section will be prosecuted to the fullest extent of the law.

### **3. PREPARATION AND SUBMISSION OF OFFER**

#### **3.1 Preparation**

- 3.1.1** El Paso County will not be responsible for any expenses incurred by any Consultant in preparing and submitting its offer.
- 3.1.2** The Offer must be typed or legibly printed in ink. The use of erasable ink is not permitted. All corrections made by the Consultant must be initialed **in blue ink** by the authorized agent of the Consultant.
- 3.1.3** Offers must contain, in blue ink, a manual signature of an authorized agent of the Consultant or a verifiable electronic time and date stamped signature in the space provided on the Solicitation Cover Sheet. **Typed names as signatures are not allowed.** The original Cover Sheet of this Solicitation must be included in all Offers. If the Consultant 's authorized agent fails to appropriately sign and return the original Cover Sheet of the Solicitation, its Offer shall be invalid and shall not be considered.
- 3.1.4** Prices shall be provided by the Consultant on the Solicitation's Pricing Form when required in conjunction with the prescribed method of award and shall be for the unit of measure requested. Prices that are not in accordance with the measurements and descriptions requested shall be considered non-responsive and shall not be considered. Where there is a discrepancy between the unit price and the extension of prices, the unit price shall prevail.
- 3.1.5** Alternate Offers will not be considered unless expressly permitted in the Specification's Special Terms and Conditions.
- 3.1.6** The accuracy of the Offer is the sole responsibility of the Consultant. No changes in the Offer shall be allowed after the date and time that the Offers are due.

#### **3.2 Submission**

- 3.2.1** The Offer shall be submitted via the Rocky Mountain E-Purchasing System with the Consultant 's name, the RFP Number, and the RFP Title. When required in conjunction with the prescribed method of award, the County's Pricing Form must be used when the Consultant is submitting its Offer. The Consultant shall not alter this form (e.g., add or modify categories for posting prices offered) unless expressly permitted in an addendum duly issued by the County. No other form shall be accepted.
- 3.2.2** Offers submitted via facsimile machines, mail, or email will not be accepted unless expressly permitted in the solicitation.

**3.2.3** Consultants which qualify their Offers by requiring alternate contractual terms and conditions as a stipulation for contract award must include such alternate terms and conditions in their Offers. The County reserves the right to declare Consultants' Offers as non-responsive if any of these alternate terms and conditions are in conflict with the County's terms and conditions, or if they are not in the best interests of the County.

**3.3** **Late Offers.** Offers received after the date and time set for the opening will not be authorized to enter into the electronic lockbox and will be deemed as non-responsive.

#### **4. MODIFICATION OR WITHDRAWAL OF OFFERS**

**4.1. Modifications to Offers.** Offers may only be modified in the form of a written notice on company letterhead and must be received prior to the time and date set for the Offers to be opened. Each modification submitted to the County's Contracts and Procurement Division must have the Consultant's name and return address and the applicable Solicitation number and title clearly marked on the face of the envelope. If more than one modification is submitted, the modification bearing the latest date of receipt by the County's Contracts and Procurement Division will be considered the valid modification.

#### **4.2. Withdrawal of Offers**

**4.2.1** Offers may be withdrawn prior to the time and date set for the opening. Such requests must be made in writing on company letterhead.

**4.2.2** In accordance with the Uniform Commercial Code, Offers may not be withdrawn after the time and date set for the opening for a period of ninety calendar days after the opening. If an Offer is withdrawn by the Consultant during this ninety-day period, the County may, at its option, suspend the Consultant from the bid list and may not accept any Offer from the Consultant for a six-month period following the withdrawal.

#### **5. REJECTION OF OFFERS**

**5.1. Rejection of Offers.** The County may, at its sole and absolute discretion:

**5.1.1** Reject any and all, or parts of any or all, Offers submitted by prospective Consultants;

**5.1.2** Re-advertise this Solicitation;

**5.1.3** Postpone or cancel the process;

**5.1.4** Waive any irregularities in the Offers received in conjunction with this Solicitation; and/or

**5.1.5** Determine the criteria and process whereby Offers are evaluated and awarded. No damages shall be recoverable by any challenger as a result of these determinations or decisions by the County.

**5.2 Rejection of a Particular Offer.** The County may reject an offer under any of the following conditions:

**5.2.1** The Consultant misstates or conceals any material fact in its Offer;

**5.2.2** The Consultant's Offer does not strictly conform to the law or the requirements of the Solicitation;

- 5.2.3 The Offer expressly requires or implies a conditional award that conflicts with the method of award stipulated in the Solicitation's Special Terms and Conditions and/or specifications;
- 5.2.4 The Offer does not include documents, including, but not limited to, certificates, licenses, and/or samples, which are required for submission with the Offer in conjunction with the Solicitation's Special Terms and Conditions and/or specifications; or
- 5.2.5 The Offer has not been executed by the Consultant through an authorized signature on the Specification's Cover Sheet.

### 5.3 Elimination from Consideration

- 5.3.1 To ensure fair consideration for all Consultants, the County prohibits communication initiated by a Consultant or on a Consultant's behalf regarding the Solicitation to or with any County official or employee during the submission process, except as expressly set forth in this Solicitation. In addition, the County prohibits communications initiated by a Consultant or on a Consultant's behalf to or with any County official or employee evaluating or considering the solicitation prior to the time an award decision has been made. Prohibited communications initiated by a Consultant shall be grounds for eliminating the offending Consultant from consideration for award.
- 5.3.2 An Offer may not be accepted from, nor any contract be awarded to, any person or firm which is in arrears to the County upon any debt or contract or which is a defaulter as surety or otherwise upon any obligation to the County.
- 5.3.3 An Offer may not be accepted from, nor any contract awarded to, any person or firm which has failed to perform faithfully any previous contract with the County, state, or federal government, for a minimum period of three years after this previous contract was terminated for cause.

6. **AWARD OF CONTRACT.** The El Paso County and the successful Consultant shall execute the County's Professional Services Agreement (see Attachment B) to consummate a contract between the parties. This Solicitation and the Consultant's Offer shall be attached and incorporated as part of that contract.

### 7. CONTRACTUAL OBLIGATIONS

7.1 **Local, State and Federal Compliance Requirements.** Successful Consultants shall be familiar and comply with all local, state, and federal directives, ordinances, rules, orders, and laws applicable to, and affected by, this contract including, but not limited to, Equal Employment Opportunity (EEO) regulations, Occupational Safety and Health Act (OSHA), and Title II of the Americans with Disabilities Act (ADA).

7.2 **Disposition.** The Consultant shall not assign, transfer, convey, sublet, or otherwise dispose of this contract, including any or all of its right, title or interest therein, or its power to execute such contract to any person, company, or corporation, without prior written consent of the County.

#### 7.3 Employees.

7.3.1 All employees of the Consultant shall be considered to be, at all times, employees of the Consultant, under its sole direction, and not employees or agents of the County. The County may require the Consultant to remove an employee it deems careless, incompetent, insubordinate or otherwise objectionable, and whose continued employment on County property is not in the best interest of the County. In accordance with the

County's policy regarding the use of tobacco products, no employee of the Consultant shall be permitted to use tobacco products when performing work on County property.

**7.4 Workers' Compensation Insurance.** Each consultant and subconsultant shall maintain at his own expense until completion of his work and acceptance thereof by the County, Workers' Compensation Insurance, including occupational disease provisions, covering the obligations of the consultant or subconsultant in accordance with the provisions of the laws of the State of Colorado. The consultant shall furnish the County with a certificate giving evidence that he is covered by the Workers' Compensation Insurance herein required, each certificate specifically stating that such insurance includes occupational disease provisions and provisions preventing cancellation without ten days' prior notice to the County in writing.

**7.5 Delivery.** Prices, quotes, and deliveries are to be **FOB destination, freight prepaid**, and shall require inside delivery unless otherwise specified in the Solicitation's Special Terms and Conditions. Title and risk of loss shall pass to the County upon inspection and acceptance by the County at its designated point of delivery, unless otherwise specified in the Special Terms and Conditions. In the event that the Consultant defaults on its contract or the contract is terminated for cause due to performance, the County reserves the right to re-procure the materials or services from the next lowest Consultant or from other sources during the remaining term of the terminated/defaulted contract. Under this arrangement, the County shall charge the Consultant any difference between the Consultant's price and the price to be paid to the next lowest Consultant, as well as any costs associated with the re-solicitation effort.

**7.6 Material or Service Priced Incorrectly.** As part of any award resulting from this process, Consultant(s) will discount all transactions as agreed. In the event the County discovers, through its contract monitoring process or formal audit process, that material or service was priced incorrectly, Consultant(s) agree to promptly refund all overpayments and to pay all reasonable audit expenses incurred as a result of the non-compliance.

**8. CONTRACT MODIFICATIONS.** Terms and conditions may be added, modified, and deleted upon mutual agreement between the County and the Consultant provided that such terms and conditions remain within the scope and original intent of the Solicitation. Said terms and conditions may include, but are not limited to, additions or deletions of service levels and/or commodities and/or increases or decreases in the time limits for an existing contract. Any and all modifications must be expressed in writing through an Amendment and executed by authorized agents of the County and the Consultant prior to the enactment of such modifications.

## **9. TERMINATION OF CONTRACT**

**9.1 Failure to perform.** The County may, by written notice to the successful Consultant, terminate the contract if the Consultant has been found to have failed to perform its service in a manner satisfactory to the County as per specifications, including delivery as specified. The date of termination shall be stated in the notice. The County shall be the sole judge of non-performance.

**9.2 Reasons other than cause.** The County may cancel the contract upon thirty days written notice for reason other than cause. This may include the County's inability to continue with the contract due to the elimination or reduction of funding.

**1. CONSULTANT**

- a. Legal Name of Company \_\_\_\_\_
- b. Business Name or DBA (if different) \_\_\_\_\_

**2. LOCAL COLORADO ADDRESS (IF APPLICABLE)**

- a. Street Address \_\_\_\_\_
- b. City/State/Zip \_\_\_\_\_

**3. ORDER ADDRESS**

- a. Street Address \_\_\_\_\_
- b. City/State/Zip \_\_\_\_\_
- c. Online (website) \_\_\_\_\_

**4. PAYMENT ADDRESS**

- a. Street Address \_\_\_\_\_
- b. City/State/Zip \_\_\_\_\_

**5. CONTACT INFORMATION**

- a. Name/Title \_\_\_\_\_
- b. Telephone Number: (\_\_\_\_\_) \_\_\_\_\_
- c. Toll Free Number: (\_\_\_\_\_) \_\_\_\_\_
- d. Fax Number: (\_\_\_\_\_) \_\_\_\_\_
- e. Email Address: \_\_\_\_\_

**6. TAXPAYER IDENTIFICATION NUMBER**

\_\_\_\_\_

**7. OWNERSHIP STATUS (check all that apply)**

- |                                              |                                              |
|----------------------------------------------|----------------------------------------------|
| <input type="checkbox"/> Corporation         | <input type="checkbox"/> Partnership         |
| <input type="checkbox"/> Governmental Agency | <input type="checkbox"/> Sole Proprietorship |
| <input type="checkbox"/> Individual          | <input type="checkbox"/> Other _____         |
| <input type="checkbox"/> Non-Profit          |                                              |

**8. PRIMARY BUSINESS CLASSIFICATION**

- |                                                    |                                                 |
|----------------------------------------------------|-------------------------------------------------|
| <input type="checkbox"/> Broker                    | <input type="checkbox"/> Retailer               |
| <input type="checkbox"/> Distributor               | <input type="checkbox"/> Service Provider       |
| <input type="checkbox"/> Jobber                    | <input type="checkbox"/> Subcontractor (trades) |
| <input type="checkbox"/> Manufacturer              | <input type="checkbox"/> Wholesaler             |
| <input type="checkbox"/> Prime Contractor (trades) | <input type="checkbox"/> Other _____            |

**9. OFFICERS, OWNERS, PARTNERS**

- Name/Title \_\_\_\_\_
- Name/Title \_\_\_\_\_
- Name/Title \_\_\_\_\_

**10. COMPANY PROFILE**

- a. Date Firm Was Established \_\_\_\_\_
- b. Under the Laws of What State \_\_\_\_\_
- c. Number of Employees \_\_\_\_\_
- d. Approximate Yearly Sales Volume \_\_\_\_\_

**11. PRIMARY PLACE OF BUSINESS**

- \_\_\_\_\_ Home
- \_\_\_\_\_ Office Building
- \_\_\_\_\_ Office Complex
- \_\_\_\_\_ Office/Warehouse
- \_\_\_\_\_ Warehouse
- \_\_\_\_\_ Other \_\_\_\_\_

**12. STAFF EXPERIENCE** (key members of your company's staff who will be assigned to this project)

- a. Name/Position \_\_\_\_\_ Year Hired \_\_\_\_\_  
Years in Present Position \_\_\_\_\_ Years of Industry Experience \_\_\_\_\_
- b. Name/Position \_\_\_\_\_ Year Hired \_\_\_\_\_  
Years in Present Position \_\_\_\_\_ Years of Industry Experience \_\_\_\_\_
- c. Name/Position \_\_\_\_\_ Year Hired \_\_\_\_\_  
Years in Present Position \_\_\_\_\_ Years of Industry Experience \_\_\_\_\_
- d. Name/Position \_\_\_\_\_ Year Hired \_\_\_\_\_  
Years in Present Position \_\_\_\_\_ Years of Industry Experience \_\_\_\_\_
- e. Name/Position \_\_\_\_\_ Year Hired \_\_\_\_\_  
Years in Present Position \_\_\_\_\_ Years of Industry Experience \_\_\_\_\_

**13. REFERENCES** (customers similar to El Paso County to whom services similar in size and scope have been provided)

- a. Company Name \_\_\_\_\_ Contact/Title \_\_\_\_\_  
Address \_\_\_\_\_ City/State /Zip \_\_\_\_\_  
Telephone (\_\_\_\_\_) \_\_\_\_\_ Email \_\_\_\_\_
- b. Company Name \_\_\_\_\_ Contact/Title \_\_\_\_\_  
Address \_\_\_\_\_ City/State /Zip \_\_\_\_\_  
Telephone (\_\_\_\_\_) \_\_\_\_\_ Email \_\_\_\_\_
- c. Company Name \_\_\_\_\_ Contact/Title \_\_\_\_\_  
Address \_\_\_\_\_ City/State /Zip \_\_\_\_\_  
Telephone (\_\_\_\_\_) \_\_\_\_\_ Email \_\_\_\_\_
- d. Company Name \_\_\_\_\_ Contact/Title \_\_\_\_\_  
Address \_\_\_\_\_ City/State /Zip \_\_\_\_\_  
Telephone (\_\_\_\_\_) \_\_\_\_\_ Email \_\_\_\_\_
- e. Company Name \_\_\_\_\_ Contact/Title \_\_\_\_\_  
Address \_\_\_\_\_ City/State /Zip \_\_\_\_\_  
Telephone (\_\_\_\_\_) \_\_\_\_\_ Email \_\_\_\_\_



14. **BONDING.** Is your firm able to obtain bonding up to and including an amount equal to the estimated project cost?

Yes  No

15. **INSURANCE.** Is your firm able to obtain insurance as specified in the Special Terms and Conditions of this RFP?

Yes  No

16. **PURCHASE ORDERS.** Do you accept purchase orders?

Yes  No

17. **CREDIT CARDS.** Do you accept credit cards?

Yes  No

18. **INFORMATION** (if you answer "yes" to any of the following questions, attach a separate page explaining your response clearly labeled with the corresponding question number).

a. In the past five years, has there been any change in ownership of your company?

Yes  No (if "yes," attach explanation labeled 18a)

b. In the past five years, has your firm operated under any other name?

Yes  No (if "yes," attach explanation labeled 18b)

c. Are any corporate officers, owners or partners currently connected with any other firm in the same line of business?

Yes  No (if "yes," attach explanation labeled 18c)

d. In the past five years, has your firm been in bankruptcy?

Yes  No (if "yes," attach explanation labeled 18d)

e. In the past five years, has your firm been assessed and paid liquidated damages?

Yes  No (if "yes," attach explanation labeled 18e)

f. In the past five years, has your firm, or any firm with which your company's officers, owners or partners are associated, been barred, disqualified, removed, or otherwise prevented from bidding on, or competing for any government project for any reason?

Yes  No (if "yes," attach explanation labeled 18f)

g. In the past five years, has your firm been denied an award of any contract based on a finding by a public agency that your company was not a responsible bidder?

Yes  No (if "yes," attach explanation labeled 18g)

h. In the past five years, has any claim against your firm concerning your firm's work on a project been filed in court or arbitration?

Yes  No (if "yes," attach explanation labeled 18h)

i. Has your firm made any claim against a project owner concerning work on a project or payment for a contract and filed that claim in court or arbitration?

Yes  No (if "yes," attach explanation labeled 18i)

j. Has your firm, or any of its officers, owners, or partners, ever been found liable in a civil suit or found guilty in a criminal action for making any false claim or material misrepresentation to any public agency or entity?

Yes  No (if "yes," attach explanation labeled 18j)

k. Has your firm, or any of its officers, owners, or partners, ever been convicted of a crime involving any federal, state, or local law related to your business dealings?

Yes  No (if "yes," attach explanation labeled 18k)

l. Has your firm, or any of its officers, owners, or partners, ever been convicted of a federal or state crime of fraud, theft, or any other act of dishonesty?

Yes  No (if "yes," attach explanation labeled 18l)

- m. In the past five years, has any surety company made any payments on your firm's behalf as result of a default, to satisfy any claims made against a performance or payment bond issued on your firm's behalf?  
 Yes  No (if "yes," attach explanation labeled 18m)
- n. Has your firm ever been denied bond coverage by a surety company, or has there ever been a period of time when your firm had no surety bond in place during a project when one was required?  
 Yes  No (if "yes," attach explanation labeled 18n)
- o. Have you ever had insurance terminated by a carrier?  
 Yes  No (if "yes," attach explanation labeled 18o)
- p. In the past five years, has any insurance carrier, for any form of insurance, refused to renew an insurance policy for your firm?  
 Yes  No (if "yes," attach explanation labeled 18p)
- q. In the past five years, has OSHA cited and assessed penalties against your firm?  
 Yes  No (if "yes," attach explanation labeled 18q)

**19. Licenses.** Does your company have current and valid licenses for the services being requested? Please provide copies.  
 Yes  No (if "yes," attach licenses labeled 18)

**20. Certification.** The undersigned hereby affirms (1) that he/she is a duly authorized agent of the Consultant and (2) that the information submitted in/with this form is true and correct. Any information submitted herein that is later found to be false shall serve as grounds for disqualifying the Consultant's Response.

- a. Printed Name: \_\_\_\_\_
  - b. Printed Title: \_\_\_\_\_
  - c. Firm Name: \_\_\_\_\_
  - d. Address: \_\_\_\_\_
  - e. City, State, Zip: \_\_\_\_\_
  - f. Telephone: \_\_\_\_\_
  - g. Fax: \_\_\_\_\_
  - h. E-mail: \_\_\_\_\_
- Authorized Representative's Signature \_\_\_\_\_

Attach all requested exhibit items to the end of this document and clearly label each exhibit with the corresponding question number.

I/We acknowledge that subsequent to award of this solicitation, all of, or part of this submittal may be released to any person or firm who may request it, as prescribed by the State of Colorado Open Records Act CRS 24-72-201 et seq., as amended, and that:

\_\_\_\_\_ None of this submittal is considered proprietary and/or confidential

**OR**

\_\_\_\_\_ The portions/pages of this submittal identified below are proprietary and/or confidential for the reasons stated (cite the specific exemptions allowed by the Colorado Open Records Act/Government Code). **A clearly identified redacted softcopy of the original Response is required if this section is selected.**

Page:	Code:	Reason:
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

**General reference to Freedom of Information Act (FOIA) or Colorado Open Records Act (CORA) is not sufficient justification. The County has the final discretion in determining whether information is subject to disclosure under CORA.**

I/We acknowledge that the above statements may be subject to legal review and challenge.

Signature below indicates that applicant has read all the information provided above and agrees to comply in full. This form is considered as a section of the Request for Proposals, RFP-23-070 and therefore, this signed document shall be considered and fully submitted with the original package.

\_\_\_\_\_  
Authorized Representative's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Company Name

El Paso County values your input. Your input assists us in building competitive solicitations and ensuring our solicitations are cutting edge and relevant. Please spend a few minutes to complete this form and return it to the Contracts and Procurement Division.

Please send to: El Paso County  
 Becky Schaffstein, CPPB  
 RFP-23-070; Colorado Centre Drainage Improvements Project  
[beckyschaffstein@elpasoco.com](mailto:beckyschaffstein@elpasoco.com)

Specifications too "strict" (i.e. – geared toward one brand or manufacturer only, etc.). Please explain.

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Specifications are unclear. Please explain.

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Other. Please explain in detail.

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- We are unable to meet specifications
- Insufficient time to respond to the solicitation
- Our schedule would not permit us to perform within the required time
- We are unable to meet insurance and/or bonding requirements
- We do not offer this product or service

**PRINT OR TYPE YOUR INFORMATION**

Company Name: \_\_\_\_\_ Fax: \_\_\_\_\_

Address: \_\_\_\_\_ City/State/Zip: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Title: \_\_\_\_\_

Email: \_\_\_\_\_ Phone: \_\_\_\_\_

Authorized Representative's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

Email: \_\_\_\_\_ Phone: \_\_\_\_\_

**ELECTRONIC SUBMISSION OF OFFERS:** El Paso County will only accept electronic bid Responses submitted through the Rocky Mountain E-Purchasing system. A Submittal Log will be posted after the County has had an opportunity to review and verify the submittals offered to the County.

The original Offer must be received before the due date and time through an electronic package transmitted through the Rocky Mountain E-Purchasing system. The Consultant is responsible for ensuring its Response is posted by the due date and time outlined in the solicitation document.

If the submittal arrives late, it will not be included in the electronic lockbox.

**ALL signatures on required documents must be in blue ink or a verifiable electronic signature**

**Consultant shall check (✓) to confirm that the following documentation has been submitted:**

- Signed Cover Sheet from this Solicitation
- Consultant Information Form
- Proprietary / Confidential Statement
- Signed copies of any addenda issued regarding this Solicitation
- W9 Documentation / Universal Entity Identifier (UEI) Number
- Exhibit 1, 2, 3, 4, and 5
- Work Plan and Schedule

Does your offer comply with all of the **terms and conditions** of this solicitation and the attached Agreement?

- Yes  No     If not, indicate exceptions on Exhibit 1.

Does your offer meet or exceed all of the **specifications** of this solicitation and the attached Agreement?

- Yes  No     If not, indicate exceptions on Exhibit 1.

**Consultant's response to the following question will not be considered in awarding this Solicitation.**

El Paso County actively participates in purchasing between and among government agencies to combine purchasing power and resources and to obtain lower costs of procurement for quality goods and services. As such, we hereby request that other agencies of government be permitted to avail themselves of any award resulting from this solicitation and purchase any and all items specified herein from the successful Consultant(s) at the contract price(s) established herein. Each agency would establish its own contract, issue its own orders, be invoiced therefrom, make its own payments, and issue its own exemption certificates as required by the Consultant. It is understood and agreed that El Paso County would not be a legally binding party to any contractual agreement made between any other agency and the Consultant as a result of this Solicitation.

**May other units of government avail themselves of this contract and purchase any and all items specified.**

- Yes  No

- Yes  No

**EXHIBIT 1: EXCEPTIONS**

Print the words "no exceptions" (here) \_\_\_\_\_ if there are no exceptions taken to any of the terms, conditions, or specifications of these Response documents or contract.

If there are exceptions taken to any of the terms, conditions, or specifications of the Response document or contract, they must be clearly stated on a separate sheet of paper attached to this sheet and returned with your Response.

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

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_  
(County, State and Zip Code)

Federal Tax ID#: \_\_\_\_\_

PHONE: \_\_\_\_\_

FAX: \_\_\_\_\_

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

Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name/Title: \_\_\_\_\_

**EXHIBIT 2: CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS**

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

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

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

(Check One)

I DO CERTIFY

I DO NOT CERTIFY

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT 3: RESTRICTIONS ON LOBBYING CERTIFICATION**

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

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

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

**I DO CERTIFY**                       **I DO NOT CERTIFY**

Proposer: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



**EXHIBIT 4: NON-COLLUSION AFFIDAVIT**

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

1. That I am an officer or employee of \_\_\_\_\_ (proposing entity) having the authority to sign on behalf of the corporation, and,
2. That the prices in the attached Response were arrived at independently by \_\_\_\_\_ (proposing entity) without collusion, consultation, communication, or any agreement, for the purpose of restricting competition as to any matter relating to such prices with any other proposer or with any other competitor regarding an understanding, or planned common course of action with any other Consultant of materials, supplies, equipment, or service described in the RFP/IFB designed to limit independent Responses or competition; and
3. That unless otherwise required by law, the contents and prices contained in the Response have not been communicated by \_\_\_\_\_ (proposing entity) or its employees or agents to any person not an employee or agent of \_\_\_\_\_ (proposing entity), or its surety on any bond furnished with the Response, and will not be communicated to any such person prior to the official opening of the Response; and,
4. That I have fully informed myself regarding the accuracy of the statements made in this affidavit.

**I DO CERTIFY**

**I DO NOT CERTIFY**

Proposer: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

---

**EXHIBIT 5: MINIMUM INSURANCE REQUIREMENTS**

For this contract, the following provisions for insurance shall apply:

The Consultant agrees to procure and maintain, during the life of this Agreement, a policy, or policies of insurance against all liability, claims, demands and other obligations assumed by the Consultant, pursuant to Attachment A. Such insurance shall be in addition to any other insurance requirements imposed by this Agreement or by law. The Consultant shall not be relieved of any liability, claims, demands or other obligations assumed pursuant to Attachment A, by reason of its failure to procure or maintain, during the life of this Agreement, insurance in sufficient amounts, durations, or types.

The Consultant shall procure and maintain, during the life of this Agreement, for itself and any subconsultants, the minimum insurance coverages listed in Attachment A. Such coverage shall be procured and maintained with forms and insurers acceptable to the County. All coverage shall be continuously maintained to cover all liability, claims, demands and other obligations assumed by the Consultant, pursuant to Attachment A. In the case of a claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage. Notwithstanding the foregoing, when the Consultant requires a subconsultant to obtain insurance coverage, the types and minimum limits of this coverage may be different than those required, as stated herein for the Consultant.

1. The certificate of insurance provided by the Consultant shall be completed by the Consultant's insurance agent as evidence that policies providing the required coverages, conditions and minimum limits are in full force and effect and **shall be reviewed and approved by the County prior to commencement of the Agreement**. No other form of certificate shall be used. The certificate shall identify this Agreement and the coverages afforded under the policies. **The certificate of insurance must be on file with the County prior to commencement of the Agreement**. The completed certificate of insurance shall be sent to:

El Paso County  
Board of County Commissioners  
Attn: Contracts and Procurement Division  
15 East Vermijo Avenue  
Colorado Springs, Colorado 80903

2. It is the affirmative obligation of the Consultant to notify the County's Contract Specialist, as provided in this Agreement, including e-mailing (PURCOI@elpasoco.com) a copy of the notice to the Contracts and Procurement Division, within two (2) business days of the cancellation or substantive change to any insurance policy required under this Agreement, and failure to do so shall constitute a breach of this Agreement.

3. Failure on the part of the Consultant to procure or maintain policies providing the required coverages, conditions and minimum limits shall constitute a material breach of contract upon which the County may immediately terminate this Agreement or, at its discretion, the County 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 County shall be repaid by Consultant to the County upon demand, or the County may offset the cost of the premiums against any monies due to Consultant from the County.

4. The County reserves the right to request and receive a certified copy of any policy and any endorsement thereto.

5. The parties hereto understand and agree that the County, its officers and employees, are relying on and do not waive or intend to waive by any provision of this Agreement the monetary limitations (presently Three Hundred Eighty-Seven Thousand Dollars (\$387,000) per person, and One Million Ninety-Three Thousand Dollars (\$1,093,000) per occurrence), which amounts shall be adjusted by an amount reflecting the percentage change over a four-year period in the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for Denver-Boulder-Greeley, All Items, All Urban Consumers, or its successor index, or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as from time to time amended, or otherwise available to the County, its officers or employees.

**El Paso County must be included on the General Liability insurance as an additional insured.** Certificates of Insurance must be submitted before commencing work and provide 30 days' notice prior to any cancellation.

It shall be the responsibility of the Consultant to ensure that all sub-Consultants carry insurance of not less than those coverages and limits specified herein. Proper evidence of this compliance must be forwarded to the appropriate department prior to the inception of any work by sub-Consultant.

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

\_\_\_\_\_  
(Name of Company)

\_\_\_\_\_  
(Signature) (Date)

**ATTACHMENT A  
INSURANCE CHECKLIST**

**SOLICITATION NUMBER: 23-070**  
**TITLE OF SOLICITATION:**

**Insurance items checked below have been identified as necessary requirements for this Contractor per the desired scope of work.**

**EL PASO COUNTY SHALL BE NAMED AS ADDITIONAL INSURED ON ALL RELEVANT POLICIES.**

<b>Insurance Item:</b>	<b>Required</b>	<b>Waived</b>
Contractor shall obtain and maintain, and ensure that each Subcontractor shall obtain and maintain, insurance as specified in this section and per <b>EXHIBIT 5</b> at all times during the term of this Contract. All insurance policies required by this Contract shall be issued by insurance companies as approved by the County.	<b>X</b>	
<b>Workers' Compensation:</b> Workers' compensation insurance as required by state statute, and employers' liability insurance covering all Contractor or Subcontractor employees acting within the course and scope of their employment.	<b>X</b>	
<b>Commercial General Liability:</b> Commercial general liability insurance covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows: \$1,000,000 each occurrence; \$2,000,000 general aggregate; \$1,000,000 products and completed operations aggregate; and \$50,000 damage to premises rented to you – anyone premises.	<b>X</b>	
<b>Automobile Liability:</b> Automobile liability insurance covering any auto (including owned, hired, and non-owned autos) with a minimum limit of \$1,000,000 each accident combined single limit.	<b>X</b>	
<b>Subrogation Waiver:</b> All insurance policies secured or maintained by Contractor in relation to this contract shall include clauses stating that each carrier shall waive all rights of recovery under subrogation or otherwise against the County, its agencies, institutions, organizations, officers, agents, employees, and volunteers.	<b>X</b>	
<b>Garagekeepers Coverage:</b> Garagekeepers coverage for loss to vehicles in the Contractors custody for servicing or storage with a minimum limit of \$500,000 for each loss.		<b>X</b>
<b>Umbrella Liability Insurance:</b> Commercial Umbrella/Excess Liability Insurance for bodily injury and property damage liability must sit over Contractor's primary Employer's Liability, Commercial General Liability and Commercial Automobile Liability with limits of: \$1,000,000 each occurrence and aggregate. Higher or Lower limits may be required or determined acceptable at the sole discretion of County.	<b>X</b>	
<b>Protected Information:</b> If Contractor's scope of work will include access to Confidential Information, such as PII, PHI, PCI, Tax Information, and CJI, Contractor shall maintain Cyber/ Network Security and Privacy Liability Insurance in an amount of not less than \$1,000,000 each occurrence; and \$2,000,000 general aggregate to cover civil, regulatory and statutory damages, contractual damage, as well as data breach management exposure, and any loss of income or extra expense as a result of actual or alleged breach, violation or infringement of right to privacy, consumer data protection law, confidentiality or other legal protection for personal information, as well as confidential information of County.		<b>X</b>
<b>Pollution Liability:</b> If Contractor's scope of work includes any pollution liability exposure, Contractor must provide and maintain a separate Pollution Liability Insurance policy. Such insurance shall include coverage for the Hold-Harmless or Indemnification Clause contained in this Agreement. Coverage shall include Additional Insured status in favor of County, its agents and employees and a Waiver of Subrogation in favor of additional insured parties the policy shall be written with a limit of liability no less than \$1,000,000 each occurrence and aggregate.		<b>X</b>
<b>Professional Liability/Malpractice Insurance:</b> Professionals to include: physicians, nurses, psychologists, social workers, etc. If Contractor's scope of work includes the performance of professional services, Contractor shall provide and maintain, for the statute of repose, Professional liability insurance covering any damages caused by an error, omission in performance of the professional services with minimum limits as follows: \$1,000,000 each claim; and \$1,000,000 general aggregate. Policy shall include coverage for bodily injury and sexual misconduct claims.		<b>X</b>
<b>Professional Liability Insurance:</b> Professionals to include: Architects, Engineers, Construction Managers. If Contractor's scope of work includes the performance of professional services, Contractor shall provide and maintain, for the statute of repose, Professional liability insurance covering any damages caused by an error, omission, or negligent professional act in performance of the professional services with minimum limits as follows: \$1,000,000 each claim; and \$1,000,000 general aggregate.	<b>X</b>	
<b>Professional Liability Insurance (Errors and Omissions):</b> Miscellaneous professions to include: IT Consultants/Programmers, Insurance Brokers, Accountants, Real Estate Agents, Etc. If Contractor's scope of work includes the performance of professional services, Contractor shall provide and maintain, for the statute of repose, Professional liability insurance covering any damages caused by an error, omission, or negligent professional act in performance of the professional services with minimum limits as follows: \$1,000,000 each claim; and \$1,000,000 general aggregate.		<b>X</b>
<b>Crime Insurance:</b> If Contractor's scope of work includes Contractor or Contractor's employees' involvement with money or securities of County, Contractor shall provide and maintain Commercial Crime coverage for a loss arising out of or in connection with any fraudulent or dishonest act committed by employees of the Contractor, in an amount of not less than \$1,000,000 single limit. Commercial Crime Coverage shall include third party liability coverage and list County as a loss payee		<b>X</b>
<b>Builders Risk:</b> The Contractor shall purchase and maintain All Risk Builder's Risk insurance upon the entire Project to One Hundred Percent (100%) of the insurable value thereof for the benefit of the Owner and the Contractor. Such insurance shall include any and all direct damage to all structures under construction (including temporary structures) and all materials, supplies, machinery, and equipment at the work site which are or will be incorporated in the work, which is caused by hazards such as but not limited to, the hazards of fire, lightning, wind, earthquake, flood, vandalism, malicious mischief, and other hazards included in a standard Extended Coverage Endorsement.		

The Sample Professional Services Agreement is included in this solicitation for information and reference purposes only.

It is the responsibility of the Consultant to provide any exceptions to this Solicitation and/or Sample Professional Services Agreement with its response for evaluation by El Paso County. It is the responsibility of the Consultant to provide the Solicitation and Sample Professional Services Agreement to their Legal Counsel for review and notation of any exceptions prior to submitting a proposal.

Following the determination of award, El Paso County and the successful Consultant will execute this document to consummate a contract between the parties. The Solicitation and the Consultant's Offer will be attached and incorporated as part of the contract.

**REMAINDER OF PAGE LEFT INTENTIONALLY BLANK**

## Request for Taxpayer Identification Number and Certification

**Give Form to the  
requester. Do not  
send to the IRS.**

<b>Print or type See Specific Instructions on page 2.</b>	Name (as shown on your income tax return)	
	Business name/disregarded entity name, if different from above	
	Check appropriate box for federal tax classification: <input type="checkbox"/> Individual/sole proprietor <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate  <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____  <input type="checkbox"/> Other (see instructions) ▶ _____	Exemptions (see instructions):  Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____
	Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
	City, state, and ZIP code	
List account number(s) here (optional)		

### Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Social security number				
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; border: 1px solid black; height: 20px;"></td> <td style="width: 25%; border: 1px solid black; height: 20px;"></td> <td style="width: 25%; border: 1px solid black; height: 20px;"></td> <td style="width: 25%; border: 1px solid black; height: 20px;"></td> </tr> </table>				

**Note.** If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Employer identification number				
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; border: 1px solid black; height: 20px;"></td> <td style="width: 25%; border: 1px solid black; height: 20px;"></td> <td style="width: 25%; border: 1px solid black; height: 20px;"></td> <td style="width: 25%; border: 1px solid black; height: 20px;"></td> </tr> </table>				

### Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below), and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

<b>Sign Here</b>	Signature of U.S. person ▶	Date ▶
------------------	----------------------------	--------

### General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** The IRS has created a page on [IRS.gov](http://IRS.gov) for information about Form W-9, at [www.irs.gov/w9](http://www.irs.gov/w9). Information about any future developments affecting Form W-9 (such as legislation enacted after we release it) will be posted on that page.

#### Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, payments made to you in settlement of payment card and third party network transactions, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the

withholding tax on foreign partners' share of effectively connected income, and

4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct.

**Note.** If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States:

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity,
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust, and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

**Foreign person.** If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

**Nonresident alien who becomes a resident alien.** Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

**Example.** Article 20 of the U.S.-China Income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS a percentage of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

### Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code* on page 3 and the separate instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships* on page 1.

**What is FATCA reporting?** The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code* on page 3 and the instructions for the Requester of Form W-9 for more information.

## Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account, for example, if the grantor of a grantor trust dies.

## Penalties

**Failure to furnish TIN.** If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

**Civil penalty for false information with respect to withholding.** If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

**Criminal penalty for falsifying information.** Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

**Misuse of TINs.** If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

## Specific Instructions

### Name

If you are an individual, you must generally enter the name shown on your income tax return. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person or entity whose number you entered in Part I of the form.

**Sole proprietor.** Enter your individual name as shown on your income tax return on the "Name" line. You may enter your business, trade, or "doing business as (DBA)" name on the "Business name/disregarded entity name" line.

**Partnership, C Corporation, or S Corporation.** Enter the entity's name on the "Name" line and any business, trade, or "doing business as (DBA)" name on the "Business name/disregarded entity name" line.

**Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulation section 301.7701-2(c)(2)(ii). Enter the owner's name on the "Name" line. The name of the entity entered on the "Name" line should never be a disregarded entity. The name on the "Name" line must be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on the "Name" line. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on the "Business name/disregarded entity name" line. If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

**Note.** Check the appropriate box for the U.S. federal tax classification of the person whose name is entered on the "Name" line (individual/sole proprietor, Partnership, C Corporation, S Corporation, Trust/estate).

**Limited Liability Company (LLC).** If the person identified on the "Name" line is an LLC, check the "limited liability company" box only and enter the appropriate code for the U.S. federal tax classification in the space provided. If you are an LLC that is treated as a partnership for U.S. federal tax purposes, enter "P" for partnership. If you are an LLC that has filed a Form 8832 or a Form 2553 to be taxed as a corporation, enter "C" for C corporation or "S" for S corporation, as appropriate. If you are an LLC that is disregarded as an entity separate from its owner under Regulation section 301.7701-3 (except for employment and excise tax), do not check the LLC box unless the owner of the LLC (required to be identified on the "Name" line) is another LLC that is not disregarded for U.S. federal tax purposes. If the LLC is disregarded as an entity separate from its owner, enter the appropriate tax classification of the owner identified on the "Name" line.

**Other entities.** Enter your business name as shown on required U.S. federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name/disregarded entity name" line.

## Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the *Exemptions* box, any code(s) that may apply to you. See *Exempt payee code* and *Exemption from FATCA reporting code* on page 3.

**Exempt payee code.** Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends. Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.

**Note.** If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

The following codes identify payees that are exempt from backup withholding:

- 1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)
- 2—The United States or any of its agencies or instrumentalities
- 3—A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities
- 4—A foreign government or any of its political subdivisions, agencies, or instrumentalities
- 5—A corporation
- 6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States
- 7—A futures commission merchant registered with the Commodity Futures Trading Commission
- 8—A real estate investment trust
- 9—An entity registered at all times during the tax year under the Investment Company Act of 1940
- 10—A common trust fund operated by a bank under section 584(a)
- 11—A financial institution
- 12—A middleman known in the investment community as a nominee or custodian
- 13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over \$600 required to be reported and direct sales over \$5,000 <sup>1</sup>	Generally, exempt payees 1 through 5 <sup>2</sup>
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

<sup>1</sup> See Form 1099-MISC, Miscellaneous Income, and its instructions.

<sup>2</sup> However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney, and payments for services paid by a federal executive agency.

**Exemption from FATCA reporting code.** The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements.

- A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)
- B—The United States or any of its agencies or instrumentalities
- C—A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities
- D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Reg. section 1.1472-1(c)(1)(i)
- E—A corporation that is a member of the same expanded affiliated group as a corporation described in Reg. section 1.1472-1(c)(1)(ii)
- F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

- G—A real estate investment trust
- H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940
- I—A common trust fund as defined in section 584(a)
- J—A bank as defined in section 581
- K—A broker
- L—A trust exempt from tax under section 664 or described in section 4947(a)(1)
- M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

**Part I. Taxpayer Identification Number (TIN)**

**Enter your TIN in the appropriate box.** If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited Liability Company (LLC)* on page 2), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

**Note.** See the chart on page 4 for further clarification of name and TIN combinations.

**How to get a TIN.** If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local Social Security Administration office or get this form online at [www.ssa.gov](http://www.ssa.gov). You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at [www.irs.gov/businesses](http://www.irs.gov/businesses) and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting [IRS.gov](http://IRS.gov) or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

**Note.** Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

**Caution:** A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

**Part II. Certification**

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 4, or 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on the "Name" line must sign. Exempt payees, see *Exempt payee code* earlier.

**Signature requirements.** Complete the certification as indicated in items 1 through 5 below.

**1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.** You must give your correct TIN, but you do not have to sign the certification.

**2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

**3. Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.

**4. Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

**5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.



### What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account <sup>1</sup>
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor <sup>2</sup>
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee <sup>3</sup>
b. So-called trust account that is not a legal or valid trust under state law	The actual owner <sup>1</sup>
5. Sole proprietorship or disregarded entity owned by an individual	The owner <sup>3</sup>
6. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulation section 1.671-4(b)(2)(i)(A))	The grantor <sup>4</sup>
For this type of account:	Give name and EIN of:
7. Disregarded entity not owned by an individual	The owner
8. A valid trust, estate, or pension trust	Legal entity <sup>4</sup>
9. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
10. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
11. Partnership or multi-member LLC	The partnership
12. A broker or registered nominee	The broker or nominee
13. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
14. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulation section 1.671-4(b)(2)(i)(B))	The trust

<sup>1</sup> List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

<sup>2</sup> Circle the minor's name and furnish the minor's SSN.

<sup>3</sup> You must show your individual name and you may also enter your business or "DBA" name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

<sup>4</sup> List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see "Special rules for partnerships" on page 1.

\*Note. Grantor also must provide a Form W-9 to trustee of trust.

**Note.** If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

### Secure Your Tax Records from Identity Theft

Identity theft occurs when someone uses your personal information such as your name, social security number (SSN), or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN.
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Publication 4535, Identity Theft Prevention and Victim Assistance.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

**Protect yourself from suspicious emails or phishing schemes.** Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to [phishing@irs.gov](mailto:phishing@irs.gov). You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration at 1-800-368-4484. You can forward suspicious emails to the Federal Trade Commission at: [spam@uce.gov](mailto:spam@uce.gov) or contact them at [www.ftc.gov/idtheft](http://www.ftc.gov/idtheft) or 1-877-IDTHEFT (1-877-438-4338).

Visit [IRS.gov](http://IRS.gov) to learn more about identity theft and how to reduce your risk.

### Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

# AGREEMENT FOR SERVICES

**THIS AGREEMENT** is entered into as of the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by and between the Board of County Commissioners of the County of El Paso, State of Colorado (hereinafter referred to as the "County") and \_\_\_\_\_ (hereinafter referred to as the "Consultant").

**WHEREAS**, the County desires to engage the Consultant to provide the services described in Exhibit A, \_\_\_\_\_ (the "Project").

**NOW, THEREFORE**, the parties mutually agree as follows:

1. **Scope of Services.** The Consultant shall furnish all labor and materials to perform the services required for the complete and prompt execution and performance of all duties, obligations, and responsibilities for the Project, which are described or reasonably implied from Section 1 of Exhibit A, which is attached hereto and incorporated herein by this reference.

2. **Incorporated Documents.** The following documents are incorporated herein by reference and made a part of this Agreement: Request for Proposal #23-004, FHWA Form 1273, Title VI Non-Discrimination Assurance Appendix A&E, Schedule, Notice of Award; Notice to Proceed; General Conditions; Special Conditions, measurement, payment, and technical specifications and drawings; and any modifications and change orders or other such revisions properly authorized after the execution of this agreement.

In the event of any conflicts between this Agreement and any referenced or attached documents, this Agreement shall control.

3. **Time of Performance.** The services of the Consultant are to commence and be completed (or end) by the dates set forth in Section 2 of Exhibit A, unless this Agreement is sooner terminated pursuant to paragraph 5.A. below. All time limits are of the essence in this Agreement.

4. **Method of Payment.** The County will compensate the Consultant for services rendered in accordance with Section 3 of Exhibit A, subject to the availability of appropriated funds within the annual budget. The Consultant is responsible for paying all applicable income, Federal Insurance Contributions Act (FICA), Federal Unemployment Tax Act, or other taxes owed on compensation paid under this Agreement. The Consultant shall submit requests for payment in a form acceptable to the County and in conformance with the County's policies. The Consultant shall provide such backup information for its payment requests as may be reasonably requested by the County. The County shall have forty-five (45) days from receipt of any payment request to make payment to the Consultant.

## 5. General Terms and Conditions.

A. **Termination of Agreement.** The County or the Consultant shall have the right to terminate this Agreement, with or without cause, by giving written notice to the other party of such termination and specifying the effective date thereof, which notice shall be given at least the number of days set forth in Section 4 of Exhibit A prior to the effective date of such termination. In such event, all finished or unfinished documents, data, studies, and reports prepared by the Consultant pursuant to this Agreement shall become the property of the County. Unless expressly stated otherwise in the notice, Consultant shall provide no further services in connection with this Agreement after receipt of a notice of termination, and the Consultant shall proceed to cancel all existing orders and contracts that are chargeable to the County under this Agreement. The Consultant shall be entitled to receive compensation in accordance with this Agreement for any satisfactory services completed pursuant to the terms of this Agreement prior to the date of receipt of the notice of termination, or such other stop-work date as may be specified in the notice. Notwithstanding the above, the Consultant shall not be relieved of liability to the County for damages sustained by virtue of any breach of this Agreement by the Consultant.

**Pandemics.** The Consultant shall abide by any local, state, and federal health orders in effect or instituted during the term of this Agreement. The Consultant is expected to implement any such changes effective immediately. Failure to abide by such requirements may result in termination of the Agreement.

B. **Changes.** The County or Consultant may, from time to time, request changes in the scope of services or compensation of the Consultant. Such changes that are mutually agreed upon between the County and Consultant shall be in

writing, and upon execution shall become part of this Agreement. To be effective, all changes must be signed by the Consultant and by the Board of County Commissioners, or by a person authorized by resolution to sign on behalf of the Board.

C. Assignability or Subcontracting. Any assignment, transfer or subcontracting of this Agreement is prohibited, unless written consent is obtained from the County.

D. Audit. The County and any of its duly authorized representatives shall have reasonable access to any books, documents, papers, and records of the Consultant which are pertinent to the Consultant's performance under this Agreement for the purpose of making an audit, examination, or excerpts. The Consultant shall provide any documentation necessary to prepare all reporting required of or by the County, and shall keep all books, documents, papers, and records which are pertinent to the Consultant's performance for a minimum period of three years, or such longer time as may be set forth in any Special Conditions or addendums to this Agreement.

E. Equal Employment Opportunity. While performing this Agreement, the Consultant shall not discriminate against any employee, subconsultant, or applicant for employment because of disability, race, creed, color, gender, sexual orientation, religion, age, national origin, or ancestry.

F. Ownership of Documents. All drawings, specifications, guidelines, and other documents prepared or received by the Consultant in connection with this Agreement shall be the property of the County.

G. Assignment of Copyrights. The Consultant assigns to the County the copyrights to all works prepared, developed, or created pursuant to this Agreement, including the rights to: 1) reproduce the work; 2) prepare derivative works; 3) distribute copies to the public by sale, rental, lease, or lending; 4) perform the works publicly; and 5) to display the work publicly. The Consultant waives its rights to claim authorship of the works, to prevent its name from being used in connection with the works, and to prevent distortion of the works.

H. Governing Law/Forum/Interpretation. This Agreement has been executed by the parties hereto on the day and year first above written and shall be governed by the laws of the State of Colorado. Venue for any civil action relating to this Agreement shall be in El Paso County. Both parties agree that the rule that ambiguities in a contract are to be construed against the drafting party shall not apply to the interpretation of this Agreement. If there is any conflict between the language of this Agreement and any exhibit or attachment, the language of this Agreement shall govern.

Consultant shall comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Agreement. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this Agreement shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the Fourth Judicial District, El Paso County.

I. Compliance with Laws/Licenses and Permits. The Consultant shall comply with all applicable federal, state and local laws, ordinances, regulations, and resolutions. The Consultant shall be responsible for obtaining all licenses and permits necessary to perform the scope of services, at the Consultant's expense, unless specifically stated otherwise in this Agreement.

J. No Waiver of Rights. The County's approval or acceptance of, or payment for, services shall not be construed to operate as a waiver of any rights or benefits to be provided under this Agreement. No covenant or term of this Agreement shall be deemed to be waived by the County except in writing signed by the Board of County Commissioners or person authorized to sign by resolution of the Board, and any waiver of a right shall not be construed to be a waiver of any other right or to be a continuing waiver, unless specifically so stated.

K. Non-appropriation. Pursuant to Article X, Section 20 of the Colorado Constitution and C.R.S. § 29-1-110, as amended, the financial obligations of the County as set forth herein after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise available. This Agreement is automatically terminated on January 1st of the first fiscal year for which funds are not appropriated. The County shall give the Consultant written notice of such non-appropriation. Financial obligations of the County payable after the current Fiscal Year are contingent upon funds for that

purpose being appropriated, budgeted, and otherwise made available, pursuant to the Constitution for annual funding appropriation.

L. Conflict of Interest/Ethics. The Consultant shall refrain from providing services to other persons, firms or entities that would create a conflict of interest for Consultant with regard to providing services pursuant to this Agreement. The Consultant shall not offer or provide anything of benefit to any County official or employee that would place the official or employee in a position of violating the public trust in violation of Colorado Constitution Article XXIX, C.R.S. § 24-18-109, as amended.

The Consultant shall disclose any personal or private interest related to property or business within the County. Upon disclosure of any such personal or private interest, the County shall determine if the interest constitutes a conflict of interest. If the County determines that a conflict of interest exists, the County may treat such conflict of interest as a default and terminate this Agreement.

M. Remedies. In addition to any other remedies provided for in this Agreement, and without limiting its remedies available at law, the County may exercise the following remedial actions if the Consultant substantially fails to satisfy the duties and obligations in this Agreement. Substantial failure to satisfy the duties and obligations shall mean significant insufficient, incorrect, or improper performance, activities, or inactions by the Consultant. These remedial actions are as follows:

(1) Suspend Consultant's performance pending necessary corrective action as specified by the County without the Consultant's entitlement to an increase in price/cost or a time extension; and/or

(2) Withhold payment to the Consultant until the necessary services or corrections in performance are satisfactorily completed; and/or

(3) Deny payment for those services which have not been satisfactorily performed, or which, due to circumstances caused by the Consultant, cannot be performed, or if performed would be of no value to the County.

The foregoing remedial actions are cumulative and the County, in its sole discretion, may exercise any or all of them individually or simultaneously. The County shall provide written notice to Consultant of its exercise of any of the foregoing remedial actions.

N. Force Majeure. Neither the Consultant nor the County shall be liable for any delay in, or failure of performance of, any covenant or promise contained in this Agreement, nor shall any delay or failure constitute default or give rise to any liability for damages if, and only to extent that, such delay or failure is caused by "force majeure." As used in this Agreement, "force majeure" means acts of God, acts of the public enemy, unusually severe weather, fires, floods, epidemics, quarantines, strikes, labor disputes and freight embargoes, to the extent such events were not the result of, or were not aggravated by, the acts or omissions of the non-performing or delayed party.

O. Third-Party Beneficiaries. It is expressly understood and agreed that the enforcement of this Agreement and all rights of action relating thereto shall be strictly reserved to the County and the named Consultant. Nothing contained in this Agreement shall give or allow any claim or right of action whatsoever by any other third person.

P. Survival of Terms and Conditions. Notwithstanding anything herein to the contrary, the parties understand and agree that all terms and conditions of the Agreement that anticipate continued performance, compliance, or effect beyond the termination date of the Agreement shall survive such termination date and shall be enforceable in the event of a failure to perform or comply.

Q. Abilities, Qualifications, Experience, and Best Efforts. Notwithstanding anything to the contrary contained in this Agreement, the County and Consultant agree and acknowledge that the County enters into this Agreement relying on the special and unique abilities of Consultant to perform the services and accomplish the tasks described. Consultant accepts the relationship of trust and confidence established between Consultant and the County by this Agreement. Consultant covenants with the County to use its best efforts. Consultant shall further the interests of the County according to the County's requirements and procedures, and according to the highest standards and quality prevailing among those who perform work of a similar nature.

R. Accuracy of Work. The Consultant represents, covenants, and agrees that its work will be accurate and free from any material errors.

S. Personally Identifiable Information (PII). If the Consultant or any of its SubConsultants will or may receive PII under this Agreement, Consultant shall provide for the security of such PII, in a manner and form acceptable to the County, including, without limitation, non-disclosure requirements, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections and audits. Consultant shall be a “Third-Party Service Provider” as defined in C.R.S. § 24-73-101(1) (i) and shall maintain security procedures and practices consistent with C.R.S. § 24-73-102 and C.R.S. § 24-73-103. In the event Consultant incurs a data breach whereby it is reasonably believed that any of County’s PII either could have been, or was compromised, then Consultant shall immediately notify the County in writing and shall abide by C.R.S. § 24-73-101 *et seq.*

6. **Insurance**. In part to assure the County that the Consultant is always capable of fulfilling the specified indemnification obligations, the Consultant must purchase and maintain insurance of the kind and in the minimum amounts specified below, unless indicated otherwise in Section 7 of Exhibit A.

A. The Consultant agrees to procure and maintain, at its own expense, for all services covered by this Agreement, the following policies of insurance:

(1) **Workers’ Compensation Insurance**: The Consultant will maintain workers’ compensation insurance covering the Consultant for the performance of all services under this Agreement in accordance with applicable state laws, and employer’s liability insurance. Coverage shall include a waiver of subrogation in favor of El Paso County

Minimum Limits:

- Workers’ Compensation – statutory limits
- Employer’s Liability:
  - \$1,000,000 bodily injury for each accident
  - \$1,000,000 each employee for disease
  - \$1,000,000 disease aggregate

The requirements of this provision shall apply to the Consultant and to all subconsultants.

(2) **Commercial General Liability**: The Consultant will maintain commercial general liability insurance covering all operations by or on behalf of the Consultant on an occurrence basis against claims for bodily injury, property damage (including loss of use) and personal injury. Such insurance will have these minimum limits and coverages:

Minimum Limits:

- \$1,000,000 each occurrence
- \$2,000,000 general aggregate with dedicated limits per project site
- \$2,000,000 products and completed operations aggregate

Coverages:

- Products and completed operations coverage maintained for at least 2 years after completion of the project for construction Consultants
- Contractual Liability
- Independent Consultants
- Defense in addition to the limits of liability
- Waiver of Subrogation
- Severability of Interests Provision

Additional Insured Endorsement (for on-going and completed operations) issued to El Paso County, Colorado its officers, its agents, and its employees acting in the scope of their employment.

The requirements of this provision shall apply to the Consultant and to all subconsultants.

(3) Automobile Liability: The Consultant will maintain business auto liability coverage covering liability arising out of any auto (including owned, hired, and non-owned autos) used in connection Minimum Limits:

Minimum Limit:

- \$1,000,000 Combined Single Limit Each Accident

Coverages:

- Specific Waiver of Subrogation
- MCS 90 for vehicles carrying hazardous materials
- Mobile (for on-going and completed operations) issued to El Paso County, Colorado its officers, its agents, and its employees acting in the scope of their employment

The requirements of this provision shall apply to the Consultant and to all subconsultants.

(4) If indicated in Section 5 of Exhibit A, Errors and Omissions or Professional Liability Insurance with a minimum coverage amount as specified in Section 5 of Exhibit A, and for two years beyond the completion of all services under this Agreement.

B. The above-mentioned coverages shall be procured and maintained with insurers with an A- or better rating, as determined by Best's Key Rating Guide. All coverages shall be continuously maintained during the term of this Agreement or as noted above to cover all liability, claims, demands, and other obligations assumed by the Consultant.

C. Additional Insured status required above shall be primary and non-contributory with any insurance or self-insurance carried by the County. The Consultant shall be solely responsible for any deductible losses under any policy required above.

D. The policies shall provide that the County will receive notice no less than 30 days prior to cancellation, termination, or non-renewal of the policies.

E. The Consultant 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.

F. Failure on the part of the Consultant to procure or maintain policies providing the required coverages, conditions and minimum limits shall constitute a material breach of contract upon which the County may immediately terminate this Agreement.

G. The County reserves the right to request and receive a certified copy of any policy and any endorsement thereto.

## **7. Insurance Certificates.**

A. The Consultant shall, prior to commencing services, deliver to the County Certificates of Insurance as evidence that policies providing any and all required coverages and limits are in full force and effect.

B. These certificates will serve as an indication to the County that the Consultant has acquired all necessary insurance; however, the County may require that certified copies of the insurance policies be submitted and may withhold payment for services until the applicable insurance policies are received and found to be in accordance with the Agreement.

C. Insurance limits must be indicated on each Certificate of Insurance. Each Certificate of Insurance shall be reviewed and approved by the County prior to commencement of services under the Agreement.

8. **Indemnification.** The Consultant shall indemnify and hold harmless the County and its elected and appointed officials, officers, employees, and agents from and against any and all losses, damages, liabilities, claims, suits, actions, or awards, including costs, expenses and attorney's fees, incurred or occasioned as a result of any negligent acts or omissions of the Consultant, or its principals, employees, agents, or subconsultants arising out of or in any way connected with the

performance of services under this Agreement. The Consultant's obligation to indemnify pursuant to this paragraph, and to provide any extended insurance coverage where applicable, shall survive the completion of the scope of services, and shall survive the termination of this Agreement.

9. **Government Immunity.** Liability for claims for injuries to persons or property arising from the negligence of the County, its departments, boards, commissions committees, bureaus, offices, employees, and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§ 24-30-1501, *et seq.*, C.R.S. No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

10. **Prohibited Terms.** Any term included in this Agreement that requires the County to indemnify or hold Consultant harmless; requires the County to agree to binding arbitration; limits Consultant's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be void *ab initio*. Nothing in this Agreement shall be construed as a waiver of any provision of § 24-106-109, C.R.S.

11. **Independent Consultant.** The Consultant is an independent Consultant. AN INDEPENDENT CONSULTANT IS NOT ENTITLED TO WORKER'S COMPENSATION BENEFITS AND IS OBLIGATED TO PAY FEDERAL AND STATE INCOME TAX ON ANY MONIES EARNED PURSUANT TO THE CONTRACT RELATIONSHIP. Notwithstanding any provision appearing in this Agreement, all personnel assigned by the Consultant to perform work under the terms of this Agreement shall be and remain at all times employees of the Consultant or employees of their respective employers for all purposes.

12. **Notices.** Notices to be provided under this Agreement shall be given in writing and either delivered by hand or deposited in the United States mail with sufficient postage to the addresses set forth in Section 6 of Exhibit A.

13. **Extent of Agreement.** This Agreement represents the entire and integrated agreement between the County and the Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral. Any amendments to this must be in writing and be signed by both the County and the Consultant. If any portion of this Agreement is found by a court of competent jurisdiction to be void and/or unenforceable, it is the intent of the parties that the remaining portions of this Agreement shall be of full force and effect.

[Remainder of page intentionally left blank. Signatures on following page.]

**CONSULTANT:**

By: \_\_\_\_\_  
(signature)

Title: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 )ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, as \_\_\_\_\_ of \_\_\_\_\_.

My commission expires: \_\_\_\_\_.

SEAL

\_\_\_\_\_  
Notary Public

**ATTEST: Clerk to the Board**

\_\_\_\_\_

Date: \_\_\_\_\_

**EL PASO COUNTY**

By: \_\_\_\_\_  
Chair, Board of County Commissioners  
(Or representative authorized by resolution)

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 202\_

**APPROVED AS TO LEGAL FORM:**

\_\_\_\_\_  
County Attorney's Office

Date: \_\_\_\_\_



**EXHIBIT A to Agreement between the County and \_\_\_\_\_.**  
Project Number or Name: \_\_\_\_\_.

1. **Scope of Services.** The Consultant hereby agrees to and accepts responsibility to perform the following services:

In the event of any conflicts between this Agreement and any attached solicitation documents, this Agreement shall control.

2. **Time of Performance.** The services of the Consultant shall commence (choose one):

- As of the date of this Agreement.
- As specified in a Notice to Proceed to be provided by the County.
- As of the following date: \_\_\_\_\_.

The services of the Consultant shall be completed, or shall end, by \_\_\_\_\_, \_\_\_\_\_, at which time the County shall have the option to extend the Agreement for four additional one-year terms under the same terms and conditions of the original Agreement by issuance of an Extension Letter. Continuation of the Agreement beyond the initial period is a County prerogative and not a right of the Consultant and will be exercised only when such continuation is clearly in the best interest of the County.

3. **Compensation.** The County agrees to compensate the Consultant for the performance of services detailed in Section 1 above, Scope of Services, as follows (choose one):

- Lump sum due upon completion: \$ \_\_\_\_\_.
- Phased payments for completed work: Phase I - \$ \_\_\_\_\_; Phase II - \$ \_\_\_\_\_; Phase III - \$ \_\_\_\_\_.
- Hourly rate: \$ \_\_\_\_\_/hour or as outlined in the attached document.
- Other: \_\_\_\_\_.

It is expressly understood and agreed that the total compensation to be paid to the Consultant under this Agreement shall not exceed \$ \_\_\_\_\_.

4. **Notices of Termination.** Notices of termination shall be given at least thirty (30) days before the effective date of termination.

5. **Additional Insurance Requirements.**

Protective Liability and Property Damage Insurance covering the liability of the County, including any employee, officer, or agent of the County, with respect to all operations under the Agreement by the Consultant or his subconsultants, shall be procured and maintained during the life of the Agreement. The limits of the County's Protective Liability Policy, to be provided by the Consultant, as described in Section 7, shall be increased to the same limits for the Consultant's Commercial General Liability Insurance. **Check box if required only.**

Professional Liability Insurance is required. If Consultant's scope of work includes the performance of professional services, Consultant shall provide and maintain, for the statute of repose, Professional liability insurance covering

any damages caused by an error, omission in performance of the professional services with the required minimum limits of One Million Dollars (\$1,000,000) each claim and Two Million Dollars (\$2,000,000) annual aggregate, and Consultant shall maintain such coverage for at least two (2) years from the termination of this Agreement. **Check box if required only.**

**Umbrella Liability Insurance is required:** Commercial Umbrella/Excess Liability Insurance for bodily injury and property damage liability must sit over Consultant's primary Employer's Liability, Commercial General Liability and Commercial Automobile Liability with limits of: One Million Dollars (\$1,000,000) each occurrence and aggregate. Higher or Lower limits may be required or determined acceptable at the sole discretion of County. **Check box if required only.**

**Protected Information:** If Consultant's scope of work will include access to Confidential Information, such as PII, PHI, PCI, Tax Information, and CJ, Consultant shall maintain Cyber/ Network Security and Privacy Liability Insurance in an amount of not less than One Million Dollars (\$1,000,000) each occurrence; and Two Million Dollars (\$2,000,000) general aggregate to cover civil, regulatory and statutory damages, contractual damage, as well as data breach management exposure, and any loss of income or extra expense as a result of actual or alleged breach, violation or infringement of right to privacy, consumer data protection law, confidentiality or other legal protection for personal information, as well as confidential information of County. **Check box if required only.**

**Pollution Liability:** If Consultant's scope of work includes any pollution liability exposure, Consultant must provide and maintain a separate Pollution Liability Insurance policy. Such insurance shall include coverage for the Hold-Harmless or Indemnification Clause contained in this Agreement. Coverage shall include Additional Insured status in favor of County, its agents and employees and a Waiver of Subrogation in favor of additional insured parties the policy shall be written with a limit of liability no less than One Million Dollars (\$1,000,000) each occurrence and aggregate. **Check box if required only.**

**Crime Insurance:** If Consultant's scope of work includes Consultant or Consultant's employees' involvement with money or securities of County, Consultant shall provide and maintain Commercial Crime coverage for a loss arising out of or in connection with any fraudulent or dishonest act committed by employees of the Consultant, in an amount of not less than One Million Dollars (\$1,000,000) single limit. Commercial Crime Coverage shall include third party liability coverage and list County as a loss payee. **Check box if required only.**

**Builders Risk:** The Consultant shall purchase and maintain All Risk Builder's Risk insurance upon the entire Project to One Hundred Percent (100%) of the insurable value thereof for the benefit of the Owner and the Consultant. Such insurance shall include any and all direct damage to all structures under construction (including temporary structures) and all materials, supplies, machinery, and equipment at the work site which are or will be incorporated in the work, which is caused by hazards such as but not limited to, the hazards of fire, lightning, wind, earthquake, flood, vandalism, malicious mischief, and other hazards included in a standard Extended Coverage Endorsement. **Check box if required only.**

**Subrogation Waiver:** All insurance policies secured or maintained by Consultant in relation to this contract shall include clauses stating that each carrier shall waive all rights of recovery under subrogation or otherwise against the County, its agencies, institutions, organizations, officers, agents, employees, and volunteers. **REQUIRED.**

**Waiver of Workers' Compensation Insurance Requirements. Check box for Sole Proprietors only.**

A Waiver of Workers' Compensation Insurance is required only when a Consultant is a sole proprietor and has no employees. This form must be requested from the Contracts & Procurement Division.

**6. Addresses for Notices.** The addresses for Notices are as follows:

To the County: El Paso County Contracts & Procurement Division  
15 East Vermijo Avenue  
Colorado Springs, Colorado 80903

AND

To the Consultant:

**7. Special Conditions.**

- No special conditions
- Special Conditions are as follows: