



Request for Quote (RFQ)

Date Issued: March 6, 2024

Project #: Q24-050MZ

Questions Due: March 12, 2024 1:00PM emailed to michael.zeller@coloradosprings.gov

Quotes Due: March 21, 2024 2:00PM submitted to Bidnet website www.bidnetdirect.com

Please provide pricing and delivery information for the product(s) described in Exhibit A.

If there are exceptions taken to any of the terms, conditions, or specifications listed in the attachments to this RFQ, they must be clearly stated on a separate sheet of paper attached to this sheet and returned with your submission.

Please provide a quote on company letterhead for CSFD Fitness Assessments listed in Exhibit A. We are not looking for “like” or “or equal” items. The quote must be for the specific items listed in Exhibit A. Offerors must submit the following documents to the Bidnet Website www.bidnetdirect.com:

Exhibit A – Price Sheet

Exhibit E- Reps and Certs

Exhibit F- Federal Forms

Exhibit G – HIPAA Business Associate Agreement

The City of Colorado Springs intends to award a purchase order resulting from this solicitation to the most responsive, responsible bidder, whose offer conforming to the solicitation, will be most advantageous to, and in the best interest of, the City of Colorado Springs, cost/price and other factors considered (specifications and additional options, delivery date, warranty, etc.). In addition to other factors, quotes will be evaluated on the basis of advantages and disadvantages to the City that might result from offers received. The City reserves the right to reject any or all quotes and to waive informalities and/or irregularities in the quoted offer. The City reserves the right to request additional product literature and/or supplemental information if needed to determine whether or not a product meets minimum specifications.

Terms and Conditions are attached to this RFQ as Exhibit C.

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EXHIBIT A - PRICE SHEET

Description	Total Cost
1. Train the Trainer Fees	\$
2. Data Analysis Costs per Member	\$
3. Travel Expenses, Meals, Miscellaneous Expenses	\$
4. Program Fees	\$
GRAND TOTAL	\$



EXHIBIT B – SCOPE OF WORK

B.1 GENERAL INFORMATION

The Colorado Springs Fire Department (CSFD) is requesting written proposals from qualified Offerors to coordinate, evaluate, and deliver cardiometabolic assessments and oversee conditioning in accordance with NFPA 1583 for a one-year period for an estimated 250 sworn members. The CSFD is looking to create a healthier and more fitness ready workforce so we may recover from external stressors faster and more efficiently on incident scenes, thus providing better service delivery to the citizens of Colorado Springs. The program will commence with the official Notice to Proceed and must be completed no later than May 31, 2025, however, there may be lagging assessments or follow up that continues beyond this date.

B.2 BACKGROUND

The Colorado Springs Fire Department is the authority having jurisdiction (AHJ) for fire, rescue, and emergency service delivery to the City of Colorado Springs. We are an All-Hazards fire department responsible for many different types of calls for service.

B.3 SCOPE OF WORK

The vendor will be responsible for adhering to all logistical direction from the CSFD and provide support when needed. The Offeror shall provide oversight of the assessment process through guided instruction during all phases. The Offeror will ensure all assessment results of participating CSFD members are entered into the proprietary system to determine each member's cardiometabolic fitness state and provide an individualized training program with the goal of improving the underlying fitness state of each member participating. The Offeror will provide an online tool ("app") that will be functional and accessible across all major platforms. The entire training will last for one year with reassessments at the six and eleventh month.

B.4 VENDOR RESPONSIBILITIES

Responsibilities include but are not limited to:

A. Perform the assessment within the City of Colorado Springs at an approved CSFD facility, or facilities.

B. Assess cardiometabolic fitness in members by using blood lactate as a proxy for metabolic health.

C. Train the Trainer sessions for specific CSFD personnel who will assist in administering cardiometabolic assessment.

D. Provide oversight and facilitation to members to determine cardiometabolic fitness levels. All component results of the cardiometabolic assessment shall be used to establish a member's baseline and/or be measured against the member's previous assessments and not against any standard or norm.



- E. Evaluate the results of the assessment to determine individual, personalized metabolic conditioning levels with feedback showing lean muscle mass, BMI, METS, and VO2 max or similar measurement for each member.
- F. Provide a custom metabolic conditioning program via an “app” to each member for the duration of the project. This interactive “app” should provide workouts based on assessment results, track individual progress, and provide the ability for members to engage with the Offeror for questions. The “app” should also include technical support when needed and be available across all platforms. The Offeror shall provide comprehensive access to results for each member.
- G. Information must be collected in a database that can provide both aggregate reports as well as information specific to the member. This database must provide electronic security, and access will be exclusive to pre-authorized individuals. A summary shall be provided to the CSFD identifying trends, department-wide recommendations, and a generalized data summary including comparisons between other benchmarks and previous assessment results, if available. This summary shall be suitable for sharing with the CSFD leadership. Aggregate data may be provided to the CSFD leadership to study general trends, as long as data from the report cannot lead to the identity of a specific member.
- H. Collaborate with CSFD leadership to provide general demographic results of the assessments to illustrate the state of the cardiometabolic health of the department, based on sample size, after the initial assessment phase, and the reassessment phases to chart progress. This data should be scrubbed of personal identifiers.
- I. Provide monthly feedback to CSFD leadership showing the level of participation from department members based on “app” use and interaction.
- J. Guarantee that all information collected will be kept confidential following all applicable HIPPA laws, State of Colorado laws and City of Colorado Springs Policies and Procedures
- K. Describe how you intend to facilitate the assessments for CSFD members including project overview, steps, trainings, and continued data analysis.
- L. Describe the organizations experience working with a large and diverse group of members from the emergency services sector.
- M. Demonstrate ability to control project operations and ensure on-time performance at or under budget.
- N. Explain how each of the expectations and duties identified above will be addressed?
- O. Provide a list of three client references.

B.5 EXPECTED END PRODUCT

The CSFD is expecting to implement a successful cardiometabolic assessment that runs smoothly, efficiently, and safely while meeting all required contractual requirements that provides members with a custom, “app” based exercise prescription.



B.7 TIME OF PROJECT

The initiation of the cardiometabolic evaluation must start with the official Notice to Proceed and must be completed no later than May 31, 2025, however, there may be lagging assessments or follow up that continues beyond this date.

B.8 PERSONNEL

The Offerors personnel shall be qualified and trained to accomplish and oversee the Scope of Work in a professional manner and in compliance with all applicable federal, state, and local requirements. Offeror personnel will be able to offer a train the trainer experience for all aspects of the cardiometabolic assessment.

A. A certified fitness professional (Physical Therapist, Occupational Therapist, Exercise Physiologist, or other credentialed fitness professional) shall review all assessment findings with each member. The member shall be given an optional private individual opportunity to review such findings and have an opportunity to present any questions and concerns.

B. Provide resumes for all key employees including relevant certifications, training, and experience.

C. Identify a Project Manager as a primary contact with the CSFD for the duration of the contract.

B.9 EQUIPMENT

The Offeror is not responsible for furnishing any physical equipment.

B.10 REFERENCE MATERIALS

The Offeror should conduct fitness evaluations in accordance with NFPA 1583 and shall follow all HIPPA laws, State of Colorado laws and City of Colorado Springs Policies and Procedures.



EXHIBIT C - TERMS AND CONDITIONS

1. Acceptance-Agreement. Seller's commencement of work on the goods and/or services subject to this purchase order or shipment of such goods, whichever occurs first, shall be deemed an effective mode of acceptance of this purchase order. Any acceptance of this purchase order is limited to acceptance of the express terms contained on the face and back hereof. Any proposal for additional or different terms or any attempt by Seller to vary in any degree from any of the terms of this purchase order in Seller's acceptance is hereby objected to and rejected, but such proposals shall not operate as a rejection of this purchase order unless such variances are in the terms of the description, quantity, price or delivery schedule of the goods, but shall be deemed a material alteration thereof, and this purchase order shall be deemed accepted by Seller without said additional or different terms. If this purchase order shall be deemed an acceptance of a prior offer by Seller, such acceptance is limited to the express terms contained on the face and on the back of this purchase order. Additional or different terms or any attempt by Seller to vary in any degree from any of the terms of this purchase order shall be deemed material and are objected to and rejected, but this purchase order shall not operate as a rejection of the Seller's offer unless it contains variances in the terms of the description, quantity, price or delivery schedule of the goods.
2. Termination for Convenience. The City reserves the right to terminate this purchase order or any part hereof for its sole convenience or for any reason that makes it impossible or against the City's interest to complete the order. In the event of such termination, Seller shall immediately stop all work hereunder, and shall immediately cause any of its suppliers or subcontractors to cease such work. Seller shall be paid a reasonable termination charge consisting of a percentage of the order price reflecting the percentage of the work performed prior to the notice of termination. Seller shall not be paid for any work done after receipt of the notice of termination, nor for any costs incurred by Seller's suppliers or subcontractors which Seller could reasonably have avoided.
3. Termination for Cause. The City may also terminate this purchase order or any part hereof for cause in the event of any default by the vendor, or if the vendor fails to comply with any of the terms and conditions of this offer. In addition to other causes, late deliveries, deliveries of products which are defective or which do not conform to this order, and failure to provide the City, upon request, of reasonable assurances of future performance shall all be causes allowing the City to terminate this order for cause. In the event of termination for cause, the City shall not be liable to Seller, for any amount, and Seller shall be liable to the City for any and all damages, sustained by reason of the default which gave rise to the termination.
4. Warranty. Seller expressly warrants that all goods or services furnished under this purchase order shall conform to all specifications and appropriate standards, will be new and in box, and will be free from defects in material or workmanship. Seller warrants that all such goods or services will conform to any statements made on the containers or labels or advertisements for such goods, or services, and that any goods will be adequately contained, packaged, marked and labeled. Seller warrants that all goods or services furnished hereunder will be merchantable, and will be safe and appropriate for the purpose for which goods or services of that kind are normally used.



If Seller knows or has reason to know the particular purpose for which the City intends to use the goods or services, Seller warrants that such goods or services will be fit for such particular purpose. Seller warrants that goods or services furnished will conform in all respects to samples. Inspection, test, acceptance or use of the goods or services furnished hereunder shall not affect the Seller's obligation under this warranty and such warranties shall survive inspection, test, acceptance and use. Seller's warranty shall run to the City, its successors, assigns and customers, and users of products sold by the City. Seller agrees to replace or correct defects of any goods or services not conforming to the foregoing warranty promptly without expense to the City, when notified of such nonconformity by the City, provided the City elects to provide Seller with the opportunity to do so. In the event of failure of Seller to correct defects in or replace nonconforming goods or services promptly, the City, after reasonable notice to Seller, may make such corrections or replace such goods and services and charge Seller for the cost incurred by the City in doing so.

5. Force Majeure. In the event of either party being rendered unable wholly, or in part, by force majeure to carry out its obligations under this purchase order, then on such party's giving notice and full particulars of such force majeure in writing to the other party as soon as possible after the occurrence of the cause relied on, the obligation of the party giving such notice, so far as it is affected by force majeure, shall be suspended during the continuance of any inability so caused, but for no longer period, and such cause shall, as far as possible, be remedied with all reasonable dispatch. The term "force majeure" as employed herein shall mean acts of the public enemies, wars, blockages, insurrections, landslides, earthquakes, fires, and floods.
6. Patents. Seller agrees upon receipt of notification to promptly assume full responsibility for defense of any suit or proceeding which may be brought against the City or its agents, customers, or other vendors, for alleged patent infringement, as well as for any alleged unfair competition resulting from similarity in design, trademark or appearance of goods, or services furnished hereunder, and Seller further agrees to indemnify the City, its agents and customers against any and all expenses, losses, royalties, profits and damages including court costs and attorney's fees resulting from any such suit or proceeding, including any settlement. The City may be represented by and actively participate through its own counsel in any such suit or proceeding if it so desires, and the costs of such representation shall be paid by Seller.
7. Independent Contractor and Insurance. Seller agrees that all services contemplated by this purchase order shall be done as an independent contractor and that the persons doing such work shall not be considered employees of the City. Seller shall maintain all necessary insurance coverages, including public liability and Workmen's Compensation insurance. Seller shall indemnify and save harmless and defend the City from any and all claims or liabilities arising out of the work covered by this paragraph.
8. Indemnification Seller shall defend, indemnify and hold harmless the City against all damages, claims or liabilities and expenses (including attorney's fees) arising out of or resulting in any way from any defect in the goods or services purchased hereunder, or from any act or omission of Seller, its agents, employees or subcontractors. This indemnification shall be in addition to the warranty obligations of Seller.



9. Changes. The funds appropriated for this purchase order are equal to or exceed the purchase order amount.
- a. Seller and the City agree and acknowledge as a part of this purchase order, that no change order or other form or order or directive may be issued by the City which requires additional compensable work to be performed, which work causes the aggregate amount payable under the purchase order to exceed the amount appropriated for this purchase order as listed above, unless the Seller has been given a written assurance by the City that lawful appropriations to cover the costs of the additional work have been made or unless such work is covered under a remedy-granting provision in this contract.
 - b. Seller and the City further agree and acknowledge as a part of this purchase order that no change order or other form or order or directive which requires additional compensable work to be performed under this purchase order shall be issued by the City unless funds are available to pay such additional costs, and, regardless of any remedy-granting provision included within this purchase order, Seller shall not be entitled to any additional compensation for any additional compensable work performed under this purchase order, and expressly waives any rights to additional compensation, whether by law or equity, unless prior to commencing the additional work, Seller was given a written change order describing the additional compensable work to be performed, and setting forth the amount of compensation to be paid, which change order was signed by an authorized City representative. It is the Sellers sole responsibility to know, determine, and ascertain the authority of the City representative signing any change order under this purchase order.
 - c. The City shall have the right at any time to make changes in drawings, designs, specifications, materials, packaging, time and place of delivery and method of transportation. If any such changes cause an increase or decrease in the cost, or the time required for the performance, an equitable adjustment shall be made and this purchase order shall be modified in writing accordingly. Seller agrees to accept any such changes subject to this paragraph.
10. Inspection/Testing. Payment for the goods delivered hereunder shall not constitute acceptance thereof. The City shall have the right to inspect such goods and to reject any or all of said goods which are in the City's judgment defective or nonconforming. Goods rejected and goods supplied in excess of quantities called for herein may be returned to Seller at its expense and, in addition to the City's other rights, the City may charge Seller all expenses of unpacking, examining, repacking and reshipping such goods. In the event the City receives goods whose defects or nonconformity is not apparent on examination. The City reserves the right to require replacement, as well as payment of damages. Nothing contained in this purchase order shall relieve in any way the Seller from the obligation of testing, inspection and quality control.
11. Entire Agreement. This purchase order, and any documents referred to on the face hereof, constitute the entire agreement between the parties.
12. Assignments and Subcontracting. No part of this order may be assigned or subcontracted by the Seller without prior written approval of the City.



13. Setoff All claims for money due or to become due from the City shall be subject to deduction or set-off by the City by reason of any counterclaim arising out of this or any other transaction with Seller.
14. Shipment. If in order to comply with the City's required delivery date it becomes necessary for Seller to ship by a more expensive way than specified in this purchase order, any increased transportation costs resulting therefrom shall be paid for by Seller unless the necessity for such rerouting or expedited handling has been caused by the City.
15. Waiver. The City's failure to insist on performance of any of the terms or conditions herein or to exercise any right or privilege or the City's waiver of any breach hereunder shall not thereafter waive any other terms, conditions, or privileges, whether of the same or similar type.
16. Delivery. Time is of the essence of this purchase order, and if delivery of items or rendering of services is not completed by the time promised, the City reserves the right without liability in addition to its other rights and remedies to terminate this purchase order by notice effective when received by Seller as to items not yet shipped or services not yet rendered and to purchase substitute items or services elsewhere and charge Seller with any loss incurred.
17. Limitation on the City's Liability - Statute of Limitations. In no event shall the City be liable for anticipated profits or for incidental or consequential damages. The City's liability on any claim of any kind for any loss or damage arising out of or in connection with or resulting from this purchase order or from the performance or breach thereof shall in no case exceed the price allocable to the goods or services or unit thereof which gives rise to the claim. The City shall not be liable for penalties of any description. Any action resulting from any breach on the part of the City as to the goods or services delivered hereunder must be commenced within one year after the cause of action has accrued.
18. Contract Interpretation. Except as otherwise provided herein, no amendment or modification of this purchase order shall be valid unless expressed in writing and executed by the parties hereto in the same manner as the execution of this purchase order. This is a completely integrated agreement and contains the entire agreement of the parties, and any prior written or oral agreements which are different from the terms, conditions and provisions of this agreement shall be of no effect and shall not be binding upon either party. Any judicial action under the terms of this agreement shall be exclusively in the District Court for El Paso County, Colorado.
19. Intellectual Property Rights The parties hereby agree, and acknowledge, that all products, items, writings, designs, models, examples, or other work product of the Seller produced pursuant to this purchase order are works made for hire, and that the City owns, has, and possesses any and all ownership rights and interests to any work products of the Seller made under this purchase order, including any and all copyrights, trademark, or patent rights, and that compensation to the Seller for agreement and acknowledgement of this INTELLECTUAL PROPERTY RIGHT section of this purchase order is included in any compensation or price whatsoever



paid to the Seller under this purchase order. It is the intent of the parties that the City shall have full ownership and control of the Seller's work products produced pursuant to this purchase order, and the Seller specifically waives and assigns to the City all rights which Seller may have under the 1990 Visual Artists Rights Act, federal, and state law, as now written or later amended or provided. In the event any products, items writing, designs, models, examples, or other work product produced pursuant to this purchase order is deemed by a court of competent jurisdiction not to be a work for hire under federal copyright laws, this INTELLECTUAL PROPERTY RIGHTS provision shall act as an irrevocable assignment to the City by the Seller of any and all copyrights, trademark rights, or patent rights in the Seller's products, items writings, designs, models, examples, or other work product produced pursuant to this purchase order, including all rights in perpetuity. Under this irrevocable assignment, the Seller hereby assigns to the City the sole and exclusive right, title, and interest in and to the Seller's products, items writings, designs, models, examples, or other work product produced pursuant to this purchase order, without further consideration, and agrees to assist the City in registering and from time to time enforcing all copyrights and other rights and protections relating to the Seller's products, items writings, designs, models, examples, or other work product in any and all countries. It is the Seller's specific intent to assign all right, title, and interest whatsoever in any and all copyright rights in the Seller's products, items writings, designs, models, examples, or other work product produced pursuant to this purchase order, in any media and for any purpose, including all rights of renewal and extension, to the City. To that end, the Seller agrees to execute and deliver all necessary documents requested by the City in connection therewith and appoints the City as Seller's agent and attorney-in-fact to act for and in Seller's behalf and stead to execute, register, and file any such applications, and to do all other lawfully permitted acts to further the registration, prosecution, issuance, renewals, and extensions of copyrights or other protections with the same legal force and effect as if executed by the Seller; further, the parties expressly agree that the provisions of this INTELLECTUAL PROPERTY RIGHTS section shall be binding upon the parties and their heirs, legal representatives, successors, and assigns. Further, Seller SHALL INDEMNIFY AND HOLD the City harmless from any and all claims or actions brought against the City with regard to INTELLECTUAL PROPERTY RIGHTS which may result from any work product produced under this purchase order.

20. Appropriation of Funds. In accord with the City Charter, performance of the City's obligations under this Agreement are expressly subject to appropriation of funds by the City Council. Further, in the event that funds are not appropriated in whole or in part sufficient for performance of the City's obligations under this purchase order, or appropriated funds may not be expended due to City Charter spending limitations, then the City may terminate this purchase order without compensation to the Contractor.
21. Compliances. In the conduct of the services/work of the supplies equipment or materials contemplated hereunder, the Seller shall comply with all applicable state, federal and local law, rules and regulations, technical standards or specifications issued by the City. Seller must qualify for and obtain any required licenses prior to commencement of work.
22. Independent Contractor. Seller understands and agrees that Seller and Seller's employees, agents, servants or other personnel are not City employees. Seller shall



be solely responsible for payment of salaries, wages, payroll taxes, unemployment benefits or any other form of compensation or benefit to Seller or any of Seller's employees, agents, servants or other personnel performing the services or work supplying equipment or materials specified herein, whether it be of a direct or indirect nature. Further in that regard it is expressly understood and agreed that for such purposes neither Seller nor Seller's employees, agents, servants or other personnel shall be entitled to any City payroll, insurance, unemployment, worker's compensation, retirement or any other benefits whatsoever.

23. Compliance with Immigration and Control Act. Seller certifies that Contractor has complied with the United States immigration and Control Act of 1986. All persons employed by Seller for performance of this purchase order have completed and signed Form I-9 verifying their identities and authorization for employment.
24. Taxes. Seller shall pay all sales and use taxes required to be paid to the State of Colorado on the work covered by this purchase order. The Contractor shall execute and deliver and shall cause his subcontractors to execute and deliver to the City, certificates as required, to permit the City to make application for refunds of said sales and use taxes as applicable. The City is a municipal corporation and therefore, not subject to state and local sales tax, use tax, or federal excise taxes.
25. Law. This agreement is subject to and shall be interpreted under the law of the State of Colorado, and the Charter, City Code, Ordinances, Rules and Regulations of the City of Colorado Springs, Colorado, a Colorado Home Rule City. Court jurisdiction and venue shall exclusively be in the Colorado District Court for El Paso County, Colorado.
26. Books of Account and Auditing. Seller shall make available to the City if requested, true and complete records, which support billing statements, reports, performance indices, and all other related documentation. The City's authorized representatives shall have access during reasonable hours to all records, which are deemed appropriate to auditing billing statements, reports, performance indices, and all other related documentation. Seller agrees that it will keep and preserve for at least seven (7) years all documents related to this purchase order, which are routinely prepared, collected or compiled by Seller during the performance of this purchase order. The City's Auditor and the Auditor's authorized representatives shall have the right at any time to audit all of the Seller's documentation related to this purchase order. Seller shall make all documentation available for examination at the Auditor's request at either the Auditor or Seller's office and without expense to the City.
27. Payment Terms. The City will pay the vendor, upon submission of proper invoices, the prices stipulated in the purchase order for goods provided and accepted, less any deductions provided in purchase order within 30 days (Net 30). The City will not pay late fees or interest. Any discount payment terms offered on the invoice may be taken by the City.



EXHIBIT D - FEDERAL CLAUSES

1. EQUAL EMPLOYMENT OPPORTUNITY

To view the City of Colorado Springs EEOP (Equal Employment Opportunity Plan) Utilization Report, the link is www.coloradosprings.gov/eeop.

During the performance of this Contract, the Contractor agrees as follows:

A. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, 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, sex, 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, notices to be provided setting forth the provisions of this nondiscrimination clause.

B. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

C. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

D. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

E. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

F. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

G. The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless



exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however*, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

H. Subcontracts. Each nonexempt prime contractor or subcontractor shall include the equal opportunity clause in each of its nonexempt subcontracts.

I. Incorporation by reference. The equal opportunity clause may be incorporated by reference in all Government contracts and subcontracts, including Government bills of lading, transportation requests, contracts for deposit of Government funds, and contracts for issuing and paying U.S. savings bonds and notes, and such other contracts and subcontracts as the Deputy Assistant Secretary may designate.

J. Incorporation by operation of the order. By operation of the order, the equal opportunity clause shall be considered to be a part of every contract and subcontract required by the order and the regulations in this part to include such a clause whether or not it is physically incorporated in such contracts and whether or not the contract between the agency and the contractor is written.

K. Adaptation of language. Such necessary changes in language may be made in the equal opportunity clause as shall be appropriate to identify properly the parties and their undertakings. [43 FR 49240, Oct. 20, 1978, as amended at 62 FR 66971, Dec. 22, 1997]

2. EQUAL EMPLOYMENT OPPORTUNITY REPORTS AND OTHER REQUIRED INFORMATION

A. Requirements for prime contractors and subcontractors.

1. Each prime contractor and subcontractor shall file annually, on or before the September 30, complete and accurate reports on Standard Form 100 (EEO-1) promulgated jointly by the Office of Federal Contract Compliance Programs, the Equal Employment Opportunity Commission and Plans for Progress or such form as may hereafter be promulgated in its place if such prime contractor or subcontractor (i) is not exempt from the provisions of these regulations in accordance with § 60-1.5; (ii) has 50 or more employees; (iii) is a prime contractor or first tier subcontractor; and (iv) has a contract, subcontract or purchase order amounting to \$50,000 or more or serves as a depository of Government funds in any amount, or is a financial institution which is an issuing and paying agent for U.S. savings bonds and savings notes: *Provided*, That any subcontractor below the first tier which performs construction work at the site of construction shall be required to file such a report if it meets requirements of paragraphs (a)(1) (i), (ii), and (iv) of this section.

2. Each person required by § 60-1.7(a)(1) to submit reports shall file such a report with the contracting or administering agency within 30 days after the award to him of a



contract or subcontract, unless such person has submitted such a report within 12 months preceding the date of the award. Subsequent reports shall be submitted annually in accordance with § 60-1.7(a)(1), or at such other intervals as the Deputy Assistant Secretary may require. The Deputy Assistant Secretary may extend the time for filing any report.

3. The Deputy Assistant Secretary or the applicant, on their own motions, may require a contractor to keep employment or other records and to furnish, in the form requested, within reasonable limits, such information as the Deputy Assistant Secretary or the applicant deems necessary for the administration of the order.

4. Failure to file timely, complete and accurate reports as required constitutes noncompliance with the prime contractor's or subcontractor's obligations under the equal opportunity clause and is ground for the imposition by the Deputy Assistant Secretary, an applicant, prime contractor or subcontractor, of any sanctions as authorized by the order and the regulations in this part.

B. Requirements for bidders or prospective contractors—

1. Certification of compliance with Part 60-2: Affirmative Action Programs. Each agency shall require each bidder or prospective prime contractor and proposed subcontractor, where appropriate, to state in the bid or in writing at the outset of negotiations for the contract: (i) Whether it has developed and has on file at each establishment affirmative action programs pursuant to Part 60-2 of this chapter; (ii) whether it has participated in any previous contract or subcontract subject to the equal opportunity clause; (iii) whether it has filed with the Joint Reporting Committee, the Deputy Assistant Secretary or the Equal Employment Opportunity Commission all reports due under the applicable filing requirements.

2. Additional information. A bidder or prospective prime contractor or proposed subcontractor shall be required to submit such information as the Deputy Assistant Secretary requests prior to the award of the contract or subcontract. When a determination has been made to award the contract or subcontract to a specific contractor, such contractor shall be required, prior to award, or after the award, or both, to furnish such other information as the applicant or the Deputy Assistant Secretary requests.

C. Use of reports. Reports filed pursuant to this section shall be used only in connection with the administration of the order, the Civil Rights Act of 1964, or in furtherance of the purposes of the order and said Act.[43 FR 49240, Oct. 20, 1978, as amended at 62 FR 66971, Dec. 22, 1997]

3. RESERVED

4. CONTRACT WORK HOURS AND SAFETY STANDARDS (from FAR 52.222-4)

The term "Contracting Officer" herein shall refer to the City of Colorado Springs Contracting Specialist assigned to this contract.

The term "Government" herein shall refer to the City of Colorado Springs and any interested federal or state entity.



A. *Overtime requirements.* No Contractor or subcontractor employing laborers or mechanics (see Federal Acquisition Regulation 22.300) shall require or permit them to work over 40 hours in any workweek unless they are paid at least 1 and 1/2 times the basic rate of pay for each hour worked over 40 hours.

B. *Violation; liability for unpaid wages; liquidated damages.* The responsible Contractor and subcontractor are liable for unpaid wages if they violate the terms in paragraph (a) of this clause. In addition, the Contractor and subcontractor are liable for liquidated damages payable to the Government. The Contracting Officer will assess liquidated damages at the rate of \$10 per affected employee for each calendar day on which the employer required or permitted the employee to work in excess of the standard workweek of 40 hours without paying overtime wages required by the Contract Work Hours and Safety Standards statute (found at 40 U.S.C. chapter 37).

C. *Withholding for unpaid wages and liquidated damages.* The Contracting Officer will withhold from payments due under the contract sufficient funds required to satisfy any Contractor or subcontractor liabilities for unpaid wages and liquidated damages. If amounts withheld under the contract are insufficient to satisfy Contractor or subcontractor liabilities, the Contracting Officer will withhold payments from other Federal or federally assisted contracts held by the same Contractor that are subject to the Contract Work Hours and Safety Standards statute

D. Payrolls and basic records.

1. The Contractor and its subcontractors shall maintain payrolls and basic payroll records for all laborers and mechanics working on the contract during the contract and shall make them available to the Government until 3 years after contract completion. The records shall contain the name and address of each employee, social security number, labor classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. The records need not duplicate those required for construction work by Department of Labor regulations at 29 CFR 5.5(a)(3) implementing the Construction Wage Rate Requirements statute.

2. The Contractor and its subcontractors shall allow authorized representatives of the Contracting Officer or the Department of Labor to inspect, copy, or transcribe records maintained under paragraph (d)(1) of this clause. The Contractor or subcontractor also shall allow authorized representatives of the Contracting Officer or Department of Labor to interview employees in the workplace during working hours.

E. *Subcontracts.* The Contractor shall insert the provisions set forth in paragraphs (a) through (d) of this clause in subcontracts that may require or involve the employment of laborers and mechanics and require subcontractors to include these provisions in any such lower tier subcontracts. The Contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the provisions set forth in paragraphs (a) through (d) of this clause.

5. CLEAN AIR ACT

By signing this Contract, the Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (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 and the Regional Office of the Environmental Protection Agency (EPA). Further, the Contractor agrees to include this clause in all subcontracts in excess of \$150,000.

6. DEBARMENT AND SUSPENSION

By signing this Contract, the Contractor 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. Have not within a three year period preceding this proposal 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, falsification or destruction of records, making false statements, or receiving stolen property;
- C. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
- D. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

7. BYRD ANTI-LOBBYING AMENDMENT

By signing this Contract, the Contractor certifies that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Further, the Contractor certifies that it has not engaged in lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. The Contractor must require the same certification from all subcontractors with subcontracts valued in excess of \$100,000 under this Contract.

8. SMALL BUSINESS REQUIREMENTS

The Contractor must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

Affirmative steps must include:

- A. Placing qualified small and minority businesses and women's business enterprises on subcontract solicitation lists.



B. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources for subcontracting.

C. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises.

D. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises.

E. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

9. PROCUREMENT OF RECOVERED MATERIALS

The Contractor must 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 by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

10. ANTI-KICKBACK PROCEDURES

A. Definitions.

1. "Kickback," as used in this clause, means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided to any prime Contractor, prime Contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract.
2. "Person," as used in this clause, means a corporation, partnership, business association of any kind, trust, joint-stock company, or individual.
3. "Prime contract," as used in this clause, means a contract or contractual action entered into by the United States for the purpose of obtaining supplies, materials, equipment, or services of any kind.
4. "Prime Contractor" as used in this clause, means a person who has entered into a prime contract with the United States.
5. "Prime Contractor employee," as used in this clause, means any officer, partner, employee, or agent of a prime Contractor.



6. "Subcontract," as used in this clause, means a contract or contractual action entered into by a prime Contractor or subcontractor for the purpose of obtaining supplies, materials, equipment, or services of any kind under a prime contract.

7. "Subcontractor," as used in this clause,

a. Means any person, other than the prime Contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a prime contract or a subcontract entered into in connection with such prime contract, and

b. Includes any person who offers to furnish or furnishes general supplies to the prime Contractor or a higher tier subcontractor.

8. "Subcontractor employee," as used in this clause, means any officer, partner, employee, or agent of a subcontractor.

B. The 41 U.S.C. chapter 87, Kickbacks, prohibits any person from --

1. Providing or attempting to provide or offering to provide any kickback;

2. Soliciting, accepting, or attempting to accept any kickback; or

3. Including, directly or indirectly, the amount of any kickback in the contract price charged by a prime Contractor to the United States or in the contract price charged by a subcontractor to a prime Contractor or higher tier subcontractor.

C. The Contractor shall have in place and follow reasonable procedures designed to prevent and detect possible violations described in paragraph (b) of this clause in its own operations and direct business relationships.

When the Contractor has reasonable grounds to believe that a violation described in paragraph (b) of this clause may have occurred, the Contractor shall promptly report in writing the possible violation. Such reports shall be made to the inspector general of the contracting agency, the head of the contracting agency if the agency does not have an inspector general, or the Attorney General.

The Contractor shall cooperate fully with any Federal agency investigating a possible violation described in paragraph (b) of this clause.

The Contracting Officer may

1. offset the amount of the kickback against any monies owed by the United States under the prime contract and/or

2. direct that the Prime Contractor withhold from sums owed a subcontractor under the prime contract the amount of the kickback. The Contracting Officer may order that monies withheld under subdivision (c)(4)(ii) of this clause be paid over to the Government unless the Government has already offset those monies under subdivision



(c)(4)(i) of this clause. In either case, the Prime Contractor shall notify the Contracting Officer when the monies are withheld.

The Contractor agrees to incorporate the substance of this clause, including subparagraph (c)(5) but excepting subparagraph (c)(1), in all subcontracts under this contract which exceed \$150,000.

11. ENERGY EFFICIENCY IN ENERGY CONSUMING PRODUCTS

A. Definition. As used in this clause--

1. "Energy-efficient product"—

a. Means a product that—

i. Meets Department of Energy and Environmental Protection Agency criteria for use of the Energy Star trademark label; or

ii. Is in the upper 25 percent of efficiency for all similar products as designated by the Department of Energy's Federal Energy Management Program.

2. The term "product" does not include any energy-consuming product or system designed or procured for combat or combat-related missions (42 U.S.C. 8259b).

B. The Contractor shall ensure that energy-consuming products are energy efficient products (i.e., ENERGY STAR® products or FEMP-designated products) at the time of contract award, for products that are—

1. Delivered.

2. Acquired by the Contractor for use in performing services at a Federally controlled facility.

3. Furnished by the Contractor for use by the Government.

4. Specified in the design of a building or work, or incorporated during its construction, renovation, or maintenance.

C. The requirements of paragraph (b) apply to the Contractor (including any subcontractor) unless:

1. The energy-consuming product is not listed in the ENERGY STAR® Program or FEMP; or

2. Otherwise approved in writing by the Contracting Officer.

D. Information about these products is available for—

1. ENERGY STAR® at <http://www.energystar.gov/products>; and



2. FEMP at http://www1.eere.energy.gov/femp/procurement/eep_requirements.html.



EXHIBIT E - REPRESENTATIONS AND CERTIFICATIONS

Check or Mark the space after each number to indicate compliance.

1. _____ Address of Offeror's Principal Place of Business:

Does Offeror have an established office or facility in Colorado Springs?

Yes _____ No _____

If yes, indicate address below if different than Principal Place of Business.

Colorado Springs Facility - Year established _____

Address of Colorado Springs Facility:

Percent of Work to be Performed from Principal Place of Business? _____

Percent of Work to be Performed from Colorado Springs Facility? _____

2. _____ Indicate your ability to provide a certificate of insurance evidencing the required coverage types and limits specified in Minimum Insurance Requirements Exhibit. (The certificate of insurance must reflect the City of Colorado Springs as an Additional Insured, as applicable.)

Indicate your ability to comply with the following requirements:

The City shall be added as an Additional Insured to all liability policies:

Yes _____ No _____

Your property and liability insurance company is licensed to do business in Colorado:

Yes _____ No _____

Provide the name of your property and liability insurance company here:

Name: _____

Your property and liability insurance company has an AM best rating of not less than B+ and/or VII:

Yes _____ No _____

Worker's Compensation Insurance is carried for all employees and covers work done in Colorado:

Yes _____ No _____



3. _____ Provide one (1) copy of current financial statements (if required). Enclose financial information in a separate envelope; do not bind with the other proposal copies. If review of the information is to be restricted to the City's financial officer, it must be marked accordingly.
4. _____ Provide the completed and signed bid. (Bids must be identified as specified in this RFQ document). All required Exhibits are attached.

By signing below, the Offeror certifies that no person or firm other than the Offeror or as otherwise indicated has any interest whatsoever in this offer or any Contract that may be entered into as a result of this offer and that in all respects the offer is legal and firm, submitted in good faith without collusion or fraud. The undersigned additionally declares that it has carefully examined the Quote information and the complete Solicitation prior to submitting a Quote. The Offeror's signature will be considered the Offeror's acknowledgement of understanding and ability to comply with all items in the solicitation.

Offeror has appointed _____ as the Offeror's representative and contact for all questions or clarifications in regard to this Offeror.

Telephone: (____) _____

Email: _____

The undersigned acknowledges and understands the terms, conditions, Specifications and all Requirements contained and/or referenced and are legally authorized by the Offeror to make the above statements or representations.

(Name of Company)

(Signature)

(Address)

Date

(City, State and Zip)

(Telephone Number)

(Name typed/Printed)

(Title)

(E-Mail Address)

FEDERAL TAX ID # _____

This Company Is: Corporation____ Individual____ Partnership____ LLC____

Offeror hereby acknowledges receipt of the following amendments, if applicable. Offeror agrees that it is bound by all Amendments identified herein.

AMENDMENT #1_____ DATED:_____

AMENDMENT #2_____ DATED:_____

AMENDMENT #3_____ DATED:_____



Please Note: the following Representations and Certifications must be initialed by Offeror in the spaces provided and returned with this certification.

1. INSURANCE REQUIREMENTS

Offeror shall comply with all insurance requirements and will submit the Insurance Certificates prior to performance start date. If limits are different from the stated amounts, Offeror shall explain variance. Certain endorsements and “additionally insured” statements may require further clarification and specific statements on a project specific basis and should have been described in the Offeror’s Bid.

Initials for 1

2. ETHICS VIOLATIONS

- A. The Offeror shall have in place and follow reasonable procedures designed to prevent and detect possible violations described in this clause in its own operations and direct business relationships.
- B. Offeror certifies the Offeror has not violated or caused any person to violate, and shall not violate or cause any person to violate, the City’s Code of Ethics contained in Article 3, of Chapter 1 of the City Code and in the City’s Procurement Rules and Regulations
- C. When the Offeror has reasonable grounds to believe that a violation described in this clause may have occurred, the Offeror shall promptly report the possible violation to the City Contracts Specialist in writing.
- D. The Offeror must disclose with the signing of this Bid, the name of any officer, director, or agent who is also an employee of the City and any City employee who owns, directly or indirectly, an interest of ten percent (10%) or more in the Offeror’s firm or any of its branches.
- E. In addition, the Offeror must report any conflict or apparent conflict, current or discovered during the performance of the Contract, to the City Contracts Specialist.
- F. The Offeror shall not engage in providing gifts, meals or other amenities to City employees. The right of the Offeror to proceed may be terminated by written notice issued by City Contracts Specialist if Offeror offered or gave a gratuity to an officer, official, or employee of the City and intended by the gratuity to obtain a contract or favorable treatment under a contract.
- G. The Offeror shall cooperate fully with the City or any agency investigating a possible violation on behalf of the City. If any violation is determined, the Offeror will properly compensate the City.
- H. The Offeror agrees to incorporate the substance of this clause (after substituting “Contractor” for “Offeror”) in all subcontracts under this offer.

Initials for 2

3. COOPERATION WITH OTHER CONTRACTORS

Other City activities/contracts may be in progress or start during the performance of this contract. The Offeror shall coordinate the work harmoniously with the other contractors or City personnel, if applicable.

Initials for 3

4. INTERNET USE

Should the Offeror require access to City Internet resources in the performance of this requirement, a “Contractor’s Internet Use Agreement” form must be separately signed by each individual having access to the City Network. The completed Contractor’s Internet Use Agreement will be maintained with this agreement. Inappropriate use of the City Network will be grounds for immediate termination of any awarded contact.



Initials for 4

5. LITIGATION

If awarded a contract, Offeror shall notify the City within five (5) calendar days after being served with a summons, complaint, or other pleading in any matter which has been filed in any federal or state court or administrative agency. The Offeror shall deliver copies of such document(s) to the City's Procurement Services Manager. The term "litigation" includes an assignment for the benefit of creditors, and filings of bankruptcy, reorganization and/or foreclosure.

Initials for 5

6. CONTRACTOR'S REGISTRATION INFORMATION

Offeror's firm verifies and states that they are (check all that apply):

- _____ Large Business (i.e. do not qualify as a small business or non-profit)
- _____ Nonprofit
- _____ Small Business
- _____ Minority Owned Business/Small Disadvantaged Business
- _____ Woman Owned Business
- _____ Veteran Owned Business
- _____ Service-Disabled Veteran Owned Business
- _____ HUBZone Business

Note: The City accepts self-certification for these categories in accordance with Small Business Administration (SBA) standards. The SBA size standards are found on the SBA website <https://www.sba.gov/content/am-i-small-business-concern>.

Initials for 6

7. CONTRACTOR PERSONNEL

- A. The Offeror shall appoint one of its key personnel as the "Authorized Representative" who shall have the power and authority to interface with the City and represent the Offeror in all administrative matters concerning this Bid and any awarded contract, including without limitation such administrative matters as correction of problems modifications, and reduction of costs.
- B. The Authorized Representative shall be the person identified in the Offeror's Bid, unless the Offeror provides written notice to the City naming another person to serve as its Authorized Representative. Communications received by the City Contracts Specialist from the Authorized Representative shall be deemed to have been received from the Offeror.

The individual, _____ (Name)



with position, _____ (Title)

Can be reached at

Work telephone number: _____

Home telephone number: _____

Cellular telephone number: _____

E-mail address: _____

Initials for 7

8. OFFEROR'S CERTIFICATION

The undersigned hereby affirms that:

- A. He/She is a duly authorized agent of the Offeror;
- B. He/She has read and agrees to the City's standard terms and conditions attached.
- C. The offer is presented in full compliance with the collusive prohibitions of the City of Colorado Springs. The Offeror certifies that no employee of its firm has discussed, or compared the offer with any other offeror or City employee and has not colluded with any other offeror or City employee.
- D. The Offeror certifies that it has checked all of its figures, and understands that the City will not be responsible for any errors or omissions on the part of the Offeror in preparing its Bid.
- E. By submitting an offer the Offeror certifies that it has complied and will comply with all requirements of local, state, and federal laws, and that no legal requirements have been or will be violated in making or accepting this solicitation.
- F. If awarded the contract, the Offeror agrees to execute and enter into a contract with the City, and furnish the necessary security within ten (10) days of receipt of the "Notice of Award"; and to begin the work within ten (10) day from the date of the receipt of the "Notice to Proceed", and to complete the Work with the above specifications.
- G. I hereby certify that I am submitting the Bid based on my company's capabilities to provide quality products and/or services on time.

Initials for 8

9. OFFEROR CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS:

- A. The Offeror certifies to the best of its knowledge and belief, that (i) the Offeror and/or any of its Principals
 - 1. Are (), Are not () presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;
 - 2. Have (), Have not (), within a three year period preceding this offer, 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, local) contract or subcontract; violation of Federal or state antitrust statutes relation to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statement, tax evasion, or receiving stolen property; and
 - 3. Are (), Are not () presently indicated for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in any paragraphs above.
- B. The Offeror shall provide immediate written notice to the City Contracts Specialist if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reasons of changed circumstances.
- C. The certification in paragraph 1. above, is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the City, the City Contracts Specialist may terminate the contract resulting from this solicitation for default. Termination for default may result in



additional charges being levied for the costs incurred by the City to initiate activities to replace the awarded Contractor.

Initials for 9

10. ACCEPTANCE OF CITY CONTRACTS SPECIALIST'S SOLE AUTHORITY FOR CHANGES

Unless otherwise specified in the Contract, the Offeror hereby agrees that any changes to the scope of work, subsequent to the original contract signing, shall be generated in writing and an approval signature shall be obtained from the City Contracts Specialist prior to additional work performance.

Initials for 10

11. CITY CONTRACTOR SAFETY PROGRAM

The Offeror hereby agrees to adhere to a worker safety program for contractor employees on a City job site or location. By initialing below, the Offeror has reviewed the information and will abide by the City Policy which is available for review:

<https://coloradosprings.gov/finance/page/procurement-regulations-and-documents>

Initials for 11

12. ACCEPTANCE OF CITY ENVIRONMENTALLY PREFERRED PURCHASING (EPP) POLICY

The City of Colorado Springs is committed to buying more environmentally preferable goods and services, as long as they meet performance needs, are available within a reasonable time and at a reasonable cost. The Offeror hereby acknowledges review of this policy by initialing below.

<https://coloradosprings.gov/finance/page/procurement-regulations-and-documents>

Initials for 12

13. FRAUD, WASTE, AND ABUSE

Everyone has a duty to report any suspected unlawful act impacting the City of Colorado Springs operations and its enterprises. Anyone who becomes aware of the existence or apparent existence of fraud, waste, and abuse in City of Colorado Springs is encouraged to report such matters to the City Auditor's Office in writing or on the telephone hotline 385-2387 (ADTR). Written correspondence can be mailed to:

City Auditor
P.O. Box 2241
Colorado Springs CO 80901

Or via email FraudHotline@coloradosprings.gov. Any of these mechanisms allow for anonymous reporting. For more information, please go to the website <https://coloradosprings.gov/cityfraud>.

Initials for 13



Name of Company: _____

Federal Tax ID Number: _____

DUNS Number: _____

Principal Place of Business: _____

Signature of Authorized Representative

Printed Name: _____

Title: _____

Date: _____



EXHIBIT F – FEDERAL FORMS

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, and declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency.
- B. Have not within a three-year period preceding this proposal been convicted of or had a civil judgement 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.
- C. 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
- D. Have not within a three-year period preceding this application/proposal had one or more public transaction (federal, state or local) terminated for cause or default.
- E. Are not on the Comptroller General's List of Ineligible Bidders or any similar list maintained by any other governmental entity.

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

(Check One)

I DO CERTIFY (____)

I DO NOT CERTIFY (____)

Date: _____

Signature: _____

Title: _____



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 subcontractors 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.

Proposer: _____

Signature: _____

Title: _____

Date: _____



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 the _____(proposing entity) having the authority to sign on behalf of the corporation, and,
2. That the prices in the attached proposal 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 vendor of materials, supplies, equipment, or service described in the RFP/IFB designed to limit independent proposals or competition; and
3. That unless otherwise required by law, the contents and prices contained in the proposal 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 proposal, and will not be communicated to any such person prior to the official opening of the proposal; and,
4. That I have fully informed myself regarding the accuracy of the statements made in this affidavit.

Proposer: _____

Signature: _____

Title: _____

Date: _____



EQUAL EMPLOYMENT STATUS REPORT

Contractor's Name

Street Address

City _____ State _____ Zip _____

This firm is:

_____ Independently owned and operated

_____ An Affiliate Parent Company _____

or

_____ A Subsidiary of Address _____

or

_____ A Division City and State _____

Zip _____

1. Contractor ____ HAS ____ HAS NOT

Developed and has on file an affirmative action program in conformance with 41 CFR 60-2.



2. Contractor ____ HAS ____ HAS NOT

Participated in any previous contract or subcontract subject to the equal opportunity clause either with the City or any Federal agency.

3. Contractor ____ HAS ____ HAS NOT

Filed with the City, or where applicable, joint Reporting Committee, or other Federal Agency, all reports due under the applicable contract(s) or subcontract(s).

Contractor's Equal Employment Opportunity Program ____ HAS ____ HAS NOT been subject to a Federal Equal Opportunity Compliance Review. If so, then state date of Review below.

Signature _____ Date _____

Title _____



EXHIBIT G – HIPAA BUSINESS ASSOCIATE AGREEMENT

FOLLOWS THIS PAGE

APPENDIX C–HIPAA BUSINESS ASSOCIATE AGREEMENT

THIS AGREEMENT is entered into by and between _____ (“Business Associate”) an enterprise of the City of Colorado Springs, Colorado and the City of Colorado Springs (“Covered Entity”). Business Associate is an independent contractor of Covered Entity. Business Associate and Covered Entity are individually referred to as a “Party” and collectively as the “Parties.”

1. Applicability: Conflicts. This Agreement applies with respect to all contracts or other arrangements (“Underlying Agreement”) by and between Business Associate and Covered Entity that involve the use or disclosure of Protected Health Information (“PHI”). This Agreement addresses the business associate requirements of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) as amended by the American Recovery and Reinvestment Act of 2009 (“ARRA”) (P.L. 111-5), HIPAA’s implementing regulations (45 C.F.R. Parts 160 and 164), and the HITECH Act, all as may be further amended from time to time. Capitalized terms used but not otherwise defined in this Agreement shall have the same meaning as those terms in 45 C.F.R. §§ 160.103, 164.103, 164.304 and 164.501, as amended from time to time. As used in this Agreement, all references to PHI shall refer to the PHI of Covered Entity unless stated otherwise. In the event of any conflict or inconsistency between the provisions of this Agreement and the provisions of the Underlying Agreement, the provisions of this Agreement shall control. Furthermore, any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with ARRA and HIPAA.

2. Obligations and Activities of Business Associate. Business Associate agrees as follows:

(a) Business Associate agrees not to use or further disclose PHI other than as permitted or required by this Agreement, the Underlying Agreement, or as Required By Law.

(b) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by this Agreement. Business Associate will document and keep these safeguards current. With respect to any and all electronic PHI, Business Associate agrees to implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the electronic PHI that it creates, receives, maintains, or transmits on behalf of Covered Entity, including ensuring compliance with 45 C.F.R. §§ 164.308, 164.310, 164.312, 164.314, and 164.316.

(c) Business Associate agrees to report promptly, in writing, to Covered Entity any use or disclosure of PHI not provided for by this Agreement, or any Security Incident involving electronic PHI, of which Business Associate becomes aware. Each report shall identify the nature of the non-permitted use or disclosure, the PHI used or disclosed, the person(s) who made the use or disclosure, the person(s) who received the PHI, the corrective action taken by Business Associate and such other information as Covered Entity may reasonably request. Business Associate will cooperate with Covered Entity in the investigation and resolution of the matter, and will mitigate, to the extent practicable, any harmful effects that are known to or can reasonably be detected by Business Associate.

(d) Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by, Business Associate on behalf of Covered Entity, agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.

(e) Business Associate certifies that its workforce, as defined by 45 C.F.R. § 160.103 and who uses or discloses Covered Entity’s PHI, has been properly trained on Business Associate’s policies and procedures regarding compliance with HIPAA including sanction policies for failure to comply with these policies and procedures. Business Associate agrees to ensure that access to PHI related to Covered Entity is limited to those workforce members who require such access because of their role or function.

(f) Business Associate agrees to provide access to Covered Entity of PHI maintained in a Designated Record Set to enable Covered Entity to meet the requirements under 45 C.F.R. § 164.524. Business Associate agrees to make any amendments to PHI in a Designated Record Set that Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526 within the time and manner designated by Covered Entity. In the event that Business Associate receives a request directly from an Individual for a copy of his/her PHI or to amend his/her PHI, Business Associate shall forward such request within five (5) business days after receipt of such request to enable Covered Entity to respond to the Individual’s request.

(g) Business Associate agrees to make its internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Covered Entity available to the Secretary of Health and Human Services (Secretary), in a time and manner designated by Covered Entity or the Secretary, for purposes of the Secretary determining Covered

Entity's compliance with HIPAA. Additionally, Business Associate shall immediately advise Covered Entity of any inspection request made by regulators.

(h) Business Associate agrees to document disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528. Business Associate agrees to provide Covered Entity with information collected in accordance with this Agreement or the Underlying Agreement to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.

(i) Compliance with ARRA.

(i) Business Associate will comply with the security requirements referenced in Section 13401 of ARRA, including the requirements of 45 C.F.R. §§ 164.308, 164.310, 164.312, and 164.316, and the HITECH Act. Further, Business Associate will comply with any and all privacy and security regulations issued pursuant to ARRA and applicable to Business Associate as and when those regulations are effective.

(ii) Business Associate understands that it is now subject to the same federal penalties (ARRA Section 13401(b)) as Covered Entity for violation of the security requirements referenced therein. Business Associate accepts full responsibility for any penalties incurred as a result of its own breaches or violations of Covered Entity's PHI.

(iii) Business Associate will, following the discovery of a breach of "unsecured PHI," as defined in 45 C.F.R § 164.402, notify Covered Entity of such breach within 15 days. The notice shall include the identification of each Individual whose unsecured PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired, or disclosed during such breach. A breach is discovered as of the first day on which such breach is known to Business Associate or should have been reasonably known to Business Associate.

(iv) Upon discovery of a breach of unsecured PHI by Business Associate, Covered Entity and Business Associate will collaborate to determine which Party is in the best position to provide notification.

(v) Business Associate will maintain documentation of all breach notifications it makes or the application of any exceptions to the definition of breach to demonstrate that nonfiction was not required.

(vi) Business Associate may use and

disclose PHI only if such use or disclosure, respectively, is in compliance with each applicable requirement of 45 C.F.R. § 164.504(e) (Uses and disclosures: Organizational requirements: Business Associate contracts) and the privacy requirements referenced in Section 13404 of ARRA.

(vii) Business Associate shall provide an accounting of disclosures to Individuals requesting an accounting as required by Section 13405(c) of ARRA.

(j) Business associate agrees to satisfy all applicable provisions of HIPAA standards for electronic transactions and code sets, also known as the Electronic Data Interchange (EDI) Standards, at 45 CFR Part 162, as well as all operating rules that apply to standard transactions, submission of certifications to HHS (to the extent HHS permits) concerning standard transactions, and all other electronic data interchange requirements included in the Patient Protection and Affordable Care Act of 2010. Business Associate further agrees to ensure that any agent, including a subcontractor, that conducts standard transactions on its behalf will comply with the EDI Standards.

(k) Business Associate acknowledges that the enactment of the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5, ARRA) amended certain provisions of HIPAA in ways that now directly regulate Business Associate's obligations and activities under HIPAA's Privacy Rule and Security Rule, including the Breach Notification Rule. Business Associate agrees to comply, as of the applicable effective dates of each HIPAA obligation relevant to Business Associate, with the requirements of ARRA, including monitoring of federal guidance and regulations published thereunder and timely compliance with such guidance and regulations. In consequence of the foregoing direct regulation of Business Associate by HIPAA laws and regulations, notwithstanding any other provision of the Agreement, Business Associate further agrees to monitor HIPAA Privacy and Security requirements imposed by future laws and regulations, and to timely comply with such requirements when acting for or on behalf of the Plan in its capacity as a Business Associate.

3. Permitted Uses and Disclosures by Business Associate.

(a) Except as otherwise limited in this Agreement or the Underlying Agreement, Business Associate may use or disclose PHI to perform services to or on behalf of Covered Entity as described in and in compliance with the Underlying Agreement, including data aggregation services related to the health care operations of the Covered Entity, provided that such use or disclosure would not violate HIPAA if undertaken by Covered Entity.

(b) Except as otherwise limited in this Agreement or the Underlying Agreement, Business Associate may:

(i) use PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate; and

(ii) disclose PHI for the proper management and administration of Business Associate, provided that such disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and be used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

4. Obligations of Covered Entity.

(a) Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by Individual to use or disclose PHI, if such changes affect Business Associate's permitted or required uses and disclosures.

(b) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, if such restriction affects Business Associate's permitted or required uses or disclosures.

(c) Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under HIPAA.

5. Term and Termination.

(a) This Agreement shall be effective as of the date that the Underlying Agreement is effective with respect to Covered Entity, and shall terminate when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.

(b) Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall provide an opportunity for Business Associate to cure the breach in accordance with the Underlying Agreement. Covered Entity may terminate this Business Associate Agreement ("this Agreement") and the Underlying Agreement between Covered Entity and Business Associate which is the subject of any material breach of this Agreement by Business

Associate if Business Associate does not cure the breach as provided in the Underlying Agreement. If Business Associate has breached a material term of this Agreement and cure is not possible, Covered Entity may immediately terminate this Agreement. This provision shall be in addition to and shall not limit any rights of termination or obligations set forth in the Underlying Agreement.

(c) If Covered Entity knows of a pattern of activity or practice by Business Associate that constitutes a material breach or violation of this Agreement and the breach or violation continues, and if termination of this Agreement is not feasible, Covered Entity is required by HIPAA to report the breach or violation to the Secretary of Health and Human Services.

(d) Effect of Termination.

(i) Except as provided in Section 5(d)(ii), upon termination of this Agreement for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. Destruction shall include destruction of all copies including backup tapes and other electronic backup media. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Except as provided in Section 5(d)(ii), Business Associate shall retain no copies of the PHI.

(ii) In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall notify Covered Entity of the conditions that make return or destruction infeasible, extend the protections of this Agreement to such PHI, and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible for so long as Business Associate maintains such PHI.

(iii) Business Associate's obligation to protect the privacy of PHI is continuous and survives any termination, cancellation, expiration, or other conclusion of this Agreement or the Underlying Agreement.

6. Indemnification.

(a) Business Associate agrees to hold harmless Covered Entity, its officers, agents or employees from and against any and all claims, liabilities, demands, damages, losses, costs and expenses, including costs and reasonable attorney's fees, or claims for injury or damages that are caused by or result from the acts or omissions of Business Associate, its officers, employees, agents and subcontractors with respect to the use or disclosure of Covered Entity's PHI.

7. Miscellaneous.

(a) Governing Law. The interpretation of this Agreement and the resolution of any disputes arising under this Agreement are governed solely by the laws of Colorado, exclusive of any of the choice of law provisions of that or any other state. If any action or other proceeding is brought on or in connection with this Agreement, the venue of such action will be exclusively in Colorado having venue over the Underlying Agreement. Each Party consents to the jurisdiction of such courts and waives any objection it may have with respect to venue.

(b) Notices. Any and all notices required or permitted under this Agreement will be made in writing (ink-and-paper) and may be sent by United States mail, overnight delivery service, or facsimile transmission and will be deemed to have been received by the applicable Party (i) three (3) business days after the confirmed date of deposit with the United States Postal Service, (ii) the date of delivery if by overnight delivery service, or (iii) one (1) business day after transmission when sent by confirmed facsimile transmission (each a "Notice Date") to the applicable address / fax number as set forth on the signature pages to this Agreement or such different address / fax number as a Party may designate in a notice provided to the other Party.

(c) Change in Law. The Parties acknowledge that amendments to applicable state or federal law or regulations or a court or regulators' interpretation of such laws or regulations may necessitate future changes to this Agreement. In such

event, the Parties agree to provide written notice of such conflict to the other Party and to negotiate in good faith toward a written amendment to comply with such changes in the law or regulations or interpretation of the law or regulations.

(d) Assignment. Nothing express or implied in this Agreement is intended to confer or assign any rights, remedies, obligations or liabilities upon any person or entity other than Covered Entity and Business Associate and their respective successors and assigns.

(e) No Third Party Beneficiaries. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Parties hereto, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person or entity on such Agreement. It is the express intention of the Parties hereto that any person or entity, other than the Parties to this Agreement, receiving services or benefits under this Agreement shall be deemed to be incidental beneficiaries only.

IN WITNESS WHEREOF, the Parties have executed this Agreement through their duly authorized representatives on the dates indicated below. EACH OF THE INDIVIDUALS SIGNING THIS AGREEMENT PERSONALLY REPRESENTS AND WARRANTS THAT THE PARTY FOR WHOM HE OR SHE IS ACTING HAS DULY AUTHORIZED THE EXECUTION AND PERFORMANCE OF THIS AGREEMENT.

"BUSINESS ASSOCIATE":

By: _____

Print Name: _____

Title: _____

Date: _____

"COVERED ENTITY":

CITY OF COLORADO SPRINGS

By: _____

Print Name: _____

Title: _____

Date: _____