

CITY OF THORNTON

REQUEST FOR PROPOSALS

FOR

TRANSPORTATION CONSULTANT DESIGN SERVICES

**CITYWIDE BICYCLE/PEDESTRIAN TRAIL INFRASTRUCTURE STUDY
AND PRECONSTRUCTION ACTIVITIES**

**THORNTON PROJECT NO. 23-112
CDOT PROJECT NO. ARPA M286-057 (25639)**

SEPTEMBER 2023

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II. INDEX OF CONTENTS

- I. TITLE PAGE
- II. INDEX OF CONTENTS
- III. NOTICE REQUEST FOR PROPOSALS
- IV. PROPOSAL INSTRUCTIONS AND INFORMATION
- V. PROPOSAL PREPARATION
- VI. EXHIBIT 1 ACCEPTANCE OF CONDITIONS STATEMENT
- VII. EXHIBIT 2 AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES
 - EXHIBIT A CONSULTANT'S GENERAL SCOPE OF SERVICES
 - EXHIBIT B CONSULTANT'S PERSONNEL AND SUBCONSULTANTS LISTING
 - EXHIBIT C SCHEDULE OF CHARGES
 - EXHIBIT D FEDERAL CONTRACT REQUIREMENTS
- VIII. EXHIBIT 3 REFERENCE AUTHORIZATION AND RELEASE FORM
- IX. APPENDICES
 - APPENDIX A REFERENCE QUESTIONNAIRE PACKAGE INFORMATION AND FORMS
 - APPENDIX B CDOT PROFESSIONAL SERVICES LOCAL AGENCY CIVIL RIGHTS AND DISADVANTAGED BUSINESS ENTERPRISE (DBE) CONTRACT REQUIREMENTS
 - APPENDIX C CDOT AFFIDAVIT OF SMALL BUSINESS PARTICIPATION

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III. NOTICE REQUEST FOR PROPOSALS

The City of Thornton, CO (“Thornton”) respectfully requests separate sealed Proposals for Transportation Consulting Services for **Citywide Bicycle/Pedestrian Trail Infrastructure Study and Preconstruction Activities, Project No. 23-112, CDOT Project No. ARPA M286-057 (25639)** (hereinafter referred to as “Project”). Proposals will be received until **3:00 p.m.**, local time, **November 22, 2023** in the Contract Administration Office, 9500 Civic Center Drive, 2nd Floor City Hall, Thornton, CO 80229-4326.

Approved Methods for Submission of Proposals:

Electronic proposals shall be submitted/ uploaded to BidNetDirect.com website in response to this solicitation;

Or Physical proposals may be submitted by mail or courier service;

Or Physical Proposals will be received in the Contract Administration Office, 9500 Civic Center Drive, 2nd Floor City Hall, Thornton, CO 80229-4326.

Late Proposals will not be accepted under any circumstances.

Project Description: Citywide Bicycle/Pedestrian Trail Infrastructure Study and Preconstruction Activities project is to improve multiuse trail networks and connectivity through a comprehensive, complete analysis and evaluation of Thornton’s current bicycle/pedestrian infrastructure.

Every federally funded contract requires a DBE Goal. The DBE goal for this Project is zero 0%. The Proposer commits to the requirements for DBE participation. For additional information refer to <https://www.codot.gov/business/civilrights/compliance/prof-services/resources-forms>

Appendix C – Affidavit of Small Business Participation must submitted with proposal. Failure of the proposer to submit the affidavit will result in the consultant being deemed non-responsive and ineligible for award. If DBE goal is zero percent (0%) the Affidavit is still required, but the CDOT Form 1331 is not.

Thornton utilizes the BidNet Direct System at www.BidNetDirect.com to distribute official copies of the Request for Proposals (“RFP”) for use in preparing Proposals. Proposing firms will be required to register with the website to download the RFP documents and addenda. There is no charge by BidNet Direct for this service. If you experience problems with the BidNet Direct website, please call 1-800-835-4603 for assistance. Proposing firms are required to acknowledge all addenda with their Proposal and are encouraged to either register with the website or to request to view the addenda posted on the Contract Administration bulletin board prior to submission of a Proposal. Proposing firms that do not acknowledge all addenda may be considered non-responsive. Upon request, the RFP documents, including addenda, are also available for viewing on the City of Thornton Website, <https://solicitations.thorntonco.gov/solicitations> or at the Contract Administration office located on the 2nd floor of City Hall at 9500 Civic Center Drive, Thornton, CO. Proposing firms that do not have download and/or printing capability in-house may contact a commercial reprographics company for assistance with downloading and printing the RFP.

Late Proposals will not be accepted under any circumstances. Any Proposal(s) received after the scheduled deadline for submitting Proposals will be returned to the proposing firm unopened. Sole responsibility rests with the proposing firm to see that their Proposal is received on or before the deadline.

Thornton reserves the right to reject any and all Proposals, in part or in whole, and to award the Project to the most responsive and responsible firm(s) as deemed in the best interest of Thornton; further, the right is reserved to waive any formalities or informalities contained in said Proposal(s).

An optional Pre-Bid Conference to discuss the Project will be conducted via web broadcast with Zoom video at **10:00 a.m., November 8, 2023**. All prospective Bidders are encouraged to attend. Prospective Bidders wishing to take part in the Pre-Proposal Conference should e-mail Keith Griess at Keith.griess@ThorntonCo.gov to receive a url link to access the Zoom Video Pre-Proposal Conference. If possible, please hold all questions concerning the RFP until that time.

Physical proposals shall be submitted in a sealed envelope plainly marked on the outside with the proposing firm’s name and address and **“Request for Proposals, Citywide Bicycle/Pedestrian Trail Infrastructure Study and Preconstruction Activities, Project No. 23-112, CDOT Project No. ARPA M286-057 (25639)”**. Proposals delivered by mail or courier service shall be in the sealed envelope inserted into a separate mailing envelope. On the outside of the mailing envelope note **“Proposal Enclosed, Citywide Bicycle/Pedestrian Trail Infrastructure Study and Preconstruction Activities, Project No. 23-112, CDOT Project No. ARPA M286-057 (25639)”**.

Proposals submitted electronically shall be uploaded to the Vendor’s portal through the BidNetDirect.com website and shall follow the process/guidelines identified on the website and this solicitation.


All questions shall be directed in writing to Keith Griess, Contract Administrator, 9500 Civic Center Drive, Thornton, CO 80229-4326, fax - 303-538-7556, or e-mail – Keith.griess@ThorntonCo.gov, 8:00 a.m. to 5:00 p.m., local time, Monday through Friday, excluding holidays.

Published at: BidNet Direct, COT Website, and the Contracts & Purchasing Bulletin Board.

First Advertisement: November 2, 2023, Northglenn-Thornton Sentinel

Second Advertisement: November 9, 2023, Northglenn-Thornton Sentinel

Third Advertisement: November 16, 2023, Northglenn-Thornton Sentinel

BY:  10/25/2023
A439F4EFA6C24E3...
Dennis Laurita
Contracts Supervisor

IV. PROPOSAL INSTRUCTIONS AND INFORMATION

Thornton is soliciting written Proposals from qualified firms for Transportation Consulting Services for **Citywide Bicycle/Pedestrian Trail Infrastructure Study and Preconstruction Activities, Project No. 23-112, CDOT Project No. ARPA M286-057 (25639)**. To be eligible for consideration, the proposing firm must be capable of supplying the Services as described herein and must meet all other criteria outlined in this RFP.

A. INQUIRIES AND CORRECTIONS

All inquiries relating to this RFP shall be addressed in writing to:

City of Thornton
Attention: Keith Griess, Contract Administrator
9500 Civic Center Drive
Thornton, CO 80229-4326
Fax: 303-538-7556 or 303-538-7643
E-mail: Keith.griess@ThorntonCo.gov

If a proposing firm, subsequent to the Pre-Proposal Conference, finds discrepancies in or omissions from the RFP, or requires additional clarification of any part thereof, a written request for interpretation shall be submitted to the Contract Administrator. Any interpretation of or change made to the RFP will be made by written addendum to each proposing firm, and will become part of the RFP and of any Agreement awarded. Thornton will not be responsible for the accuracy of any other ORAL EXPLANATIONS, INTERPRETATIONS, OR REPRESENTATIONS. All inquiries shall be made in writing and all responses will be provided in writing, with responses being made available to all proposing firms. To be given consideration, inquiries must be received no later than 5:00 p.m. on the tenth (10th) Calendar Day prior to the date established for the submission of the Proposal. It shall be the responsibility of each proposing firm to verify that every addendum has been received prior to submitting a Proposal.

B. SUBMITTAL DATE AND LOCATION

All Proposals must be received in the Contracts and Purchasing office located at Thornton City Hall, City of Thornton, 9500 Civic Center Drive, 2nd Floor City Hall, Thornton, CO 80229-4326 or submitted via the BidNetDirect.com vendor portal **prior to 3:00 p.m. local time on November 22, 2023**. Physical proposals must be submitted in a sealed envelope plainly marked on the outside with the proposing firm's name and address and **"Request for Proposals, Citywide Bicycle/Pedestrian Trail Infrastructure Study and Preconstruction Activities, Project No. 23-112, CDOT Project No. ARPA M286-057 (25639)"**, and addressed to the Contracts Manager. Proposing firm's name and address shall also appear on the outside of the sealed envelope containing the Proposal. If the Proposal is sent by U.S. mail or courier service, the Proposal shall be contained in a sealed inner envelope or box, which is then inserted into the mailing envelope or box. Indicate **"Proposal Enclosed, Citywide Bicycle/Pedestrian Trail Infrastructure Study and Preconstruction Activities, Project No. 23-112, CDOT Project No. ARPA M286-057 (25639)"**, on the outside of the mailing envelope or box.

C. LATE AND ELECTRONIC PROPOSALS

Late Proposals will not be accepted under any circumstance, and any Proposal so received shall be returned to the proposing firm unopened. In addition, proposals received via electronic devices other than the BidnetDirect.com website (i.e. e-mail) are not acceptable and will be rejected upon receipt. Proposing firms will be expected to allow adequate time for delivery of their Proposals either by airfreight, postal service, or other means.

D. CONFIDENTIAL AND PROPRIETARY INFORMATION

Prior to Award, any information contained within the Proposal may be held confidential and proprietary by Thornton as solely determined by Thornton. After Award, the information within the Proposal becomes public information with the exception of information that has been clearly marked as confidential and proprietary by the proposing firm. Any information marked confidential shall comply with Colorado's Open Records Act (CORA) and other applicable statutes. Thornton shall be held harmless from any claims arising from the release of confidential and proprietary information not clearly designated as such by the proposing firm or which does not comply with CORA. In general, it is not acceptable to Thornton to mark information other than financial statements, project financing data, litigation history, tax audit history, or client lists as confidential and proprietary. Further, it is not acceptable to mark price proposal information as confidential and proprietary. Failure to adhere to these restrictions may result in the entire Proposal being deemed non-responsive.

E. DEFINITION, CONTEXT, AND GENDER

Unless otherwise specified in this document, all words shall have a common meaning unless the context in which they are used clearly requires a different meaning. Words in the singular number include the plural, and in the plural include the singular. Additionally, words of the masculine gender include the feminine and the neuter, and when the sense so indicates, words of the neuter gender may refer to any gender.

F. CONDITIONS OF PROPOSAL SUBMITTAL

1. All proposing firms shall comply with all conditions, requirements, and specifications contained herein, and any departure from such conditions, requirements, or specifications may constitute sufficient cause for rejection of the entire Proposal.
2. The Proposal must be signed by a duly authorized official of the proposing firm submitting the Proposal.
3. No Proposal will be accepted from any person, firm, or corporation that is in arrears for any obligation to Thornton, or that otherwise may be deemed irresponsible, unresponsive, or untrustworthy by Thornton staff or Thornton City Council.

4. Only one (1) Proposal will be accepted from any person or corporation. If multiple options are requested or offered, each option must be submitted under a single Proposal and in a single envelope or box.
5. All terms and price quotes submitted and requested by Thornton after selection of apparent Awardee, must be firm for a period of ninety (90) Calendar Days from the Proposal submittal date or until Award, whichever is sooner.
6. Thornton reserves the right to reject any and all Proposals, or any part thereof. Thornton further reserves the right to waive any formalities, or informalities contained in any Proposal, and to award the Agreement to the most responsive, responsible, and trustworthy proposing firm as deemed in the best interest of Thornton.
7. All Proposals shall be prepared in a comprehensive manner as to content, but no necessity exists for expensive binders or promotional materials.
8. All costs, including travel and expenses incurred in the preparation of the Proposal, shall be borne solely by the proposing firm.
9. Section 7.4 of the Thornton City Charter prohibits Thornton from entering into any contracts involving an amount in excess of one hundred dollars (\$100) in which an elective or appointive officer or any member of the officer's family has any pecuniary interest, direct or indirect, in the proposing firm or this RFP. Certain other restrictions may also apply to contracts in which an employee, member of a board or commission, City Council member or member of their family has an existing or pending financial or personal interest. For the purposes of this Charter Section, a domestic partner shall be considered a family member. Therefore, the proposing firm shall submit with the Proposal the following declaration contained in Exhibit 1, Acceptance of Conditions Statement.

No City Council member, member of a board or commission, Municipal Judge, City Manager, City Attorney, or employee of the City of Thornton, or any such person's family member, domestic partner, or person assuming a relationship being the substantial equivalent of the above, has an existing or pending direct or indirect financial, pecuniary, or personal interest in the proposing firm or this RFP, except as follows (list, if any): _____

10. Thornton reserves the right to negotiate final terms with the selected firm, which terms may vary from those contained in this document.
11. Thornton reserves the right to request a client list from the proposing firm, for the purpose of determining potential conflicts of interest. Such list shall be considered proprietary.

12. Thornton will not return Proposals, or other information supplied to Thornton, to the proposing firms.

G. EVALUATION OF PROPOSALS

All Proposals will be evaluated by a Project Committee assigned by the City Manager, or his designee. Proposals shall be evaluated on the basis of the Evaluation Criteria set forth herein. In addition, any other pertinent information which becomes available during the evaluation, interview, or negotiations may be considered in the evaluation. The committee may make a recommendation for award on the basis of the Proposals received, or may choose to "short list" prospective firms for further consideration, which may include interviews and/or negotiations. The proposing firm selected for the award will be chosen on the basis of the apparent greatest benefit to Thornton. The City Manager, or his designee, shall make the final determination of the firm selected.

H. EVALUATION CRITERIA

Proposals shall be evaluated on the basis of the following criteria:

1. Responsiveness to the needs of Thornton and the degree to which the Proposal meets or exceeds the requirements of the RFP, including the time required to complete the Project, the proposed solutions offered, the means and methods of accomplishing the Services, and the Scope of Services offered.
2. Responsibility and trustworthiness of the proposing firm, including financial capability to perform the Project and claims and litigation history.
3. Past performance of the proposing firm for Thornton and other owners and results of reference checks.
4. Experience of the proposing firm in dealing with municipal or other governmental agencies in projects of similar size, scope, and nature.
5. The proposing firm's engagement team, including the experience and resumes of key personnel assigned to the Project.
6. Results of performance questionnaire ratings provided with proposal.

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The rating scale shall be from 1 to 5, with 1 being a poor rating, 3 being an average rating, and 5 being an outstanding rating.

WEIGHTING FACTOR	CRITERIA	STANDARD
2.0	Approach / Project Understanding	Does the proposal show an understanding of the Project objective, budget, schedule, methodology to be used and results that are desired from the Project?
2.0	Assigned Personnel	Do the personnel who will be working on the Project have the necessary skills? Are sufficient staff of the requisite skills assigned to the Project?
1.0	Availability	Can the work be completed in the necessary time? Can the target start and completion dates be met? Are other qualified personnel available to assist in meeting the Project schedule if required? Is the Project team available to attend meetings as required by the Scope of Work?
1.0	Firm Capacity / Expertise	Is the firm capable of doing the work in the required time frame? Does the firm have the required specialists and expertise on staff?
1.0	Motivation	Is the firm interested and are they capable of doing the work in the required timeframe?
2.0	Firm Capability/ Qualifications	Does the firm have the support capabilities the assigned personnel require? Has the firm completed successful previous projects of this type, budget and scope?
1.0	Disadvantaged Business Enterprise	Degree to which the firm complied with the DBE goals as established by CDOT?

I. GENERAL REQUIREMENTS OF THE SUCCESSFUL PROPOSING FIRM

1. The successful proposing firm shall enter into a written Agreement with Thornton in the form attached hereto as Exhibit 2 and incorporated by reference herein.
2. The successful proposing firm shall be required to maintain insurance coverages as set forth in Exhibit 2.
3. The successful proposing firm shall be prohibited from assigning or subcontracting the whole, or any part of the Agreement, without the prior written consent of Thornton.

4. The successful proposing firm shall not hire, discharge, promote, demote, or otherwise discriminate in matters of compensation, terms, conditions, or privileges of employment against any person otherwise qualified solely because of race, color, creed, religion, national origin, ancestry, gender, physical or mental disability, or age.
5. The successful proposing firm and its employees will operate as an independent contractor and will not be considered employees of Thornton.

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V. PROPOSAL PREPARATION

- A. Proposals submitted shall contain all information as requested herein, and any additional information necessary to evaluate the overall benefit of the Proposal to Thornton.
1. If your firm is submitting a physical proposal submission and **not** through the Vendor portal of BidNet (if allowed), then the following items shall also be included:
 - a. One (1) original paper copy of the proposal submission with the proposal stamped as “Original”.
 - b. One (1) electronic copy on a flash drive of the proposal submission. All envelopes containing these items shall be clearly marked.

Note: Vendors submitting confidential information shall only submit one (1) copy of such information. When submitting electronically through the BidNetDirect.com vendor portal, confidential information shall be submitted in a separate PDF format file and marked confidential in both the file name and on the individual pages. When submitting a physical proposal, confidential information shall be placed in a separate sealed envelope and inserted into the main proposal submittal envelope or box. Any information not marked as confidential will be considered public record.

- B. Proposals shall include the following:
1. A cover letter stating the name, address, and telephone number of the proposing firm, and bearing the signature of the person having the authority to make the Proposal for the proposing firm, and bind the firm in a formal Agreement with Thornton.
 2. An executed Exhibit 1, Acceptance of Conditions Statement, which:
 - a. Affirms the acceptance of all conditions and requirements contained in this RFP;
 - b. Contains acknowledgement of all addenda issued; and
 - c. Lists the names of any of the proposing firms’ employees who are family members of Thornton employees, officers, board or Council members.
 3. The proposed Exhibit B, Consultant Personnel and Subconsultants Listing, which is in Exhibit 2, Agreement, showing all personnel and subconsultants proposed for assignment to the Project team. Also submit resumes with education and work experience for key personnel.

4. A written narrative that defines the methods and means by which the proposing firm will perform the Services outlined in this RFP.
5. A Project timeline outlining the major tasks, phases, timeframes, and milestones necessary to complete the Project. Identify the specific employees and subconsultants that will be involved in each task.
6. An estimate of labor resources needed by task or phase broken down by man-hours for each individual assigned to the Project, including subconsultant personnel. In addition, indicate total estimated cost for each task or phase by multiplying the applicable billable hourly rates by the proposed labor hours, and adding in subconsultant fees, and other estimated reimbursable expenses. All cost/fees/rates are to be submitted in a separate sealed file/envelope, as will be requested by City, upon selection of apparent Awardee.
7. The proposed Exhibit C, Schedule of Charges, which is in Exhibit 2, Agreement, containing the billable hourly rate schedule of the proposing firm including the hourly rates for all personnel assigned to the Project team, subconsultant's fees, and rates for proposed reimbursable expenses such as mileage, equipment, printing, postage, courier service fees, etc. Reimbursable expense categories identified in the Reimbursable Expense Schedule must include all expenses for which the proposing firm will expect separate reimbursement. Expense categories not identified will not be reimbursed separately but are assumed to be included in the billable hourly rates or the fixed fee, whichever is applicable. Reimbursable expenses are reimbursed at cost. The proposed Schedule of Charges will be the sole basis of payment. All cost/fees/rates are to be submitted in a separate sealed file/envelope, as will be requested by the City, upon selection of apparent Awardee.
8. A list of what portion of the Services, if any, will be subcontracted.
9. A list of at least three (3) references for which similar services have been provided. Include current contact names, addresses, and telephone numbers.
10. An executed Exhibit 3, Reference Authorization and Release Form.
11. A letter of reference from the proposing firm's primary bank or financial institution which indicates the bank's opinion on the proposing firm's financial capacity to perform their obligations under the Agreement. The letter shall be placed in a separate sealed envelope labeled with the firm name and the notation "CONFIDENTIAL FINANCIAL REFERENCE". The sealed confidential envelope shall be placed inside the envelope or box containing the firm's proposal.
12. Litigation and claims history over the past five (5) years in which the proposing firm or any of its principals were named in a claim or lawsuit related to the proposing firm's provision of goods or services. Include a list of any ongoing or settled claims, mediations, arbitrations, lawsuits, and judgments during the time period. List must contain a description of the type of claim or suit, the general nature of the dispute, whether it is ongoing or settled, and the general outcome if settled, but need not reveal the other parties' names if it is not in the public

record. The history shall be placed in a separate sealed envelope labeled with the firm name and the notation "CONFIDENTIAL LITIGATION AND CLAIM HISTORY". The sealed confidential envelope shall be placed inside the envelope or box containing the proposing firm's proposal.

13. Any other information deemed necessary by the proposing firm.
- C. Submittal of a Proposal shall be taken as prima facie evidence that the proposing firm has full knowledge of the scope, nature, quality, and quantity of the Services to be performed, and the detailed requirements and conditions under which the Services are to be performed.

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VI. EXHIBIT 1

ACCEPTANCE OF CONDITIONS STATEMENT

A. Proposing firm indicates acceptance of the following conditions:

1. City of Thornton Charter Section 7.4 prohibits Thornton from making Contracts with firms which employ certain relatives of Thornton employees unless the City Council determines that the making of such a Contract is in Thornton's best interest.

No City Council member, member of a board or commission, Municipal Judge, City Manager, City Attorney, or employee of the City of Thornton, or any such person's family member, domestic partner, or person assuming a relationship being the substantial equivalent of the above, has an existing or pending, direct or indirect, financial, pecuniary or personal interest in the proposing firm or this Request for Proposal, except as follows (list, if any, or if none so state): _____

2. I/we hereby agree to all instructions, terms and conditions, and specifications contained herein.

B. I/we acknowledge the following addenda (list, if any, or if none so state): _____

Proposing Firm Name: _____

Address: _____

Telephone Number: _____

Submitted By: _____

(Signature)

Title: _____

Date: _____

Attest (by officer if corporation) or Notary (if individual): _____

My Commission Expires (if notarized): _____

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VII. EXHIBIT 2

AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES

This Professional Consulting Services Agreement for **Citywide Bicycle/Pedestrian Trail Infrastructure Study and Preconstruction Activities, Project No. 23-112, CDOT Project No. ARPA M286-057 (25639)**. ("Agreement") is made and entered into this _____ day of _____, 2023, by and between the **City of Thornton**, a Colorado home rule municipality, whose address is 9500 Civic Center Drive, Thornton, CO 80229 ("Thornton") and **Business Name** whose principal place of business is located at **Business Address** ("Consultant, or may be referred to as Service Provider") each may be referred to collectively as, the ("Parties") or individually as the ("Party").

I. RECITALS

- A. Thornton sought out Professional Consulting Services in connection with Citywide Bicycle/Pedestrian Trail Infrastructure Study and Preconstruction Activities, Project No. 23-112, CDOT Project No. ARPA M286-057 (25639). (the "Project").
- B. Consultant submitted an offer and Thornton selected Consultant to work on this Project after Thornton determined Consultant has the requisite expertise and professional experience to perform the Services this Project requires;
- C. Consultant further represents it has the requisite skills, knowledge, expertise and experience to perform the Services Thornton needs and requires during the term of this Agreement;
- D. Consultant agrees to faithfully perform the Services required under this Agreement in accordance with standards of care, skill, training, diligence, and judgment provided by competent professionals who perform services of a similar nature as described in this Agreement.

For good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

II. TERMS & CONDITIONS

- A. **Definitions, Interpretation.** Capitalized terms not defined below shall have the meanings given them in the Contract Documents where they are defined. Further, otherwise consistent with the context, the singular shall include the plural and the plural shall include the singular. The titles of articles and sections used in this Agreement are primarily for the convenience but may be used as aids in interpreting any provision herein.
 - 1. **Agreement** means the Agreement between Thornton and Consultant, including Amendments, Change Orders, and exhibits made part of the Agreement upon or after its execution.

2. Contract Documents consist of those documents identified in the Agreement, and Change Orders and Amendments issued after execution of the Agreement.
3. Day in any Contract Document refers to a Calendar Day of twenty-four (24) hours measured from midnight to the next midnight.
4. Drawings are the graphic and pictorial portions of the Contract Documents, wherever located and whenever issued, showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, diagrams, and notes, also sometimes referred to as plans. The Drawings may contain Specifications, and the Specifications may contain Drawings.
5. Commencement Date is the designated date on which it becomes effective, but if no such date is designated, it is the date on which Thornton signs the Agreement.
6. Including shall, unless otherwise specifically stated, mean ***including, but not limited to*** and words such as ***hereby, herein, and hereunder*** and words of similar import shall be construed to refer to this Agreement in its entirety.
7. Specifications are that part of the Contract Documents consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.
8. Subconsultant (“Subcontractor”) is a person or entity retained by Consultant as an independent contractor to provide labor, materials, equipment, and/or services necessary to complete a specific portion of the Work; or any other party supplying labor and material or only labor for Work under a separate contract or agreement with Consultant. Moreover, the terms “Subconsultant” and “Subcontractor” are interchangeable herein and will, at all times, have, express or convey the same meaning. The term does not include a Separate Consultant or a Separate Consultant’s subcontractors.
9. Work (“Services”) is the various elements identified and required by the Contract Documents and includes and is the result of performing or providing all labor, services, and documentation necessary to produce, furnish, install, and incorporate all materials and equipment necessary to complete the services in accordance with the Contract Documents. Moreover, the terms “Work” and “Services” are interchangeable herein and will, at all times, have, express or convey the same meaning.

B. Contract Documents.

1. The following documents, including all exhibits and attachments listed, contained, or referenced in this Agreement, by this reference are incorporated verbatim into this Agreement:
 - a. Thornton Approved Amendments to this Agreement.
 - b. This Agreement for Professional Consulting Services (together with Exhibits):
 - i. Exhibit A Consultant's General Scope of Services
 - ii. Exhibit B Personnel and Subconsultants Listing
 - iii. Exhibit C Schedule of Charges
 - iv. Exhibit D Federal Contract Requirements
 - c. Purchase Orders.
2. In the event there is a conflict between any of the above-listed documents, the provisions of the document listed first in order shall govern over those documents listed in descending order in subparagraph B.1 above after the first listed document.
3. Consultant may need additional documents to perform the required Work and Services, or to clarify certain aspects of the Work and Services, that are not listed in Section B.1 above. Such documents, unless specifically identified as such, are not Contract Documents. These documents, by way of example include, but are not limited to:
 - a. The Request for Proposals (including Addenda);
 - b. The Consultant's response to the Request for Proposals;
 - c. Other Thornton policies and procedures as applicable.
4. Consultant shall perform the Services with the staff identified in the attached **Exhibit B**, unless otherwise authorized in writing by Thornton.

C. Project Description. Citywide Bicycle/Pedestrian Trail Infrastructure Study and Preconstruction Activities project is to improve multiuse trail networks and connectivity through a comprehensive, complete analysis and evaluation of Thornton's current bicycle/pedestrian infrastructure.

D. Consultant's Scope of Services, Commencement. Upon receipt of a written Notice to Proceed from Thornton, Consultant agrees that it will furnish all of the technical, administrative, professional, and other labor; all supplies and materials, equipment, printing, vehicles, local travel, office space and facilities, testing and analyses, calculations, and any other facilities or resources required to perform and

complete the Services described in the attached **Exhibit A**, (“Consultant’s General Scope of Services” or “Services”).

- E. **Term; Commencement and Termination Dates.** This Agreement shall commence on the date written above and shall terminate at such time when all of the Scope of Services in **Exhibit A** up to, or upon Thornton providing Consultant with seven (7) Calendar Days advance written notice, whichever occurs first. In the event this Agreement is terminated by Thornton for convenience, Thornton shall issue a written Notice of Intent to Terminate and Thornton shall pay Consultant for all Services previously authorized and completed prior to the date of the Notice of Termination and Consultant shall not be entitled to profit or overhead on uncompleted Services. If, however, Consultant has substantially or materially breached the terms of this Agreement, Thornton shall have any remedy or right of set-off available at law and equity.
- F. **Compensation.**
1. **Remuneration.** In consideration for Consultant’s completion of Services to Thornton’s satisfaction, Thornton agrees to pay Consultant’s billable hourly rates and approved reimbursable expenses as set forth in the attached **Exhibit C, Schedule of Charges**, The total compensation for a given Task Assignment may be subject to a NTE amount as provided for in Exhibit C.
 2. **Invoicing.**
 - a. Consultant shall prepare and send by electronic format a detailed monthly invoice to ap.invoices@ThorntonCo.gov.
 - b. Invoices become due and payable thirty (30) Calendar Days after date of receipt by Thornton of a complete and correct invoice.
 - c. Invoices shall reference the Purchase Order Number assigned by Thornton, and be itemized showing hourly breakdowns for personnel, and other charges.
 - d. Each invoice will show the total amount from the date of the original Agreement, and any subsequently issued Purchase Orders and amendments that change the amount of the Agreement. In addition, invoices must include billing and payment summaries up to the date of the submitted invoice. Thornton reserves the right to withhold final payment until the Services are complete. Consultant shall not perform any Services without receiving a Purchase Order issued by Thornton.
 - e. Consultant shall break down invoices by the phases specified in the Scope of Work. Each phase shall be further itemized by cost for each completed task performed for that phase. Consultants will only invoice Thornton for work that is performed to Thornton’s satisfaction, or the percentage of

work satisfactorily performed for that phase, unless Consultant has Thornton's written approval in advance. Under no circumstances will Consultant submit an invoice for work for more than the total amount specified for any given phase. Furthermore, under no circumstances may Consultant bill or otherwise invoice for work not specifically authorized.

G. Changes to Consultant's Scope of Services.

1. A change in the Consultant's Scope of Services shall constitute any change or amendment of Services, which is different from or additional to Consultant's Scope of Services as defined in **Exhibit A** of this Agreement. No change to the General Scope of Services, including any requested changes to contractually established billable/unit rates, shall be effective or paid unless authorized by a written Amendment executed by Thornton's City Manager ("Manager") or Manager's designee(s) with the same formality as this agreement.
2. Except as expressly provided herein, no agent, employee, or representative of Thornton has the authority to change or modify - directly or by an implied course of action, the Scope of Services or the terms of this Agreement.
3. If Consultant proceeds without such written authorization, then Consultant shall be deemed to have waived any claim for additional compensation, including a claim based on a theory of promissory estoppel, unjust enrichment, quantum meruit, or implied Agreement.

H. Consultant's Personnel, Subcontracting.

1. Approval of Key Professionals. Consultant shall perform the Services with the persons, personnel, subconsultants and named entities identified in the attached **Exhibit B**, unless otherwise authorized in writing by Thornton. All of Consultant's key professional personnel identified in **Exhibit B** shall be assigned by Consultant or its subconsultant (including any subcontractors) to perform the Services under this Agreement. If Thornton requires Consultant to identify certain subcontractors, other entities, personnel or individuals ("Key Professionals") before the Agreement's commencement date for Thornton's review and acceptance, Consultant shall submit a list of Key Professionals, along with their résumés and information, describing each one's abilities to perform their assigned tasks no later than thirty (30) days before this Agreement's commencement date. If Thornton does not respond within 15 days from receiving Consultant's list, all listed Key Professionals will be deemed approved by Thornton.
2. Replacement of Key Professionals. The Parties understand that Key Professionals will be engaged to perform their specialty Services required by this Agreement, and Consultant and its subconsultant shall retain Key Professionals for the term of this Agreement to the extent practicable and to

the extent their specialties maximizes the quality of Services performed hereunder. If Consultant decides to replace a Key Professional, it shall notify Thornton in writing of the changes it desires to make. Thornton will respond to Consultant regarding replacement of a Key Professional within fifteen (15) days from the date Thornton receives Consultant's request. Consultant shall not replace any Key Professional without Thornton's written approval, which will not be withheld unreasonably.

3. Performance by Key Professionals. If, during the term of this Agreement, Thornton determines that a Key Professional's performance is unacceptable, they will notify Consultant and give Consultant the time that Thornton considers reasonable to correct such performance. Thereafter, if a Key Professional's performance is still unacceptable, Thornton will notify Consultant to reassign the Key Professional and Consultant shall use its best efforts to obtain an adequate substitute within ten (10) days from the date of the notice.
4. Consultant's Subconsultants.
 - a. Thornton's Approval Required. Consultant may retain and subcontract with subconsultants listed in **Exhibit B, Consultant's Personnel and Subconsultants Listing**; however, Consultant shall not execute a final agreement with any other subconsultant without obtaining written approval from Thornton first. For Thornton's approval, Consultant must submit a written description of the nature and extent of the Services a subconsultant will provide, and the subconsultant's name, address, professional experience and qualifications and any other important information. Thornton's approval of the subconsultant shall not relieve Consultant of any obligations under this Agreement. Since Consultant's representations and professional qualifications are the consideration for Thornton to enter into this Agreement, Thornton, for any reason, has the right to reject any proposed subconsultant it deems unqualified or unsuitable to perform the proposed Services, and to limit the number of subconsultants retained by Consultant.
 - b. Conflict of Interest Prohibited. No Consultant shall retain any subconsultant to perform any Services under this Agreement if Consultant, by making a reasonable inquiry, knows or should know is connected with the sale or promotion of equipment or material used to perform any Services that would be a conflict of interest. However, in unusual circumstances, Thornton may waive in writing a conflict of interest provided Consultant has fully disclosed the conflict of interest beforehand. If at any time, the Consultant becomes aware of a potential conflict of interest, it shall immediately notify Thornton in writing of the potential conflict. The notification shall contain all pertinent information to fully and accurately describe the conflict of interest. Thornton, in its sole discretion, shall

determine the existence of a conflict of interest and may terminate this Agreement in the event such a conflict exists after it has given Consultant written notice describing the conflict.

5. Approval, Rejection of Consultant's Key Professionals, Personnel and Subconsultants. Thornton may, in its reasonable discretion, approve or reject any person or persons at any time working for Consultant. No acceptance by Thornton of any Key Professional, subcontractor, supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of any right of Thornton to reject defective Work.
6. Waiver. Consultant shall be fully responsible to Thornton for all acts and omissions of its subcontractors, Key Professionals and other persons performing or furnishing any Work or Services on behalf of Consultant just as Consultant is responsible for Consultant's own acts and omissions. Any agreement between Consultant and its approved subconsultant(s), Key Professionals and other persons must have a legally binding provision whereby they agree to waive all rights to make a claim of liability or payment against Thornton arising out of the performance of the Services under this Agreement. Nothing in the Contract Documents shall create any contractual relationship or obligation to pay any monies due to the same, except as the law may require.

I. Compliance with All Laws and Regulations.

1. All of the Services performed under this Agreement by Consultant shall comply with all applicable laws, rules, regulations, and codes of the United States and the State of Colorado and with the charter, ordinances, and rules and regulations of Thornton.
2. All applicable state and federal laws, county and city ordinances, licenses and regulations of all authorities having jurisdiction over this Agreement and the Services shall apply to this Agreement throughout and will be deemed to be included in this Agreement the same as though written out in full.

J. Confidentiality of Thornton's Information.

1. Thornton will provide Consultant with reports and such other data as may be available to Thornton ("Project Information") and reasonably required by Consultant to perform the Services.
2. No Project Information shall be disclosed by Consultant to third parties without prior written consent of Thornton or pursuant to a lawful Court Order directing such disclosure.

3. All Project Information provided by Thornton to Consultant shall be returned to Thornton at the end of the Project upon Thornton's request. Consultant is otherwise authorized by Thornton to retain copies of Project Information at Consultant's expense.

K. Ownership, Use of Work Product.

1. All Services, data, drawings, designs, plans, reports, studies, computer programs (nonproprietary), computer input and output, analyses, tests, maps, surveys, aerial photography or any other materials ("Work Product") developed for this Project by Consultant are and shall be the sole and exclusive property of Thornton. Aerial photography supplied by Thornton to Consultant shall not be utilized by Consultant for any purpose other than the Project.
2. Consultant hereby transfers any copyright, trademark, or other intellectual property rights of Work Product to Thornton. However, any reuse of Work Product by Thornton without prior written authorization by Consultant other than for the specific intended purpose of this Agreement will be at Thornton's risk.
3. Consultant shall provide Thornton with ten (10) days of advance written notice that it has Project Information and Work Product it intends to dispose of, during which time Thornton may take physical possession of such documents.

L. Compliance With Patent, Trademark and Copyright Laws.

1. Consultant warrants that all Services performed under this Agreement shall comply with all applicable patent, trademark, and copyright laws, rules, regulations, and codes of the United States. Consultant shall not utilize any protected patent, trademark, or copyright in performance of the Services unless Consultant has obtained proper permission and all releases and other necessary documents. If Consultant specifies or uses any material, equipment, process, or procedure, that is protected, Consultant shall disclose such patents, trademarks, and copyrights in Consultant's deliverables.
2. Consultant releases, indemnifies, and holds harmless Thornton, its officers, agents, and employees from any and all claims, damages, suits, costs, expenses, liabilities, actions, or proceedings of any kind or nature whatsoever, including attorneys' fees and costs, of or by anyone whomsoever, in any way resulting from, or arising out of, directly or indirectly, the performance of Services under this Agreement which infringes upon any patent, trademark, or copyright protected by law.

III. GENERAL CONDITIONS

- A. **Indemnification.** To the fullest extent permitted by law, Consultant agrees to defend, indemnify and hold harmless Thornton, its officers, agents and employees, from and against all liability, judgments, damages or losses which arise out of, result from, or are in any manner connected with the Services to be performed under this Agreement, to the extent it is determined such liability, judgments, damages or losses were caused by the negligent acts, errors, or omissions of Consultant, any subconsultant of Consultant, or any officer, employee or agent of Consultant, or anyone else employed directly or indirectly by any of them or anyone for whose acts any of them may be liable and will pay to Thornton any expenses incurred by reason of such liability, judgments, damages or losses, including, but not limited to, court costs and reasonable attorneys' fees incurred in defending or investigating such claims. Such payments on behalf of Thornton shall be in addition to any and all other legal remedies available to Thornton and shall not be considered Thornton's exclusive remedy.
- B. **Insurance.** Consultant agrees to procure and maintain in force during the term of this Agreement, at its own cost, the following coverages:
1. **Workers' Compensation Insurance.** Workers' Compensation Insurance as required by the Labor Code of the State of Colorado and Employer's Liability Insurance. Statutory limits are required. Evidence of qualified self-insured status may be substituted.
 2. **Commercial General Liability Insurance** **MINIMUM LIMITS)**

a.	Each Occurrence	\$2,000,000
b.	Products/Completed Operations Aggregate	\$2,000,000
c.	Personal and Advertising Injury	\$2,000,000
d.	General Aggregate	\$2,000,000
e.	Any 1 fire	\$50,000

 - f. This policy shall include coverage protecting against bodily injury, property damage, and personal injury claims arising from the exposures of:
 - i. Premises-operations;
 - ii. Products and completed operations including materials designed, furnished, and/or modified in any way by Consultant;
 - iii. Independent subcontractors or subconsultants;
 - iv. Contractual liability risk covering the indemnity obligations set forth in this Agreement; and
 - v. Where applicable, liability resulting from explosion, collapse, or underground exposures.

- g. If the above insurance is written on a claims-made form, it shall continue for three (3) years following termination of this Agreement. The insurance shall provide for a retroactive date of placement prior to or coinciding with the effective date of this Agreement.

3. Professional Liability Insurance **(MINIMUM LIMITS)**

- a. Each Claim \$1,000,000
- b. Aggregate \$2,000,000

- c. If the above insurance is written on a claims-made form, it shall continue for three (3) years following termination of this Agreement. The insurance shall provide for a retroactive date of placement prior to or coinciding with the effective date of this Agreement.

- 4. Automobile Liability Insurance with minimum combined single limits for bodily injury and property damage of not less than one million dollars (\$1,000,000) for any one (1) occurrence. This insurance will insure against bodily injury and/or property damage arising out of Consultant’s operation, maintenance, use, loading or unloading of any auto including owned, non-owned, hired, and employee autos.

- 5. Protected information insurance covering all loss of State Confidential Information, such as PII, PHI, PCI, Tax information, and CJI, and claims based on alleged violations of privacy rights through improper use or disclosure of protected information with minimum limits of one million dollars (\$1,000,000) each occurrence and two million dollars (\$2,000,000) aggregate.

- 6. Crime insurance including employee dishonestly coverage with one million dollars (\$1,000,000) each occurrence and one million dollars (\$1,000,000) aggregate.

- 7. Cyber/Network Security and Privacy liability insurance coverage with one million (\$1,000,000) each occurrence and two million dollars (\$2,000,000) general aggregate.

- 8. Other insurance with varying limits which from time to time may reasonably be required by the mutual agreement of Thornton and Consultant against other insurable hazards relating to the Services.

- 9. Consultant shall procure and maintain and shall cause any subconsultants to procure and maintain the minimum insurance coverages listed herein. Such coverages shall be procured and maintained with forms and insurers acceptable to Thornton. All coverages shall be continuously maintained to cover all liability, claims, demands, and other obligations assumed by

Consultant pursuant to this Agreement. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

10. Consultant shall name Colorado Department of Transportation (CDOT) and Thornton, its officers, agents, and employees as additional insureds, with respect to the commercial general liability and auto liability coverages required herein. A Certificate of Insurance shall be completed and forwarded, along with the Additional Insured Endorsements, to Thornton by Consultant's Insurance Agent(s) 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 Thornton **prior to commencement of any Services under this Agreement**. The initial completed Certificates of Insurance and Additional Insured Endorsements shall include Consultant's e-mail address for future inquiries and updates, and shall be sent to:

City of Thornton
Keith Griess, Contract Administrator
9500 Civic Center Drive
Thornton, CO 80229-4326

Subsequent Certificates of Insurance, along with the renewal Additional Insured Endorsements, indicating renewal of coverage(s) shall be sent to Thornton's Risk Management office at certificatesofinsurance@ThorntonCo.gov no later than thirty (30) Calendar Days prior to the expiration date and shall indicate "Renewal COI" and the Project Number in the e-mail subject line.

11. Failure on the part of Consultant or a subconsultant to procure or maintain policies providing the required coverages, conditions, and minimum limits **shall constitute a material breach of Agreement upon which Thornton may immediately terminate this Agreement**, or at its discretion, Thornton may procure, or renew any such policy, or any extended reporting period, and may pay any and all premiums in connection therewith, and all monies so paid by Thornton shall be repaid by Consultant to Thornton upon demand, or Thornton may offset the cost of such premiums against any monies due or that become due to Consultant from Thornton.
12. Thornton reserves the right to request and receive a certified copy of any policy and any endorsement. Consultant agrees to execute any and all documents necessary to allow Thornton access to any and all required insurance policies and endorsements.

13. Every policy required above shall be primary insurance and any insurance carried by Thornton, its officers, or its employees shall be excess and not contributory insurance to that provided by Consultant. Consultant shall be solely responsible for any deductible losses under the policies required above.
14. Consultant shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to this Agreement by reason of its failure to procure and maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations, or types.
15. All policies shall include a provision that the coverages afforded under the policies shall not be canceled or materially changed prior to the natural termination date until at least thirty (30) Calendar Days prior written notice has been sent to Thornton. The Certificate(s) shall indicate the form used, if any, under which this provision is included.

C. **Governmental Immunity.** The Parties understand and agree that Thornton, its officers, and its employees are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, C.R.S. 24-10-101 et seq., as from time to time may be amended, or otherwise available to Thornton, its agents, officers, or employees.

D. **Independent Contractor.**

1. It is understood and agreed by and between the Parties that the status of Consultant shall be that of an independent contractor and of a person retained on a contractual basis to perform professional and/or technical services for limited periods of time and it is not intended, nor shall it be construed, that Consultant is an employee or officer of Thornton under Chapter VII of the City Charter, or Chapter 54 of the City Code, or for any purpose whatsoever.

Without limiting the foregoing, the Parties hereby specifically acknowledge that **Consultant** or any employee, agent or subconsultant of Consultant **is not entitled to unemployment insurance benefits unless unemployment compensation coverage is provided by Consultant or some other entity besides Thornton, that Consultant is not entitled to Workers' Compensation benefits from Thornton and that Consultant is obligated to pay federal and state income tax on any monies earned pursuant to this Agreement.** The Parties further acknowledge that the provisions of this paragraph are consistent with Consultant's insurance obligations which are set forth in this Agreement

E. **Termination.**

1. **Termination for Convenience.**

- a. Thornton shall have the right to terminate this Agreement at any time upon seven (7) days advance written notice to Consultant (“Notice of Termination”).
- b. Should Thornton terminate this Agreement for convenience, in accordance with subsection E.1.a above, Thornton shall pay Consultant for all Services previously authorized and properly completed prior to the date of termination set forth in the Notice of Termination. Consultant shall not be entitled to profit or overhead on uncompleted Services.
- c. In any event, the terms and conditions of this Agreement shall survive the termination date of the Agreement and continue until the Services are complete to Thornton’s satisfaction.

2. **Termination for Cause.** Thornton shall have the right to terminate this Agreement immediately upon notice to Consultant if Consultant has materially breached the terms of this Agreement. In such event, Thornton shall pay Consultant for all Services previously authorized and completed prior to the date of termination in compliance with the terms of this Agreement and to Thornton’s satisfaction, provided that there shall be no limitation of Thornton’s right to exercise any and all available legal and equitable remedies.

3. **Termination for Non-Appropriation.** In the event that the Thornton City Council fails to appropriate funds for the continuation of this Agreement for any fiscal year beyond the initial fiscal year hereof, Thornton may terminate this Agreement without penalty as of the end of the fiscal year for which funding was appropriated and shall be released of further obligations.

F. **Venue / Law / Statute Of Limitations.** This Agreement shall be governed by the laws of the State of Colorado, notwithstanding its choice of law principles. Any legal action concerning the provisions hereof shall be brought in the District Court, County of Adams, State of Colorado. Any action arising out of or relating to this Agreement or the Services asserted by Consultant against Thornton shall be brought within two (2) years from when the action accrued, pursuant to C.R.S. § 13-80-102(h).

G. **Notice.** Any notice or communication between Consultant and Thornton which may be required, or which may be given, under the terms of this Agreement shall be in writing, and shall be deemed to have been sufficiently given when directly presented or sent pre-paid, first class United States Mail, addressed as follows:

THORNTON:

City of Thornton
Attention: Contracts and Purchasing Director
9500 Civic Center Drive
Thornton, CO 80229-4326

CONSULTANT:

Attention: _____

- H. **Exhibits.** All documents marked and referred to as “Exhibits” in this Agreement are incorporated by this reference and are made a part of this Agreement.

- I. **Assignment of Agreement Not Permitted.** Consultant shall not be entitled to assign, pledge, or transfer its duties and rights, in whole or in part, under this Agreement, or any Work, Services, or its rights to any payment from Thornton without the prior written consent of Thornton, which Thornton may withhold in its sole discretion. Any approved assignee of Consultant’s interest in this Agreement, any Work or Services shall execute a written acknowledgement in a form satisfactory to Thornton expressly agreeing to be bound by all of its terms. No assignment shall relieve Consultant of primary liability under this Agreement. In this regard, Consultant understands that the performance of the scope of work is considered personal services under this Agreement.

- J. **No Waiver of Rights.** No assent expressed or implied, to any breach of any one (1) or more of the terms and conditions of this Agreement shall be deemed to be or taken to be by Thornton a waiver of any subsequent breach of any such terms and conditions.

- K. **Inspection of Records.** In connection with the Services performed hereunder, Thornton and any of its duly authorized representatives shall have access to all of Consultant’s and subconsultant’s books, documents, papers, and any other records of Consultant and subconsultants that relate to the Services. Consultant further agrees that such records shall contain information concerning the personnel who performed the Services, the specific tasks they performed and the hours they worked. Consultant shall retain these records for three (3) years after termination of this Agreement.

- L. **Conflict of Interest.** Consultant agrees that it and its subsidiaries, affiliates, subconsultants, principals, or employees shall not engage in any transaction, activity, or conduct which would result in a conflict of interest. Consultant represents that it has disclosed any and all current or potential conflicts of interest. A conflict of interest shall include transactions, activities, or conduct that would affect the judgment, actions, or Services of Consultant by placing Consultant’s own

interests, or the interest of any party with whom Consultant has a contractual arrangement, in conflict with those of Thornton. Thornton, in its sole discretion, will determine the existence of a conflict of interest and may terminate this Agreement in the event such a conflict exists after it has given Consultant written notice, which describes the conflict. Consultant shall have twenty (20) Calendar Days after the notice is received to eliminate or cure the conflict of interest in a manner acceptable to Thornton.

- M. **Coordination of Services.** Consultant shall fully coordinate its Services with other consultants, contractors or other entities performing services on the Project that interfaces with or is affected in any way by Consultant's Services, and with any interested Thornton or other governmental agencies.
- N. **Non-Discrimination.** Consultant, its agents, employees, contractors, and subconsultants shall not discriminate on the basis of race, color, creed, national origin, ancestry, age, gender, religion, or mental or physical disability in any policy or practice.
- O. **Advertising and Public Disclosures.** Consultant shall not include any reference to this Agreement or to the Services performed hereunder in any of its advertising or public relations materials without first obtaining the written approval of the Manager or Manager's designee(s). Any oral presentation or written materials related to Consultant's Services shall include only presentation materials, Work product, designs, renderings, and technical data that have been accepted by Thornton. Thornton shall be notified in advance of the date and time of any such presentations. Nothing herein, however, shall preclude the transmittal of any information to officials of Thornton, including without limitation, the Mayor or member or members of City Council.
- P. **Other Project Work.** Consultant and its subsidiaries and affiliates shall not bid upon or otherwise attempt to perform any other work associated with this Project. Consultant shall require in its contracts with its subconsultants that they and their subsidiaries or affiliates shall not bid upon or otherwise attempt to perform any work associated with this Project other than the Services described in their written agreements.
- Q. **Time is of the Essence.** The Parties agree that in the performance of the terms and requirements of this Agreement by Consultant that time is of the essence.
- R. **Inurement.** The rights and obligations of the Parties set forth herein shall inure to the benefit of and be binding upon the Parties and their respective successors and assigns permitted under this Agreement.
- S. **Headings.** The headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement.

- T. **Joint Venture.** If a Joint Venture, participants shall be jointly and severally liable to Thornton for the performance of all duties and obligations of Consultant set forth in this Agreement.
- U. **Taxes and Licenses.** Consultant shall promptly pay, when they are due, all taxes, excises, license fees, and permit fees of whatever nature applicable to the Services, and shall take out and keep current all required municipal, county, state, or federal licenses required to perform the Services. Consultant shall furnish Thornton, upon request, duplicate receipts or other satisfactory evidence showing or certifying to the proper payment of all required licenses and taxes. Consultant shall promptly pay, when due, all bills, debts, and obligations it incurs performing the Services and to allow no lien, mortgage, judgment, or execution to be filed against land, facilities, or improvements owned by Thornton.
- V. **Federal Requirements.** Consultant and any subcontractors or subconsultants shall at all times during the execution of this Agreement adhere to and comply with all applicable federal and state laws, and their implementing regulations, as they currently exist and may hereafter be amended. A summary of applicable federal provisions are attached hereto as Exhibit D.
- W. **Severability.** In the event any of the provisions, or applications thereof, of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, the validity and enforceability of the remaining provisions, or applications thereof, shall not be affected.
- X. **No Third Party Beneficiaries.** The enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement, shall be strictly reserved to Thornton and Consultant and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person on such Agreement. It is the express intention of Thornton and Consultant that subconsultants and any other persons other than Thornton or Consultant receiving any benefits from this Agreement shall be deemed to be incidental, and not intended, beneficiaries only.
- Y. **Electronic Signatures and Electronic Records.** The Parties consent to the use of electronic signatures. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the Parties in the manner specified by any applicable City regulation, rule, and/or ordinance. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

- Z. **Entire Agreement.** The Parties acknowledge and agree that the provisions contained herein constitute the entire Agreement and that all representations made by any officer, agent, or employee of the respective Parties unless included herein are null and void and of no effect. No alterations, amendments, changes, or modifications to this Agreement, except those that are expressly reserved herein to the Manager or Manager's designee(s), shall be valid unless they are contained in an instrument, which is executed by the Parties with the same formality as this Agreement.

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This Agreement is expressly subject to and will not become effective or binding on Thornton until it is fully approved and executed by Thornton.

APPROVED AS TO LEGAL FORM:
For Tami Yellico, City Attorney

CITY OF THORNTON, COLORADO:

By: _____
Erika Delaney Lew
Senior Assistant City Attorney

Kimberly Newhart
Finance Director

ATTEST:

CITY OF THORNTON, COLORADO:

Kristen N. Rosenbaum, City Clerk

Sean Saddler, PE
Support Services Director

ATTEST FOR FIRM SIGNATURE: (If corporation)	INSERT FIRM NAME (ALL CAPS):
_____ Signature	_____ Signature
_____ Print Name	_____ Print Name
_____ Title	_____ Title

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EXHIBIT A CONSULTANT'S GENERAL SCOPE OF SERVICES

Citywide Bicycle/Pedestrian Trail Infrastructure Study and Preconstruction Activities

Thornton Project No. 23-112
CDOT Project No. ARPA M286-057 (25639)

Need for the Project

The **Citywide Bicycle/Pedestrian Trail Infrastructure Study and Preconstruction Activities** addresses active transportation issues on our trail network for access to urban, educational and institutional centers, regional multimodal trails, housing, employment, health care and recreational opportunities and healthy lifestyles via an active transportation mode. The Project will update the citywide trail master plan and assist in identification and prioritization of gaps in trail connectivity, new trails needed, needed amenities, ADA issues, possible enhanced surface treatments and development of a template to track and prioritize future capital improvement projects and plans. Focused outreach will provide resident, business and institutional engagement input and review to help determine the best approach to identifying capital improvements. Preconstruction activities will identify issues, including ROW needs and costs of trail infrastructure providing guidance for safe and reliable access to the city's trail system. The Project will update the Parks, Open Space, Trails User MAP of existing and proposed trails, including neighborhood linkages and connections to regional trails identified in the DRCOG Metro Vision Regional Transportation Plan. This Project is federally funded and will need to conform to Colorado Department of Transportation (CDOT) standards and format.

Project Description

The **Citywide Bicycle/Pedestrian Trail Infrastructure Study and Preconstruction Activities** is to improve multiuse trail networks and connectivity through a comprehensive, complete analysis and evaluation of Thornton's current bicycle/pedestrian infrastructure. The Project will include data collection, community outreach, an evaluation of current trail conditions, safety and security, identification of missing links, needed upgrades and repairs, identification of existing and needed facility amenities (bike lockers, bike racks, repair stations, showers, etc.), coordination with other Departments to understand and include multimodal information from their federally funded CDOT grants, examination of ADA compliance for existing trail and trail facilities, evaluation of alternatives to create a prioritized list of recommended improvements and timeline for projects, identification of right-of-way needs and beginning pre-construction activities on selected prioritized recommendations to include preliminary construction related documents and improvement costs.

Specific elements will create a stand-alone master plan document that includes a worksheet update template with tools to guide annual capital improvement project

decisions. Elements for a safe, barrier-free, reliable and well-maintained linkage of multimodal connections for all ages and abilities include public engagement and input, a “last mile” linkage to transit, solutions to improve bicycle and pedestrian travel and improvements needed for access, analysis of speed, reliability and capacity. The Project will determine if the existing ROW can be modified to improve multimodal travel or if the proposed improvements will require additional ROW.

Notice to Proceed is anticipated November 2023 with the Project Kick-off Meeting held December 2023

Project Outcomes

The **Citywide Bicycle/Pedestrian Trail Infrastructure Study and Preconstruction Activities** will identify and prioritize needed trail system capital improvements and provide a phased approach to implement such improvements. The Project will provide an avenue for public engagement of input and review of changes proposed to improve the trail system’s bicycle and pedestrian travel. The Parks, Open Space, Trails User MAP will be updated. Preconstruction activities will identify issues, ROW needs and costs of trail infrastructure to guide users toward safe and reliable access to the city’s trail system.

Project Tasks

Task 1: Project Startup

This task involves the Project Startup. The Startup Meeting may be virtual, in-person, or hybrid. Deliverables will be a Kick-Off Meeting held with the Consultant, City staff and others. Purposes and outcomes of the meeting are:

- Project Startup with the Consultant;
- Review of the Project scope;
- Review of the Project schedule;
- Review of, and agreement on, documents needed by the Consultant such as the Transportation and Mobility Master Plan, Trail Wayfinding Map, Parks, Open Space, Trails User MAP, Parks & Open Space Master Plan;
- Review of the roles and responsibilities of the parties; and
- Discussion of the outreach and input plan.

Task 2: Outreach and Input

This task involves community outreach for input throughout the Project. The outreach effort should include citizens, stakeholders and bicycle advocate groups for citywide input throughout the Project. Specific items/deliverables under this task include:

- Stakeholder Meetings
 - Stakeholders include residents and staff from Thornton and adjacent communities, DRCOG and CDOT.
 - Provide coordination with and information for Stakeholder Meetings. Meetings are anticipated at the start of the Project to gather and provide

- input; anticipate at least one (1) in-person meeting and the remainder virtual. Provide a per meeting cost for any in-person or virtual additional public meetings that may be added.
 - Provide coordination for one (1) in-person meeting with the Parks & Open Space Advisory Commission (POSAC).
 - Prepare a draft Trails Master Plan Outline for stakeholders and POSAC to review; receive and respond to input on the Outline.
 - Provide a draft Study for stakeholders to review; receive and respond to input on the Study.
 - Incorporate outline comments and edits, as required, for the final document
 - Provide written summary of each Stakeholder Meeting.
- Community Outreach
 - Provide an outreach and community input plan that includes conducting research, surveys and outreach via several methods besides in-person, hybrid or virtual meetings.
 - Provide in-person, hybrid or virtually held Community Meetings/Open Houses that include a meeting at the initial stage of the Project to gather input and feedback, another meeting at the identification and evaluation of needed linkage and barriers stage and a final meeting at the prioritized implementation plan and updated trail map stage.
 - Provide information and produce materials for the Project website; city will provide website.
 - Coordinate outreach materials in both English and Spanish. Provide oral translation services and written translation from English to Spanish.
 - Gather community input at the start of the Project on needs, at the middle of the Project on prioritized linkages to trail networks, and near the end of the Project on the final draft document.
 - Provide written summary of each Community Outreach Meeting.
- City Council
 - Provide, as appropriate, project updates to City Council; the Consultant should anticipate one (1) in-person meeting.

Task 3: Data and Information Collection/Review

This task involves collecting and reviewing existing and new data and documents.

- Collect and review data and information; coordinate with other city Departments.
- Thornton will provide:
 - Related documents from Parks, Recreation & Community Programs, City Development, Infrastructure Department, Policy Planning.
- Collect supplemental data and other data, as needed, for the Project identification and analysis.

Task 4: Study & Preconstruction Activities

This task outlines the major components of the study.

- Identification of Current Trail Conditions
 - Conduct evaluation of ADA compliance for trails & trail facilities.
 - Complete analysis of the current bicycle/pedestrian infrastructure.
 - Identify existing and needed trail amenities.
 - Identify missing trail links and needed upgrades for trail connectivity.
 - Identify ROW needs.
- Evaluation of Current Trail Conditions
 - Prioritize list of recommended improvements and projects.
 - Incorporate complete street concepts into the Project
 - Utilize DRCOG Complete Streets Toolkit; incorporate design best practices from AASHTO, etc.
 - Prepare draft trail master plan document including format and tools to update an annual project worksheet template.
- Start Pre-Construction Activities
 - Develop 5-year CIP prioritized project list with planning level and construction implementation costs.
 - Prepare trail maps, cross-sections and phasing for the document, plus opinion of probable implementation costs for recommended improvements
 - Prepare camera-ready trail user map update for printing.
- Documents
 - Provide study master plan Chapter Outline to stakeholders for review.
 - Provide study report Chapter drafts, recommended prioritized improvements and necessary/recommended pre-construction activities to stakeholders for review.
 - Preparation of draft master plan for stakeholder and public comment.
 - Preparation of final master plan, trail user map update and pre-construction activities.
 - Provide delivery of final study documents and related documentation.

Printing

Thornton will provide printing for materials needed for display during Public Meetings, except the Consultant will print oversize media displays larger than 11" x 17". All other printing (booklets, flyers, information packets, etc.) will also be done by Thornton. Consultant will be requested to provide webpage ready and print ready documents and materials.

Project Schedule

The Project should be completed in approximately eighteen (18) months from the Project Kick-Off Meeting. The Project Kick-Off Meeting is planned to be scheduled within thirty (30) days of project being awarded to the Consultant. A more detailed project timeline/schedule will be submitted to CDOT and DRCOG once the consulting team is under contract to complete the Work.

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EXHIBIT C

SCHEDULE OF CHARGES

NOTE:

TBD

THE FINAL PRICE AND COMPENSATION OF THE CONSULTANT SHALL NOT BE DETERMINED DURING THE INITIAL REQUEST FOR PROPOSAL. EXHIBIT C RELATING TO PRICE, HOURLY RATES, COSTS, ETC., SHOULD NOT BE SUBMITTED IN THE INITIAL REQUEST FOR PROPOSAL PHASE.

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REIMBURSABLE EXPENSES:

Reimbursable expenses include, but are not necessarily limited to, copying, printing, postage, local mileage, out-of-town travel and travel related expenses, courier expenses, owned or rented equipment costs, subconsultant costs, and subcontractor costs, if any.

All categories of reimbursable expenses for which Consultant will expect compensation are listed below. Categories of expenses not listed shall not be reimbursed separately and shall be considered to be included in Consultant’s personnel billable hourly rates, or if a NTE amount was converted to a lump sum fee, to be included in the lump sum fee.

Listed expenses incurred by Consultant from outside vendors such as printers, courier services, rental equipment, subconsultants, or subcontractors will be reimbursed at cost without further mark up. Consultant’s management of outside subconsultants and or subcontractors will be reimbursed at the Billable Hourly Rates for Consultant’s personnel involved in the management and not through a percent fee mark up. Detailed documentation (vendor invoices) must be supplied for an outside expense to be eligible for reimbursement.

Expenses incurred by Consultant from in-house operations, such as in-house printing, copying, Consultant owned equipment, etc., will be reimbursed at the rates indicated below. Detailed unit prices for all in-house expenses for which Consultant will expect compensation are listed below. Vehicle mileage in connection with the performance of the Services will be reimbursed at the rate currently allowable under Colorado State Travel Rule 5-1 for passenger vehicles, and at rates herein defined for specialty vehicles, such as survey trucks.

REIMBURSABLE EXPENSE CATEGORIES AND RATES:

In-house Expense Category	UOM	Rate		Outside Expense Category	UOM	Rate
Passenger Vehicle	Mile	90% of IRS		Postage	LS	Cost
Copying ___" x ___" BW				Courier	LS	Cost
Copying ___" x ___" Color				Subconsultants	LS	Cost
Printing ___" x ___" BW				Subcontractors	LS	Cost
Printing ___" x ___" Color				Rental Equipment	LS	Cost
_____ Equipment						

Use additional sheet if necessary.

EXHIBIT D

FEDERAL CONTRACT REQUIREMENTS

CERTIFICATION FOR FEDERAL-AID CONTRACTS (EXHIBIT F)

LOCAL AGENCY PROCEDURES FOR CONSULTANT SERVICES (EXHIBIT H)

FEDERAL-AID CONTRACT PROVISIONS FOR CONSTRUCTION CONTRACTS (EXHIBIT I)

ADDITIONAL FEDERAL REQUIREMENTS (EXHIBIT J)

FFATA SUPPLEMENTAL FEDERAL PROVISIONS (EXHIBIT K)

OMB UNIFORM GUIDANCE FOR FEDERAL AWARDS (EXHIBIT M)

FEDERAL TREASURY PROVISIONS (EXHIBIT N)

AGREEMENT WITH SUBRECIPIENT OF FEDERAL RECOVERY FUNDS (EXHIBIT O)

Exhibit D is a combined pdf of Exhibits referenced and required for inclusion by the related funding source IGA.

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VIII. EXHIBIT 3

REFERENCE AUTHORIZATION AND RELEASE FORM

By: _____, A Corporation
 _____, A Partnership whose address is:
 (Proposing firm) An Individual

Proposing Firm has submitted a sealed proposal to the City of Thornton (Thornton) for Professional Consulting Services for the Citywide Bicycle/Pedestrian Trail Infrastructure Study and Preconstruction Activities, Project No. 23-112, CDOT Project No. ARPA M286-057 (25639) (Project).

Proposing Firm hereby authorizes Thornton to perform such investigation of proposing firm as it deems necessary to verify the qualifications, responsibility, trustworthiness and financial ability of Proposing Firm. By its signature hereon, the proposing firm authorizes Thornton to obtain reference information concerning the proposing firm. Proposing Firm further agrees to release and hold Thornton and the firm or agency providing reference information harmless from all liability resulting from providing the requested reference information to Thornton about the Proposing Firm.

Proposing Firm further authorizes Thornton to discuss and release reference information regarding Proposing Firm's performance as it will relate to this upcoming Project upon receiving a request for such information. Proposing Firm agrees to release and hold Thornton harmless from all liability associated with releasing such information about Proposing Firm.

Proposing Firm further waives its right to receive copies of reference information provided to Thornton. By signing below, Proposing Firm agrees with the terms of this Reference Authorization and Release and authorizes Thornton to obtain reference information concerning Proposing Firm.

A copy or facsimile of this executed Reference Authorization and Release Form may be used with the same effectiveness as an original.

 Signature Date

 Print Name

 Title

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IX. APPENDICES

APPENDIX A REFERENCE QUESTIONNAIRE PACKAGE INFORMATION AND FORMS

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

APPENDIX C CDOT AFFIDAVIT OF SMALL BUSINESS PARTICIPATION

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APPENDIX A

REFERENCE QUESTIONNAIRE PACKAGE INFORMATION AND FORMS

Instructions to proposing firms for sending Reference Questionnaire Forms:

PROPOSING FIRMS: Prepare and send a reference questionnaire package for each project listed on your past performance list.

PROPOSING FIRMS: Prepare and send a reference questionnaire package for three (3) to five (5) relevant projects completed in the past five (5) years. It is the responsibility of the proposing firms to follow-up, and include all signed originals of the Reference Questionnaire packages with their proposal submittal. Your questionnaire package should contain the following.

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Proposing Firms Letterhead

Date: _____

To: _____

We have listed you as a reference for work we have performed for your agency as noted on the attached questionnaire. Our firm intends to submit a proposal under a project advertised by the City of Thornton for Citywide Bicycle/Pedestrian Trail Infrastructure Study and Preconstruction Activities, Project No. 23-112, CDOT PROJECT NO. ARPA M286-057 (25639). Please complete this form in full (all areas shaded in light yellow, below). Once completed, please send the form to the Contract Specialist via postal mail or email, directly to:

Proposing Firms Name

ATTN: _____

Proposing Firms Address

Proposing Firms Address

Email Address: _____@_____

Please return the completed form no later than _____, 2023. If you have any questions, please contact _____ via email, or call _____. Thank you for your assistance in this matter.

GENERAL INFORMATION [completed by Proposing Firms]

Agency Name		Agency Street Address	
Agency Point of Contact Name		City	
Agency Phone Number		State	
Reference Project Title		Zip Code	
Period of Performance (start to finish):		Email	
Contract Number		Contract Dollar Value	
Description of Work			
Role of Consultant on this Project (check appropriate box)	<input type="checkbox"/> Consultant <input type="checkbox"/> Sub-consultant <input type="checkbox"/> Key Personnel		

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REFERENCE QUESTIONNAIRE PACKAGE

INSTRUCTIONS TO REFERENCE CONTACT

The Proposing Firms named below is submitting a Proposal for the City of Thornton's Request for Proposals requirements, and has sent this form to you, in your role as a past performance reference contact. Please complete this form in full (all areas shaded in light yellow, below). Once completed, please send the signed form to the Proposing Firms address stated below via postal mail or email, directly to:

ATTN: _____

_____ Email Address: _____@_____.

Please return the completed form no later than _____. If you have any questions, please contact Mr. _____ via email, or call _____. Thank you for your assistance in this matter.

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RESPONDENT INFORMATION

PERFORMANCE INFORMATION: The following performance questionnaire is completed by reference contact. Choose the number on the scale of 1 to 6 that most accurately describes the consultant's performance or situation. ***PLEASE PROVIDE A NARRATIVE EXPLANATION FOR ANY RATINGS OF 1 OR 2*** in the Remarks section, below (text box will expand to whatever extent is necessary).

1	2	3	4	5	6
UNSATISFACTORY	MARGINAL	SATISFACTORY	VERY GOOD	EXCEPTIONAL	NEUTRAL
Performance did not meet most contractual requirements. There were serious problems and the consultant's corrective actions were ineffective.	Performance did not meet some contractual requirements. There were problems, some of a serious nature, for which corrective action was only marginally effective.	Performance met contractual requirements. There were some minor problems and corrective actions taken by the consultant were satisfactory.	Performance met all contract requirements and exceeded some to the government's benefit. There were a few minor problems, which the consultant resolved in a timely, effective manner.	Performance met all contract requirements and exceeded many to the government's benefit. Problems, if any, were negligible and were resolved in a timely, highly effective manner.	No record of past performance or the record is inconclusive. ¹

The Consultant ...		1	2	3	4	5	6
1.	The relationship between the proposing firms and client's/customer's contract team.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2.	The proposing firms management and coordination of personnel, and subconsultants.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.	Quality of Work.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.	Quality of Assurance and Control.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.	Ability to meet agreed upon delivery schedule.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.	Ability/actions to resolve design issues and or schedule issues.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.	Ability to control design cost and provide a reasonable engineers estimate.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	The Consultant ...	1	2	3	4	5	6
8.	Have any show cause letters, letter of reprimand, suspension of work, or termination been issued? If yes please explain below.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9.	Identified problems as they occurred.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10.	Suggested alternative approaches to problems.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11.	Displayed initiative to solve problems.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12.	Would you award another Contract to the party being evaluated? If no, please explain below.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13.	Was the customer satisfied with the end product? If no, please explain below.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14.	Has the firm being evaluated been provided an opportunity to discuss or respond to any negative comments or performance ratings? If so, what were the results?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

REMARKS (Please use as much space as is needed – the box will expand as you type).

APPENDIX B

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

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

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

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

I. DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

II. NONDISCRIMINATION AND SUBCONTRACTING REQUIREMENTS

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

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

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

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

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

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

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

III. CONTRACT COMMITMENT

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

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

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

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

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

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

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

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

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

1. The Chief Engineer or a designee will conduct administrative reconsideration.
 - a. The Consultant will have five (5) calendar days from the written notice to request administrative reconsideration of an adverse Good Faith Efforts determination
 - b. The request shall include the basis for reconsideration and any supporting documentation that the Consultant would like to be considered as part of the reconsideration
 - c. The reconsideration should also specify whether the Consultant is requesting an informal, in person or telephonic hearing with CDOT to address the issues in the Good Faith Efforts determination
 - d. If a request for an informal hearing is not made, the Consultant will be deemed to have waived this opportunity

2. Upon a hearing request, the Civil Rights and Business Resource Center will establish a date and time for the hearing and send written notice via email to the Consultant, the Local Agency and Civil Rights at least two (2) business days in advance of the hearing.
 - a. If schedules permit, the parties may waive the two (2) business day requirement
 - b. The CDOT Chief Engineer or designee may request additional documentation from the Consultant and/or the Local Agency
 - c. A copy of all requests and responses should be provided to the other party and the other party shall be given an opportunity to respond

3. The CDOT Chief Engineer or a designee shall issue the final determination as to whether the Consultant made Good Faith Efforts to meet the Contract Goal.
 - a. The determination will be in writing and explain the basis for the CDOT Chief Engineer's or designee decision regarding whether or not the Consultant demonstrated Good Faith Efforts to meet the Contract Goal
 - b. The Good Faith Efforts determination of the CDOT Chief Engineer or designee is not appealable

IV. ELIGIBLE DBE PARTICIPATION

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

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

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

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

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

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

V. UTILIZATION PLAN MODIFICATIONS

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

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

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

VI. ENFORCEMENT

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

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

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

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

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

VI. CONTRACT CLOSEOUT

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

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APPENDIX C

CDOT AFFIDAVIT OF SMALL BUSINESS PARTICIPATION

Colorado Department of Transportation
AFFIDAVIT OF SMALL BUSINESS PARTICIPATION

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

SECTION 3. ESB PARTICIPATION PLAN

Fill in All Lines:

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

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

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

SECTION 4. DECLARATION OF AFFIDAVIT

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

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

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

 (Tracked Signature Accepted)

 (Date)

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

Jul-22