

PROPOSAL DOCUMENTS

1.0 Library Plaza Improvements Award & Contract

Work shall conform to the agreement, RFP documents, and exhibits A and B

- 1.1 **Award** – The City of Louisville reserves the right to reject any or all proposals or portions thereof and to waive any informalities or defects.

Preference will be hereby given to local Contractors, based on the “Local Vendor” procedures in the City of Louisville “Purchasing Policies and Procedures Manual”.

- 1.2 **Insurance** - Simultaneously with the execution of the Agreement, the Contractor will deliver to the Owner the required proof of insurance.

- 1.3 **Conference** - Before starting the work, a conference will be held to review and establish a working understanding between the parties as to the services. Present at the conference will be the Contractor and its supervisory staff, the Facilities Manager and other City staff who will be responsible for coordinating the Plaza Improvements

2.0 INSTRUCTIONS TO PROPOSERS

- 2.1 Pricing must be submitted on the forms provided (exhibit B). All items shall be properly filled out. Numerals, printing and signatures shall be written in ink. Signatures shall be in longhand. Alternative proposals will not be considered.

- 2.2 Prior to submitting a proposals, proposers must satisfy themselves by personal examination of "all" areas listed on the bid proposal and by examination of the specifications and requirements of the work and quantities of work to be done, and shall not at any time, after submission of a proposal, dispute or complain nor assert that there were any misunderstandings in regard to the nature or amount of work to be done. Proposers also shall carefully examine the form and time of the Contract, existing conditions and limitations, and shall include in the proposal, monies to cover the cost of all services included in the agreement and all insurance and administration costs.

- 2.3 The proposers may withdraw any proposal submitted at any time prior to the time set for closing deadline, provided a request for withdrawal is signed in a manner identical with the proposal being withdrawn. No withdrawal or modification will be permitted after the hour designated for closing deadline.

- 2.4 Sealed proposals for the work hereinafter described will be received by the **City of Louisville**, at **Louisville Public Library, 951 Spruce Street, Louisville, Colorado 80027** until **4:00 PM on March 22nd 2022**. Proposals shall be submitted in a sealed

envelope and labeled "COL Library Plaza Improvements". Proposals may be deposited at Public Works - Facilities or mailed to City of Louisville, Public Works - Facilities, 749 Main Street, Louisville, Colorado 80027.

Alternately, proposals may be emailed no later than 4:00PM on March 22nd 2022 to:

kfrey@louisvilleco.gov

Proposals which are incomplete, unbalanced, conditional or obscure or which contain additions not called for, erasures, alteration or irregularities of any kind or which do not comply with this "Instructions to Proposers" may be rejected at the option of the Owner.

- 2.5 If discrepancies or omissions are found in the RFP or Agreement, or if the proposer is in doubt of the meaning or needs clarification, he shall notify the Facilities Manager in writing, as all responses must be written. If the point or points in question are not clearly and fully set forth, a written addendum will be sent to each person obtaining the RFP documents. The Owner will not be bound by, or responsible for oral instructions, interpretations or representations.
- 2.6 The RFP documents contain the provisions of the agreement between the Owner and the Contractor. No information obtained from any officer, agent or employee of the Owner on any such matters shall in any way affect the risk or obligation assumed by the Contractor or relieves him from fulfilling any of the conditions of the Contract.
- 2.7 **City of Louisville Project Manager** - The City of Louisville Facilities Manager is the responsible City staff member to provide direction to the Contractor.
- 2.8 **Pre-proposal Conference** - A mandatory pre-proposal conference is scheduled, at **9:00 AM on March 10th, 2022** at The Louisville Public Library 951 Spruce St, Louisville, CO, with the Facilities Manager. The City Staff will be available to tour the facilities, review the general requirements of the Agreement, and answer questions about the scope of work required. **Attendance at a pre-proposal conference will be required to submit a proposal. If you cannot attend the scheduled pre-proposal conference, you may request an alternate time by contacting Mr. Frey.**

3.0 TERM OF AGREEMENT

Agreement shall be for the period commencing **April 12th 2022 and ending June 1 2022, 2021 or as mutually agreed to by the City and the Contractor.**

4.0 INSURANCE REQUIREMENTS

The Contractor must provide proof of insurance as required in the agreement.

- 4.1 **Certificate** - A certificate of insurance shall be completed by the Contractor's insurance agent as evidence that policies providing the required coverage, conditions, and minimum limits are in full force and effect, and shall be reviewed and approved by the Owner prior to commencement of any work under the Agreement. The Owner shall have the right to request and obtain copies of any insurance policies required hereunder. The certificate shall identify the Agreement and shall provide that the coverage afforded under the policies shall not be canceled, terminated or materially changed until at least 30 days prior to written notice has been given to the Owner. The City of Louisville, its officers and employees shall be listed as additional insured by the Contractor on each certificate. The completed certificate of insurance shall be sent to: The City of Louisville, Attn: Facilities Manager, 749 Main St, Louisville, CO 80027.
- 5.0 **Subcontracting Work** - The Contractor shall employ only workers who are competent to perform the work assigned to them. The Contractor shall not employ any subcontractor (whether initially or as a substitute) for any portion of this contract, except carpet and upholstery cleaning, which must be pre-approved by the City of Louisville Project Manager.

Library Plaza Improvements Proposal

THIS PROPOSAL IS SUBMITTED TO: THE CITY OF LOUISVILLE, COLORADO

1. The undersigned PROPOSER proposes and agrees, if this Proposal is accepted, to enter into an Agreement with OWNER in the form included in the Contract Documents to perform and furnish all Work as specified or indicated in the Contract Documents for the Contract Price and within the Contract Time indicated in this Proposal and in accordance with the other terms and conditions of the Contract Documents.
2. PROPOSER accepts all of the terms and conditions of the Request for Proposal and Instructions to Proposers, including without limitation those dealing with the disposition of Bid Security. This Proposal will remain subject to acceptance for sixty days after the day of Proposal deadline. Proposer will sign and submit the Agreement and other documents required within ten days after the date of OWNER's Notice of Award.
3. In submitting this Proposal, PROPOSER represents, as more fully set forth in the Agreement, that:
 - (a) PROPOSER has examined copies of all the Bidding Documents and of the following Addenda receipt of all which is hereby acknowledged: (List Addenda by Addendum Number and Date):

Date	Number
 - (b) PROPOSER has familiarized itself with the nature and extent of the Contract Documents, Work, site, locality, and all local conditions and Laws and Regulations that in any manner may affect cost, progress, performance or furnishing of the Work.
 - (c) PROPOSER has reviewed and checked all information and data shown or indicated on the Contract Documents.
 - (d) PROPOSER has correlated the results of all such observations, examinations, investigations, explorations, tests, reports and studies with the terms and conditions of the Contract Documents.
 - (e) PROPOSER has given the OWNER written notice of all conflicts, errors, ambiguities or discrepancies that PROPOSER has discovered in the Contract Documents and the written resolution thereof by OWNER is acceptable to PROPOSER, and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work for which this Proposal is submitted.
 - (f) This Proposal is genuine and not made in the interest of or on behalf of any undisclosed person, firm or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation; PROPOSER has not directly or indirectly induced or solicited any other Bidder to submit a false or sham proposal; PROPOSER has not solicited or induced any person, firm or corporation to refrain from proposing; and PROPOSER has not sought by collusion to obtain for himself any advantage over any other Proposer or over OWNER.
4. PROPOSER will complete the Work in accordance with Contract Documents for the following price(s):

EXHIBIT B

Library Plaza Improvements Pricing & Information

1. Lump sum cost for the following:

Turnkey design and installation of Library Improvements as per RFP documents and Specifications:

\$ _____

2. List of at least three references (may be separately attached). Please include name, title, organization, phone number and email

Reference 1.

Reference 2.

Reference 3.

3. Proposed Project completion date or timeline:

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4. Details that are relevant to the Proposal and completion of the Project (may be separately attached:

ADDITIONAL DOCUMENTS

5. The following documents are attached to and made a condition of this Proposal:

- (a) A list of Subcontractors and other persons and organizations proposed to perform the Work are required to be identified on the Schedule of Subcontractors and submitted in this Proposal;
- (b) Anti-Collusion Affidavit;
- (c) Certification of EEO Compliance
- (d) Pre- Contract Certification Regarding Employing Illegal Aliens
- (e) If PROPOSER is a partnership, a list of all partners, their addresses, and their interest and role in the partnership business.

7. Communications concerning this proposal shall be addressed to:
The address of PROPOSER indicated below.

SUBMITTED on _____, 20____.

If PROPOSER is:

An Individual

By _____
(Individual's Name)

(SEAL)

doing business as _____

Business address: _____

Phone No.: _____

A Partnership

By _____
(Firm Name)

(SEAL)

(General Partner)

Business address: _____

Phone No.: _____

A Corporation

By _____
(Corporation Name)

(State of incorporation)

By _____
(Name of person authorized to sign)

(Title)

(CORPORATE SEAL)

Attest _____
(Secretary)

Business address: _____

Phone No.: _____

Date of Qualification to do business: _____

A Joint Venture

By _____
(Name)

(Address)

By _____
(Name)

(Address)

Phone Number and Address for receipt of official communications

(Each joint venture partner must sign. The manner of signing for each individual, partnership and

corporation that is a party to the joint venture should be in the manner indicated above.)

SCHEDULE OF SUBCONTRACTORS

PROJECT: Louisville Library Plaza Improvements
OWNER'S PROJECT NUMBER: 301551-630164
OWNER: CITY OF LOUISVILLE, COLORADO

This Bid is based on subcontracting certain portions of the work to subcontractors as listed below.

Name: _____ Telephone No. _____
Address: _____
City: _____ State: _____ Zip Code: _____
Services/equipment to be provided: _____

Name: _____ Telephone No. _____
Address: _____
City: _____ State: _____ Zip Code: _____
Services/equipment to be provided: _____

Name: _____ Telephone No. _____
Address: _____
City: _____ State: _____ Zip Code: _____
Services/equipment to be provided: _____

Name: _____ Telephone No. _____
Address: _____
City: _____ State: _____ Zip Code: _____
Services/equipment to be provided: _____

Name: _____ Telephone No. _____
Address: _____
City: _____ State: _____ Zip Code: _____
Services/equipment to be provided: _____

Name: _____ Telephone No. _____
Address: _____
City: _____ State: _____ Zip Code: _____
Services/equipment to be provided: _____

ANTI-COLLUSION AFFIDAVIT

PROJECT: Louisville Library Plaza Improvements
OWNER'S PROJECT NUMBER: 301551-630164
OWNER: CITY OF LOUISVILLE, COLORADO

I hereby attest that I am the person responsible within my firm for the final decision as to the price(s) and amount of this Bid or, if not, that I have written authorization, enclosed herewith, from that person to make the statements set out below on his or her behalf of my firm.

I further attest that:

1. The price(s) and amount of this bid have been arrived at independently, without consultation, communication or agreement for the purpose or with the effect of restricting competition with any other firm or person who is a BIDDER or potential prime BIDDER.
- 2A. Neither the price(s) nor the amount of this Bid have been disclosed to any other firm or person who is a BIDDER or potential prime BIDDER on this project, and will not be so disclosed prior to bid opening.
- 2B. Neither the prices nor the amount of the Bid of any other firm or person who is a BIDDER or potential prime BIDDER on this project have been disclosed to me or my firm.
- 3A. No attempt has been made to solicit, cause or induce any firm or person who is BIDDER or potential prime BIDDER to refrain from bidding on this project, or to submit a Bid higher than the Bid of this firm, or any intentionally high or noncompetitive Bid or other form of complementary Bid.
- 3B. No agreement has been promised or solicited for any other firm or person who is a BIDDER or potential prime BIDDER on this project to submit an intentionally high, noncompetitive or other form of complementary bid on this project.
4. The Bid of my firm is made in good faith and not pursuant to any consultation, communication, agreement or discussion with, or inducement or solicitation by or from any firm or person to submit any intentionally high, noncompetitive or other form of complementary bid.
5. My firm has not offered or entered into a subcontract or agreement regarding the purchase or sale of materials or services from any firm or person, or offered, promised or paid cash or anything of value to any firm or person, whether in connection with this or any other project, in consideration for an agreement or promise by any firm or person to refrain from bidding or to submit any intentionally high, noncompetitive or other form of complementary bid or agreeing or promising to do so on this project.
6. My firm has not accepted or been promised any subcontract or agreement regarding the sale of materials or services to any firm or person, and has not been promised or paid cash or anything of value by any firm or person, whether in connection with this or any other project, in consideration for my firm's submitting any intentionally high, noncompetitive or other form of complementary bid, or agreeing or promising to do so, on this project.
7. I have made a diligent inquiry of all members, officers, employees, and agents of my firm with responsibilities relating to the preparation, approval or submission of my firm's bid on this project and have been advised by each of them that he or she has not participated in any communication, consultation, discussion, agreement, collusion, or other conduct inconsistent with any of the statements and representations made in this affidavit.
8. I understand and my firm understands that any misstatement in this affidavit is and shall be treated as a fraudulent concealment from the OWNER of the true facts relating to submission of bids for this contract.

I DECLARE UNDER PENALTY OF PERJURY IN THE SECOND DEGREE, AND ANY OTHER APPLICABLE STATE OR FEDERAL LAWS THAT THE STATEMENTS MADE ON THIS DOCUMENT ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

CONTRACTOR'S FIRM OR COMPANY NAME	SECOND CONTRACTOR'S FIRM OR COMPANY NAME (IF JOINT VENTURE)
BY: _____	BY: _____
TITLE: _____	TITLE: _____
DATE: _____	DATE: _____

SWORN BEFORE ME THIS _____ DAY OF, _____, 20____

NOTARY PUBLIC: _____ MY COMMISSION EXPIRES: _____

CERTIFICATION OF EEO COMPLIANCE

PROJECT: Louisville Library Plaza Improvements
OWNER'S PROJECT NUMBER: 301551-630164
OWNER: CITY OF LOUISVILLE, COLORADO

Instructions: BIDDER's and Subcontractors must complete and submit this form with the Bid Form. This is required by the Equal Employment Opportunity Regulations 41 CFR 1.7 (b) (1).

- | | |
|---|---|
| 1. ☐ Yes ☐ No | I have developed and have on file at each establishment an affirmative action program as required by 41 CFR Chapter 60, Part 60-2. |
| 2. ☐ Yes ☐ No | I have participated in a previous contract/subcontract subject to the equal opportunity clause. |
| 3. ☐ Yes ☐ No | I have filed with the Joint Reporting Committee, the Director, or the Equal Employment Opportunity Commission all reports due under the applicable filing requirements. |
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I declare under penalty of perjury in the second degree and any other applicable state or federal laws that the statements made in this document are true and complete to the best of my knowledge.

CONTRACTOR
☐ **BIDDER** ☐ **PROPOSED SUBCONTRACTOR**

BY: _____

TITLE: _____

DATE: _____

Prohibition Against Employing Illegal Aliens

PROJECT: Louisville Library Plaza Improvements
OWNER'S PROJECT NUMBER: 301551-630164
OWNER: CITY OF LOUISVILLE, COLORADO

Consultant shall not knowingly employ or contract with an illegal alien to perform work under this contract. Consultant shall not enter into a contract with a subcontractor that fails to certify to the Consultant that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract.

Contract has verified or attempted to verify through participating in the basic pilot program as defined in C.R.S. Section 8-17.5-101(1) ("Program") that Consultant does not employ any illegal aliens and, if Consultant is not accepted into the Program prior to entering into this contract, that Consultant shall apply to participate in the Program every three months until Consultant is accepted or the contract has been completed, whichever is earlier. This provision shall not be required or effective if the Program is discontinued. Consultant is prohibited from using the Program procedures to undertake pre-employment screening of job applicants while this contract is being performed.

If Consultant obtains actual knowledge that a subcontractor performing work under this contract for services knowingly employs or contracts with an illegal alien, Consultant shall:

- a. Notify the subcontractor and the City within three days that the Consultant has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
- b. Terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to this paragraph the subcontractor does not stop employing or contracting with the illegal alien; except that the Consultant shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

Consultant shall comply with any reasonable request by the Department of Labor and Employment made in the course of an investigation that the Department is undertaking pursuant to the authority established in C.R.S. Section 8-17.5-102(5).

If Consultant violates a provision of this Contract required pursuant to C.R.S. Section 8-17.5-102, the City may terminate the contract for breach of contract. If the contract is so terminated, the Consultant shall be liable for actual and consequential damages to the City.

**Contractor's Pre-Contract Certification
Regarding Employing Illegal Aliens**

PROJECT: Louisville Library Plaza Improvements
OWNER'S PROJECT NUMBER: 301551-630164
OWNER: CITY OF LOUISVILLE, COLORADO

The proposer of public services to the City of Louisville identified below (hereafter "the Proposer"), hereby certifies as follows:

That at the time of providing this certification, Proposer does not knowingly employ or contract with an illegal alien; and that Proposer has participated in or attempted to participate in the Basic Pilot Program administered by the United States Department of Homeland Security in order to verify that it does not employ any illegal aliens.

Dated this _____ day of _____, 20____.

Proposer: _____

By: _____

Title: _____

SAMPLE AGREEMENT

PROJECT: Louisville Library Plaza Improvements
OWNER'S PROJECT NUMBER: 301551-630164
OWNER: CITY OF LOUISVILLE, COLORADO

This Agreement, is made and entered this _____ day of _____, 2021 by and between the City of Louisville ("City"), a Colorado municipal corporation and *[insert contractor name]* ("Contractor").

THE PARTIES AGREE AS FOLLOWS:

1. Scope of Work – Price. The Contractor agrees to perform for the City all of the work set forth in Exhibit A attached hereto and incorporated herein by reference (hereinafter the "Work"). The City agrees to pay, in full payment for the performance of the Work in compliance with this Agreement, an amount not to exceed *[insert amount]*. Costs for the Work shall not exceed those shown in Exhibit B. Contractor shall furnish, except as may otherwise be provided in writing, all labor, services, bonds, materials, tools, and equipment for the completion of the Work. Contractor will construct and complete the Work in a thorough and workmanlike manner in every respect to the satisfaction and approval of the City, within the time specified herein.

2. Contract Documents. The Work shall be done in strict accordance with all scope of Work documents attached hereto as Exhibit A and with the following additional documents: *[reference scope of work documents]* All of such documents are hereby made a part of this Agreement and form the contract documents as fully as if the same were set forth at length herein.

3. Compliance and Licensing. a. Contractor shall be responsible for providing any measures necessary for insuring the safety of the public during the performance of the work, such as barricading and traffic control, in accordance with the requirements of the City.

b. Contractor shall be responsible for obtaining and complying with all necessary permits, ordinances, and laws, including but not limited to grading permits and laws concerning the control of fugitive dust. The Contractor shall not be required to pay any grading permit fees, cut fees, water tap fees, or use taxes required by the City of Louisville.

c. Contractor and all subcontractors performing the Work provided for in this Agreement shall be licensed contractors in the City of Louisville and shall pay the required fees for such license.

4. Relationship of Contractor to City. Contractor covenants to furnish its best skill and judgment and to cooperate with the City's Project Manager and Field Manager, as identified herein, and all other persons and entities in furthering the interests of the City. Contractor agrees to furnish efficient superintendence and to use its best efforts to furnish at all times an adequate supply of workers and materials, and to perform the Work in the best way and in the most expeditious and economical manner consistent with the interests of the City.

5. **Project and Field Manager.** The City's Project Manager for the purposes of the Work is the following or such other person as the City may designate in writing: Kevin Frey. The City's Field Manager for the purposes of communicating with Contractor in the field and coordinating City efforts in the field is Kevin Frey. Change orders may only be authorized by the persons listed in Section 17.

6. **Time of Commencement and Completion.** a. No Work shall be commenced until after a pre-construction meeting of the Contractor and City representatives as appropriate, and until the City has in writing instructed the Contractor to commence work.

b. The Contractor shall finally complete all Work in a manner acceptable to the City, and in compliance with this Agreement by [*insert date*]. Prompt completion of the Work is essential to the City, and time is of the essence in all respects regarding this Agreement and the Work. Payment for the Work shall only be made after the Work has been finally completed and accepted by the City.

c. **LIQUIDATED DAMAGES.** The OWNER and the CONTRACTOR agree and recognize that time is of the essence in this contract and that the OWNER will suffer financial loss if the Work is not substantially complete by the date specified in paragraph 6b above, plus any extensions agreed to in writing and signed by both the OWNER and CONTRACTOR. OWNER and CONTRACTOR also agree that such damages are uncertain in amount and difficult to measure accurately. Accordingly, the OWNER and CONTRACTOR agree that as liquidated damages, and not as a penalty, for delay in performance the CONTRACTOR shall pay the OWNER **TWO HUNDRED FIFTY DOLLARS (\$250)** for each and every **Contract Day** and portion thereof that expires after the time specified above for substantial completion of the Work until the same is finally complete and ready for final payment. The liquidated damages herein specified shall only apply to the CONTRACTOR's delay in performance, and shall not include litigation or attorneys' fees incurred by the OWNER, or other incidental or consequential damages suffered by the OWNER due to the CONTRACTOR's performance. If the OWNER charges liquidated damages to the CONTRACTOR, this shall not preclude the OWNER from commencing an action against the CONTRACTOR for other actual harm resulting from the CONTRACTOR's performance, which is not due to the CONTRACTOR's delay in performance.

7. **Price of Work - Payment.** a. Payments of the entire contract price shall be made to Contractor in a single, lump sum payment within 30 days after final completion of the Work and acceptance thereof by the City. The contract price set forth in Section 1, shall be inclusive of all costs of whatsoever nature associated with the Contractor's Work efforts, including but not limited to salaries, benefits, expenses, overhead, administration, profits, and outside fees. The scope of Work and payment therefor shall only be changed by a properly authorized amendment to this Agreement.

8. **Scope of Payment.** The Contractor shall accept the compensation, as herein provided, in full payment for furnishing all materials, equipment, labor, tools, services, and incidentals necessary to complete the Work and for performing all Work. The City's payment for the Work shall not relieve the Contractor of any obligations to correct any defective Work or materials. No funds payable under this Agreement shall become due and payable, if the City so elects, until the Contractor shall satisfy the City that it has fully settled or paid for all materials and equipment used in or upon the Work and labor done in connection therewith. The City may pay any or all such claims

or bills, wholly or in part, and deduct the amount or amounts so paid from any funds due Contractor. In the event the surety on any contract, performance bond, payment bond, or warranty bond given by the Contractor becomes insolvent, or is placed in the hands of a receiver, or has its right to do business in the state revoked, the City may withhold payment of funds due Contractor until the Contractor has provided a bond or other security to the satisfaction of the City in lieu of the bond so executed by such surety.

9. Observation of All Laws. It is assumed that Contractor is familiar with all laws, codes, ordinances, and regulations which in any manner affect those engaged or employed in the Work or the material or equipment used in or upon the site, or in any way affect the Work. No pleas or claims of misunderstanding or ignorance by Contractor shall in any way serve to modify the provisions of the Agreement. Contractor shall at all times observe and comply with all federal, state, county, local, and municipal laws, codes, ordinances, and regulations in any manner affecting the conduct of the Work.

10. Contractor's Responsibility for Work. Until the final acceptance of the Work by the City in writing, Contractor shall have the charge and care thereof, and shall take every necessary precaution against injury or damage to any part thereof by the effects of the elements or from any other cause. Contractor, at its own expense, shall rebuild, repair, restore, and correct all injuries or damages to any portion of the Work occasioned by any causes before its completion and acceptance. In case of suspension of Work from any cause whatsoever, Contractor shall be responsible for all materials and shall properly store same, if necessary, and shall provide suitable drainage, barricades, and warning signs where necessary. Contractor shall correct or replace, at its own expense and as required by City, any material which may be destroyed, lost, damaged, or in any way made useless for the purpose and use intended prior to final acceptance of the Work, or portions thereof. Contractor shall be relieved of the responsibilities provided in this Section upon final acceptance of the Work by City, except no such relief shall apply to damages or injuries caused by or related to actions of Contractor or its subcontractors.

11. Termination of Contractor's Responsibility. The Work will be considered complete when all Work has been finished, the final inspection made, and the Work accepted by City in writing, and all claims for payment of labor, materials, or services of any kind used in connection with the Work thereof have been paid or settled by Contractor or its surety. Contractor will then be released from further obligation except as set forth in any surety bond, and except as required in this Agreement regarding the Contractor's guaranty of work.

12. Indemnification. To the fullest extent permitted by law, the Contractor agrees to indemnify and hold harmless the City, and its officers and its employees, from and against all liability, claims, and demands, on account of any injury, loss, or damage, which arise out of or are connected with the work, if such injury, loss, or damage, or any portion thereof, is caused by, or claimed to be caused by, the act, omission, or other fault of the Contractor or any subcontractor of the Contractor, or any officer, employee, or agent of the Contractor or any subcontractor, or any other person for whom Contractor is responsible. The Contractor shall investigate, handle, respond to, and provide defense for and defend against any such liability, claims, and demands, and to bear all other costs and expenses related thereto, including court costs and attorneys' fees. The Contractor's indemnification obligation shall not be construed to extend to any injury, loss, or damage which is caused by the act, omission, or other fault of the City.

13. Insurance and Bonds. a. The Contractor shall not begin the Work until it has obtained all insurance and bonds required by this Section and such insurance and bonds have been approved by City. The Contractor shall not allow any subcontractor to begin any efforts on the Work until all similar insurance required of the subcontractor has been obtained and approved. For the duration of this Agreement, the Contractor must maintain the insurance coverage required in this Section.

b. The Contractor agrees to procure and maintain, at its own cost, the following policy or policies of insurance. The Contractor 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. Contractor shall procure and maintain, and shall cause each Subcontractor of the Contractor to procure and maintain (or shall insure the activity of Contractor's Subcontractors in Contractor's own policy with respect to), the minimum insurance coverages listed below. Such coverages shall be procured and maintained with forms and insurers acceptable to the City. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

- (1) Workers' Compensation insurance to cover obligations imposed by the Workers' Compensation Act of Colorado and any other applicable laws for any employee engaged in the performance of Work under this contract, and Employers' Liability insurance with minimum limits of FIVE HUNDRED THOUSAND DOLLARS (\$500,000) each accident, FIVE HUNDRED THOUSAND DOLLARS (\$500,000) disease - policy limit, and FIVE HUNDRED THOUSAND DOLLARS (\$500,000) disease - each employee. Evidence of qualified self-insured status may be substituted for the Workers' Compensation requirements of this paragraph.
- (2) Comprehensive General Liability insurance with minimum combined single limits of TWO MILLION DOLLARS (\$2,000,000) each occurrence and TWO MILLION DOLLARS (\$2,000,000) aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, independent contractors, products, and completed operations. The policy shall include coverage for explosion, collapse, and underground hazards. The policy shall contain a severability of interests' provision.
- (3) Comprehensive Automobile Liability insurance with minimum combined single limits for bodily injury and property damage of not less than ONE MILLION DOLLARS (\$1,000,000) each occurrence and ONE MILLION DOLLARS (\$1,000,000) aggregate with respect to each of CONTRACTOR's owned, hired or non-owned vehicles assigned to or used in performance of the services. The policy shall contain a severability of interests' provision.

- (4) The CONTRACTOR shall provide and maintain builder's risk insurance upon the entire project equal to one hundred percent (100%) of the insurable value thereof. Such insurance shall cover any and all physical damage including, without limitation, damage caused by fire, vandalism, malicious mischief, blasting, excessive surface runoff or storm water, high winds and other occurrences covered in a standard extended coverage endorsement. The policy shall remain in effect until the Work is accepted as substantially complete.

c. **The policies required above, except for the Workers' Compensation insurance, shall be endorsed to include the City, and its officers and employees, as additional insured.** Every policy required above shall be primary insurance, and any insurance carried by the City, its officers, or its employees, shall be excess and not contributory insurance to that provided by Contractor. The additional insured endorsement for the Comprehensive General Liability insurance required above shall not contain any exclusion for bodily injury or property damage arising from completed operations. The Contractor shall be solely responsible for any deductible losses under each of the policies required above.

d. Certificates of insurance shall be completed by the Contractor's insurance agent as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect, and shall be subject to review and approval by the City. Each certificate shall identify the Work and shall provide that the coverages afforded under the policies shall not be cancelled, terminated or materially changed until at least 30 days prior written notice has been given to the City. If the words "endeavor to" appear in the portion of the certificate addressing cancellation, those words shall be stricken from the certificate by the agent(s) completing the certificate. The City reserves the right to request and receive a certified copy of any policy.

e. Failure on the part of the Contractor to procure or maintain policies providing the required coverages, conditions, and minimum limits shall constitute a material breach of contract upon which the City may immediately terminate the contract, or at its discretion may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the City shall be repaid by Contractor to the City upon demand, or the City may offset the cost of the premiums against monies due to Contractor.

f. The parties hereto understand and agree that the City is relying on, and does not waive or intend to waive by any provision of this contract, the monetary limitations (presently \$150,000 per person and \$600,000 per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, § 24-10-101 et seq., 10 C.R.S., as from time to time amended, or otherwise available to the City, its officers, or its employees.

g. **If the contract price set forth in Section 1 exceeds \$50,000, the Contractor shall include in the not to exceed price, a performance bond and payment bond in an amount equal to the contract price, as security for the faithful performance and payment of all Contractor's obligations hereunder, including but not limited to the guaranty period provided in Section 16.** These bonds shall remain in effect at least until one year after the date of final payment. All bonds shall be in forms acceptable to the City and executed by such sureties licensed to conduct business in Colorado that are acceptable to the City.

14. Evidence of Satisfaction of Liens. Contractor shall provide City with written evidence that all persons who have done any portion of the Work or have furnished material under this Agreement and are entitled to liens therefore under any laws of the State of Colorado have been fully paid or are not entitled to such liens. Final payment shall not be made to Contractor until the City is reasonably satisfied that all claims or liens have been satisfied by Contractor or have been secured against as provided in C.R.S. section 38-26-101 et seq.

15. Acceptance of Work. No act of the City, or of any representative thereof, either in superintending or directing the Work, or any extension of time for the completion of the Work, shall be regarded as an acceptance of such Work or any part thereof, or of materials used therein, either wholly or in part. Acceptance shall be evidenced only by the final certificate of City. Before any final certificate shall be issued, Contractor shall execute an affidavit on the certificate that it accepts the same in full payment and settlement of all claims on account of Work done and materials furnished under this contract, and that all claims for materials provided or labor performed have been paid or set aside in full. No waiver of any breach of this contract by City or anyone acting on their behalf shall be held as a waiver of any other subsequent breach thereof. Any remedies provided herein shall be cumulative.

16. Guaranty of Work. Contractor agrees to guarantee all Work under this Agreement for a period of one year from the date of final acceptance by the City. If any unsatisfactory condition or damage develops within the time of this guaranty due to materials or workmanship that are defective, inferior, or not in accordance with the Agreement, as reasonably determined by City, then the Contractor shall, when notified by City, immediately place such guaranteed Work in a condition satisfactory to City. The City shall have all available remedies to enforce such guaranty, except that City shall not have any work performed independently to fulfill such guaranty and require Contractor to pay City such sums as were expended by the City for such work, unless the City has first given notice to the Contractor of the deficiency and given the Contractor a reasonable opportunity to cure the same.

17. Timing of Change Orders. The City shall use reasonable efforts to grant or deny change orders requested by the Contractor in as timely a manner as the City schedule permits. The Project Manager, pursuant to the City's purchasing policies, shall be authorized to approve any single change order which does not exceed \$2,500 or which does not affect or decreases the price of the Work. The Project Manager, with the written concurrence of Director of Public Works, shall be authorized to approve any single change order which does not exceed \$5,000. All other change orders which increase the price of the Work shall be approved or denied in writing by the City only after formal action has been conducted in accordance with City Purchasing Policies. Contractor shall provide all supporting documentation for any requested change order prior to City action thereon.

18. No Assignment. This Agreement and any rights and obligations hereunder, including but not limited to rights to moneys due or that may become due, shall not be assigned by the Contractor without the prior written approval of the City.

19. Governing Law. This Agreement shall be deemed entered into in Boulder County, Colorado, and shall be governed by the laws of the State of Colorado. The parties agree to

the jurisdiction and venue of the courts of Boulder County in connection with any dispute arising out of or in any matter connected with this Agreement.

20. Equal Opportunity Employer.

a. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, disability or national origin. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, age, sex, disability, or national origin. Such action shall include but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notice to be provided by an agency of the federal government, setting forth the provisions of the Equal Opportunity Laws.

b. The Contractor shall be in compliance with the appropriate provisions of the American with Disabilities Act of 1990 as enacted and from time to time amended and any other applicable federal regulation. A signed, written certificate stating compliance with the Americans with Disabilities Act may be requested at any time during the life of any purchase order or contract and with any new purchase order or contract issued by the City.

21. Independent Contractor.

a. Contractor and any persons employed by Contractor for the performance of Work hereunder shall be independent contractors and not employees or agents of the City. Nothing herein shall be construed as establishing a quality standard for any individual, or as establishing any right on the part of the City to oversee the actual work of the Contractor or to instruct any individual as to how the Work will be performed.

b. Contractor shall have the right to employ such assistance as may be required for the performance of Work under this Agreement. Said Contractor shall be responsible for the compensation, insurance, and all clerical detail pertaining to such assistants, and shall be solely responsible for providing any training, tools, benefits, materials, and equipment.

c. **THE PARTIES HERETO UNDERSTAND THAT THE CONTRACTOR AND THE CONTRACTOR'S EMPLOYEES AND SUBCONTRACTORS ARE NOT ENTITLED TO WORKERS' COMPENSATION BENEFITS UNDER ANY WORKERS' COMPENSATION INSURANCE POLICY OF THE CITY, AND THAT CONTRACTOR IS OBLIGATED TO PAY FEDERAL AND STATE INCOME TAX AND OTHER APPLICABLE TAXES AND OTHER AMOUNTS DUE ON ANY MONEYS PURSUANT TO THIS AGREEMENT.**

22. Execution. The person executing this Agreement on behalf of Contractor represents and warrants that he or she has been duly authorized to execute this Agreement on Contractor's behalf and has the power to bind Contractor to the terms and conditions hereof.

BY THEIR SIGNATURES, the parties agree to the terms of this Agreement this ____ day of _____, 20__.

[Signatures on Following Page]

4. City of Louisville _____

_____CONTRACTOR:

By: _____
Jeff Durbin, City Manager

By: _____

ATTEST:

5. _____ City Clerk

ACKNOWLEDGEMENT (Contractor)

STATE OF COLORADO)
)ss
COUNTY OF _____)

The above and foregoing signature of _____ was subscribed and sworn to before me this ____ day of _____, 20__.

Witness my hand and official seal.

My commission expires on: _____

(SEAL)

Notary Public

