



REQUEST FOR PROPOSAL
Consultant Services

R21- 091DS

Date issued: July 21, 2021

**CEMETERY ENDOWMENT FUND INVESTMENT ADVISORY
SERVICES**

THE CITY OF COLORADO SPRINGS



The City of Colorado Springs requests Time and Material (T&M) proposals, as detailed in this Request for Proposal (RFP), for CEMETERY ENDOWMENT FUND INVESTMENT ADVISORY SERVICES.



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SECTION I – PROPOSAL INFORMATION

1.0 PROPOSAL INFORMATION

Section I provides general information to potential Offerors, such as proposal submission instructions and other similar administrative elements. This RFP is available on Rocky Mountain E-Purchasing System (www.rockymountainbidsystem.com). All addenda or amendments shall be issued through the Rocky Mountain E-Purchasing System and may not be available through any other source.

1.1 RFP SCHEDULE OF EVENTS

The upcoming schedule of events is as follows:

<u>Event</u>	<u>Date</u>
Issue Request for Proposal	Wednesday July 21, 2021
Pre-Proposal Conference	N/A
Cut Off Date for Questions	Monday August 2, 2021 @ 1PM (MST)

Questions about the RFP must be submitted online to the BidNet portal at www.bidnetdirect.com. A written response to any inquiry may be provided in the form of an Addendum to the solicitation. See 1.7 Addendum. Questions must be received no later than August 2, 2021.

DO NOT CONTACT ANY OTHER INDIVIDUAL AT THE CITY OF COLORADO SPRINGS REGARDING THIS SOLICITATION.
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Proposal Due Date	August 26, 2021 @ 1PM (MST)
Interviews (if applicable)	Offerors may be shortlisted for interviews
Award of Contract	September
Notice to Proceed	September

1.2 SUBMISSION OF PROPOSAL

Proposals are to be submitted electronically on the Rocky Mountain E- Purchasing System (<https://www.bidnetdirect.com/colorado>). Please review the submission requirements well in advance of submission date and time; and allow for ample time to upload each required document. It is recommended that Offerors begin the submission process at least one day in advance of the proposal deadline.



Offerors are solely responsible to ensure their bid documents are uploaded and submitted correctly, and that a confirmation number is obtained upon successful submission.

Customer Support Team for www.bidnetdirect.com can be reached at 1-800-835-4603.

*******NO LATE OFFERS WILL BE ACCEPTED*******

Date/Time: Proposals shall be received no later than 1PM (MST) AUGUST 26, 2021. Proposals will only be accepted by electronic submission through www.bidnetdirect.com.

CONTRACT SPECIALIST:
Deanna Stark

CONTACT
719-385-5274
Deanna.stark@coloradosprings.gov

1.3 NUMBER OF COPIES

Offerors shall submit **one (1)** electronic copy of the proposal documents. Upon submission, all proposal documents shall become and remain the property of the City of Colorado Springs.

1.4 SPECIAL TERMS

Please note the following definitions of terms as used herein:

The term "City" means the City of Colorado Springs.

The term "Contractor" or "Consultant" means the Offeror whose offer is accepted and is awarded the contract to provide the products or services specified in the RFP.

The term "Offer" means the proposal.

The term "Offeror" means the person, firm, or corporation that submits a formal proposal or offer and that may or may not be successful in being awarded the contract.

The term "Project" refers to CEMETERY ENDOWMENT FUND.

The term "Request for Proposal" or "RFP" means this solicitation of a formal, negotiable proposal/offer. Any offer that is accepted will be the offer that is deemed by the City of Colorado Springs to be most advantageous in terms of the criteria designated in the RFP.

1.5 RFP OBJECTIVE

The objective of this RFP is to provide sufficient information to enable qualified Offerors to submit written proposals to the City of Colorado Springs. The RFP is not a contractual offer or commitment to purchase products or services. The Offeror may present options and variables to the scope while still meeting the minimum requirements of this solicitation. Innovative proposals/solutions are encouraged and considered in the selection and/or award.



All information included in proposals must be legible. Any and all corrections and or erasures must be initialed by Offeror. Each proposal shall be accompanied by a cover letter signed by an authorized representative of the Offeror. The contents of the proposal submitted by the successful Offeror may become part of any contract awarded as a result of this solicitation.

1.6 CONFIDENTIAL OR PROPRIETARY INFORMATION

If an Offeror believes that parts of an offer are confidential, then the Offeror must so specify. The Offeror must include in bold letters the term “CONFIDENTIAL” on that part of the offer which the Offeror believes to be confidential. The Offeror must submit in writing specific detailed reasons, including any relevant legal authority, stating why the Offeror believes the material to be confidential. Vague and general claims as to confidentiality will not be accepted. The City of Colorado Springs will be the sole judge as to whether a claim is acceptable. Decisions regarding the confidentiality of information will be made when requests are made to make the information public. All offers and parts of offers, which are not marked as confidential, will automatically be considered public information after the contract is awarded. The successful offer may be considered public information even though parts are marked confidential.

1.7 ADDENDUMS

Addendums to this RFP may be issued at any time prior to the time set for receipt of proposals. Offerors are required to acknowledge receipt of any amendments issued to this RFP by returning a signed copy of each amendment issued. Signed copies of each amendment must be received on or before the time set for receipt of offers.

The City of Colorado Springs will post all amendments on the Rocky Mountain E-Purchasing System (www.rockymountainbidsystem.com). It is the Offeror's responsibility to check the website for posted amendments or contact the Contracts Specialist listed to confirm the number of amendments which have been issued.

1.8 WITHDRAWAL OR MODIFICATION OF OFFERS

Any Offeror may modify or withdraw an offer in writing at any time prior to the deadline for submission of an offer.

1.9 ACCEPTANCE

Any offer received and not withdrawn shall be considered an offer, which may be accepted by the City of Colorado Springs based on initial submission without discussions or negotiations.

By submitting an offer in response to this solicitation, the Offeror agrees that any offer it submits may be accepted by the City of Colorado Springs at any time within 90 calendar days from the date of submission deadline.



The City of Colorado Springs reserves the right (a) to reject any or all offers,(b) to waive informalities and minor irregularities in offers received, and/or (c) to accept any portion of an offer if deemed in the best interest of the City of Colorado Springs. Failure of the Offeror to provide in its offer any information requested in the RFP may result in rejection of the offer for non-responsiveness.

1.10 PROPOSAL PREPARATION COST

The cost of proposal preparation is not a reimbursable cost. Proposal preparation shall be at the Offeror's sole expense and is the Offeror's total and sole responsibility.

1.11 AWARD

The City of Colorado Springs intends to make an award using the evaluation criteria listed in this RFP to determine the best value, considering all factors and criteria in the proposals submitted. Best value means the expected outcome of an acquisition that, in the City's estimation, provides the greatest overall benefit in response to the requirements detailed in the RFP. The City of Colorado Springs reserves the right to reject any or all offers and to not make an award.

1.12 PERFORMANCE PERIOD

The performance period of any contract awarded as a result of this RFP is anticipated to be as follows.

Base Year:	NTP – September 30, 2022
Option Year 1:	October 1, 2022 – September 30, 2023
Option Year 2:	October 1, 2023 – September 30, 2024
Option Year 3:	October 1, 2024 – September 30, 2025
Option Year 4:	October 1, 2025 – September 30, 2026

1.13 DEBRIEFING

Offerors not selected may request a debriefing on the selection process as well as discussion of the strengths and weaknesses of their proposal upon receipt of notification that their offer was not selected.

A debriefing may be scheduled by contacting the Contracts Specialist listed above in 1.2. The Contracts Specialist must receive a written request for debriefing no later than ten (10) calendar days after issuance of a notification that the Offeror's offer was not selected.

1.14 SUBSTANTIVE PROPOSALS

By responding to this RFP, the Offeror certifies (a) that Offeror's proposal is genuine and is not made in the interest of, or on behalf of, an undisclosed person, firm, or corporation; (b) that Offeror has not directly or indirectly induced or solicited any other offerors to put in a false or sham proposal; (c) that Offeror has not solicited or induced any other person, firm, or corporation to refrain or abstain from proposing an offer or proposal; (d) that Offeror



has not sought by collusion to obtain for themselves any advantage over any other offerors or over the City of Colorado Springs; and (e) that Offeror has not violated or caused any person to violate, and shall not violate or cause any person to violate, the City's Code of Ethics contained in Article 3, of Chapter 1 of the City Code and in the City's Procurement Rules and Regulations.

1.15 OFFEROR'S QUALIFICATIONS

Each Offeror must complete Exhibit 6 – Qualification Statement.

No contract will be awarded to any Offeror who is in arrears to the City, upon any debt or contract, or who is in default, in any capacity, upon any obligation to the City or is deemed to be irresponsible or unreliable by the City based on past performance.

1.16 NON-COLORADO ENTITIES

If Offeror is a foreign entity, Offeror shall comply with C.R.S. section 7-90-801, "Authority to transact business or conduct activities required," and section 7-90-802, "Consequences of transacting business or conducting activities without authority."

Before or at the time that the contract is awarded to an entity organized or operating outside the State of Colorado, such entity shall obtain authorization to do business in the State of Colorado, designate a place of business herein, and appoint an agent for service of process.

Such entity must furnish the City of Colorado Springs with a certificate from the Secretary of the State of Colorado to the effect that a certificate of authority to do business in the State of Colorado has been issued by that office and is still valid. The entity shall also provide the City with a certified copy of the designation of place of business and appointment of agent for service of process from the Colorado Secretary of State, or a letter from the Colorado Secretary of State that such designation of place of business and agent for service of process has been made.

1.17 PROCUREMENT RULES AND REGULATIONS

All projects advertised by the City of Colorado Springs are solicited in accordance with the City's Procurement Rules and Regulations. The City's Procurement Rules and Regulations can be reviewed and/or downloaded from the City website www.coloradosprings.gov. The Contracts Specialist may also provide a softcopy of the Rules and Regulations upon request. Any discrepancies regarding conflicting statements, decisions, irregularities, clauses, or specifications will be rectified utilizing the City's Procurement Rules and Regulations, when applicable. It is the Offeror's responsibility to advise the Contracts Specialist listed in this RFP of any perceived discrepancies prior to the date and time the offer is due.



1.18 FAIR TREATMENT OF OFFERORS

The City Procurement Services Division shall be responsible for ensuring the procurement of products, commodities, and services are in a manner that affords all responsible businesses a fair and equal opportunity to compete. If an Offeror believes that a procurement is not conducted in a fair and equitable manner, the Offeror is encouraged to inform the City Procurement Services Manager as soon as possible.

1.19 ORDER OF PRECEDENCE

Any inconsistency in this solicitation shall be resolved by giving precedence in the following order:

- (a) Sections I-IV of this Solicitation
- (b) Statement of Work
- (c) Other Appendices, Schedules, Exhibits, or Attachments

1.20 SALES TAX

The successful Offeror, if awarded a contract, shall apply to the Colorado Department of Revenue for a tax-exempt certificate for this project. The certificate does not apply to City of Colorado Springs Sales and Use Tax which shall be applicable and should be included in all proposals. The tax exempt project number and the exemption certificate only apply to County, PPRTA (Pikes Peak Rural Transportation Authority), and State taxes when purchasing construction and building materials **to be incorporated into this project**.

Furthermore, the exemption **does not** include or apply to the purchase or rental of equipment, supplies or materials that **do not become a part of the completed project or structure**. In these instances, the purchase or rental is subject to full taxation at the current taxation rate.

The Offeror and all subcontractors shall include in their Offer City of Colorado Springs Sales and Use Tax on the work covered by the offer, and all other applicable taxes.

Forms and instructions can be downloaded at <https://coloradosprings.gov/sales-tax/page/construction-contractors>. Questions can be directed to the City Sales Tax Division at (719) 385-5903 or Construction_SalesTax@coloradosprings.gov.

Our Registration Numbers are as follows:
City of Colorado Springs
Federal I.D.: 84-6000573
Federal Excise: A-138557
State Sales Tax: 98-03479

1.21 INTERPRETATION OF PLANS AND SPECIFICATIONS

Any change to proposal forms, plans, or specifications prior to the opening of proposals will be issued by the City in the form of an Amendment. Certain individuals may be named



in the RFP that have authority to provide information, clarification or interpretation to Offerors prior to opening of proposals. Information obtained from persons other than those named individuals is invalid and shall not be used for proposal purposes.

1.22 COMBINATION OR CONDITIONAL PROPOSALS

If an RFP is issued for projects in combination and separately, the Offeror may submit proposals either on the combination or on separate units of the combination. The City reserves the right to make awards on combination or separate proposals to the advantage of the City. Combination proposals will be considered, only when specified.

1.23 ANTI-COLLUSION AFFIDAVIT

The Offeror by signing their proposal submitted to the City is certifying that the Offeror has not participated in any collusion or taken any action in restraint of free competitive bidding. This statement may also be in the form of an affidavit provided by the City and signed by the Offeror. The original of the signed anti-collusion affidavit, if separately required and provided with the RFP, shall be submitted with the proposal. The proposal will be rejected if it does not contain the completed anti-collusion affidavit.

SECTION II – PROPOSAL CONTENT

2.0 PROPOSAL CONTENT

Section II provides instructions regarding the format and content required for proposals submitted in response to this solicitation.

2.1 PROPOSAL FORMAT

Offeror's written proposal should include concise, but complete, information, emphasizing why the Offeror is best or best qualified to provide the required services. The Offeror's written proposal should include the information in the format outlined below and must be limited to no more than twenty-five (25) pages. **A page shall be defined as 8-1/2" x 11"; single sided, with one inch margins, and a minimum font of Times New Roman 10.** The only exception to the 8-1/2" x 11" paper size is the proposed project schedule. It may be submitted on 11" x 17" paper. Each 11" x 17" page for the schedule shall be counted in the overall page limitations above. Each section of the proposal should be labeled to clearly follow the requirements sections identified in this section of the RFP. The following listed Exhibits must be filled out and returned with the proposal and are not counted against the page limit:

Exhibit 1	Proposal Certification
Exhibit 3	Exceptions
Exhibit 4	Minimum Insurance Requirements
Exhibit 6	Qualification Statement



2.2 COVER LETTER

The cover letter shall be no more than three pages. The cover letter shall contain at least the following information.

- A. RFP Number and Project Name.
- B. Statement that the Offeror is qualified to perform the work.
- C. Certification Statement that the information and data submitted are true and complete to the best knowledge of the individual signing the letter.
- D. Name, telephone number, email address, and physical address of the individual to contact regarding the proposal.
- E. The signature of an authorized principal, partner, or officer of the Offeror.

2.3 PROPOSAL CERTIFICATION

The Offeror must fill out and submit Exhibit 1 with its Proposal.

2.4 ORGANIZATIONAL BACKGROUND AND OVERVIEW

The Offeror must provide a brief history and overview of its company and its organizational structure, with special emphasis on how this project will fit within that structure. Also include principal place of business location(s), office locations, size of firm, and assessment of financial stability.

2.5 EXPERTISE AND QUALIFICATIONS

In this section, the Offeror must demonstrate that it meets and/or exceeds all requirements regarding expertise and qualifications of personnel proposed to complete the work defined in the Statement of Work/Scope of Services of this RFP. Qualifications of personnel are considered of the essence of the services provided. Therefore, the Offeror must provide information on Key Personnel who will be the personnel performing the consulting services.

A. Relevant Experience

In the Expertise and Qualifications Area, the Offeror should provide at least three references or identify contracts demonstrating that it successfully provided services/products that are the same or similar to those required in the RFP. The proposal should adequately explain the successful outcomes of the projects. It is highly recommended that the Offeror provide sufficient content and detail to answer completely the following questions.

- 1. Does the proposal include at least three references or past performance citations?
- 2. Are the references or past performance citations relevant to the requirements of the Statement of Work of the RFP?
- 3. Does the Offeror explain how they were successful on the projects provided as past performance?



4. Does the Offeror apply the past performance to the City requirement in such a way as to demonstrate added value due to experience?

B. Key Personnel

In the Expertise and Qualifications Area, resumes must be provided for all personnel who would be performing work on the resultant Contract. Resumes do not count toward the page limit. It is highly recommended that the Offeror provide sufficient content and detail to answer completely the following questions. Explain how the key personnel were related to the projects cited as relevant past performance.

1. Does the Offeror provide complete resumes, including education, experience, background information, accomplishments, and other pertinent information?
2. Does the Offeror provide resumes for all key personnel, as required by the RFP?
3. Do the resumes demonstrate adequate professional, technical, and management levels to accomplish the work effectively and efficiently?
4. Do the key personnel possess all requisite certifications, licenses, experience, etc.?

2.6 PRICE AREA

In the Price Area, the Offeror should provide a detailed breakdown of the price for period of performance. The price must be all-inclusive and include all unit costs for material, labor, other direct costs (e.g. travel), indirect costs (i.e. overhead and general and administrative costs), and profit/fee. Offers must include sufficient detail to allow insight into the fairness and reasonableness of the price. If the contract type will be Time and Material (T&M), labor categories, labor rates, separated profit, and estimated material costs must be included in detail.

In addition, although price may not be the most important factor, it is still very important to the City of Colorado Springs. The Offeror's pricing must be competitive as compared to the budget amount, market pricing in the industry, and the pricing of other Offerors. It is highly recommended that the Offeror provide sufficient content and detail to answer completely the following questions.

1. How does the price compare to the industry competition?
2. If low, is it unrealistically low?
3. If high, is there demonstrated added value for the additional cost?
4. Is the price itemized, so that it is clear how the cost was built? If so, do the costs look appropriate for the task?
5. Does the Offeror leave applicable costs out of the calculations? For instance, some will say travel is not included and will be an extra cost. This should be considered when comparing to other Offerors.
6. Are there additional costs not addressed that the City would incur if the Offeror were awarded the contract? If so, include those costs when comparing to the budget amount and the competition.



2.7 PROPOSAL PRESENTATION

Presentation is an important factor. Offerors should provide a highly professional product, which is complete, accurate, easily understood, and effectively presented.

2.8 EXCEPTIONS

All Offerors must complete Exhibit 3, Exceptions Form and return it with their proposal. Some terms and conditions are not negotiable. Exceptions may be grounds for rendering the proposal unacceptable without further discussions.

2.9 INSURANCE REQUIREMENTS

All Offerors must complete Exhibit 4, Minimum Insurance Requirements and return with their proposal. Lack of responsiveness in this area may be grounds for rendering the proposal unacceptable without further discussions.



SECTION III – EVALUATION FACTORS

3.0 EVALUATION AND AWARD

Section III provides information regarding evaluation criteria and scoring. It also includes information regarding proposal selection and award of the resultant contract.

3.1 EVALUATION CRITERIA

3.1.1 EXPERTISE AND QUALIFICATIONS

See Section II - Item 2.5

3.1.2 PRICE

See Section II – Item 2.6

3.1.3 PROPOSAL PRESENTATION

See Section II – Item 2.7

3.1.4 EXCEPTIONS AND INSURANCE

See Section II – Items 2.8 and 2.9

3.2 RANKING

A. The order of ranking or importance in the evaluation shall be as follows:

First: Expertise and Qualifications

Second: Price

Third: Proposal Presentation

Exceptions and Insurance areas will be scored as pass or fail. Failure in this area may result in disqualification from award.

B. Possible scores for each criterion shall be as follows:

5 – Exceptional

4 – Very Good

3 – Satisfactory

2 – Marginal

1 – Unacceptable

C. Definitions for scoring are as follows:

1. The following apply to the Expertise and Qualifications Area:

Exceptional – The proposal meets all and exceeds many of the requirements of the RFP to the benefit of the City, and the information provided is of such a nature as to answer all questions without need for further inquiry. There are no corrective actions required,



and no compromise of requirements is needed.

Very Good -- The proposal meets all and exceeds some of the requirements of the RFP to the benefit of the City, and the information provided is of such a nature as to answer most questions without need for further inquiry. There are no corrective actions required, and no compromise of requirements is needed.

Satisfactory -- The proposal meets the requirements of the RFP, and the information provided is of such a nature as to answer many questions without need for further inquiry. There are very few corrective actions required, and no substantive compromise of requirements is needed.

Marginal -- The proposal does not meet some of the requirements of the RFP, and the information provided is of such a nature as to require some clarification. There are some corrective actions required, and some non-substantive compromise of requirements is needed.

Unacceptable -- The proposal does not meet many of the requirements of the RFP, and the information provided is of such a nature as to require much clarification. There are many corrective actions required, and substantive compromise of requirements is needed.

2. The following apply to the Price Area:

Exceptional -- The proposal meets all and exceeds many of the requirements of the RFP to the benefit of the City, and the information provided is of such a nature as to answer all questions without need for further inquiry. There are no corrective actions required, and no compromise of requirements is needed. The price is lower than the budget amount and/or the average price of the competition.

Very Good -- The proposal meets all and exceeds some of the requirements of the RFP to the benefit of the City, and the information provided is of such a nature as to answer most questions without need for further inquiry. There are no corrective actions required, and no compromise of requirements is needed. The price is lower than the budget amount and/or the average price of the competition.

Satisfactory -- The proposal meets the requirements of the RFP, and the information provided is of such a nature as to answer many questions without need for further inquiry. There are very few corrective actions required, and no substantive compromise of requirements is needed. The price is very close to the budget amount and/or the average price of the competition.

Marginal -- The proposal does not meet some of the requirements of the RFP, and the information provided is of such a nature as to require some clarification. There are some corrective actions required, and some non-substantive compromise of requirements is needed. The price exceeds the budget amount and/or the average price of the



competition.

Unacceptable -- The proposal does not meet many of the requirements of the RFP, and the information provided is of such a nature as to require much clarification. There are many corrective actions required, and substantive compromise of requirements is needed. The price significantly exceeds the budget amount and/or the average price of the competition.

3. The following apply to the Proposal Presentation Area:

Exceptional – The proposal is professionally communicated, complete in all areas, provides sufficient detail, and is presented in a clear and effective manner. The quality far exceeds that of the competition, industry standard, or reasonable expectation.

Very Good -- The proposal is professionally communicated, complete in all areas, provides sufficient detail, and is presented in a clear and effective manner. The quality exceeds that of the competition, industry standard, or reasonable expectation.

Satisfactory -- The proposal is professionally communicated, complete in all areas, provides sufficient detail, and is presented in a clear and effective manner. The quality is equal to that of the competition, industry standard, or reasonable expectation.

Marginal -- The proposal is not professionally communicated and is incomplete in some areas, provides insufficient detail, and is not presented in a clear and effective manner. The quality is below that of the competition, industry standard, or reasonable expectation.

Unacceptable -- The proposal is not professionally communicated and is incomplete in many areas, provides insufficient detail, and is not presented in a clear and effective manner. The quality is far below that of the competition, industry standard, or reasonable expectation.

4. The following apply to the Exceptions and Insurance Areas

Exceptions and insurance will be evaluated as pass for fail. Whether or not exceptions to City terms and conditions are acceptable or unacceptable will be determined at the sole discretion of the City. Any exceptions deemed unacceptable may result in a “fail” rating. The Insurance Area will be rated as “pass”, unless the Offeror fails to meet any stated insurance requirement provided in this RFP. If the Offeror fails to meet any stated insurance requirement provided in this RFP, the Offeror will be rated “fail” in the Insurance Area. A rating of “fail” in either of these areas may result in disqualification from award.

D. Area Scoring

The score for each area will be determined by multiplying the sum of the criteria in each



area by the area evaluation factor. The area evaluation factors are as follows:

Expertise and Qualifications Area: .50

Price: .40

Proposal Presentation: .10

E.Final/Overall Scoring

The final proposal score will be determined by adding the area scoring. The sum of the area scores will be the final/overall score.

3.3 SELECTION COMMITTEE

A selection committee will review all proposals. Through this process, the City will determine which proposals are acceptable or unacceptable. The City will notify, in writing, the Offerors whose proposals are deemed to be unacceptable. Those Offerors offering proposals deemed to be acceptable by the City will be evaluated and scored by the selection committee. This scoring will determine which Offerors are considered to be in the competitive range and may be the basis for an award decision without further steps.

If the selection committee elects not to award based upon evaluation scoring, it may engage in a forced elimination process. To inform this process, it may require oral presentations or interviews with the Offerors considered to be in the competitive range. If oral presentations or interviews are conducted, they may also be scored, or they may simply be considered as information supporting the forced elimination process. The selection committee may request revisions to the proposal from each of the Offerors at the conclusion of the interviews. The intent of the forced elimination process is to reach consensus. The decision will be based on all relevant factors and based upon perception of best value. The final decision may or may not exactly reflect scoring ranking.

The City also reserves the right to request best and final offers from all Offerors at any point in the proposal evaluation process.

3.4 AWARD OF CONTRACT

It is anticipated that there will be negotiations or discussions with Offerors. However, the City reserves the right to award without negotiations or discussions. The City also reserves the right to award a contract not necessarily or merely to the Offeror with the most advantageous price. The City intends to award to the Offeror that demonstrates the best value to the City and the most substantiated ability to fulfill the requirements contained in this Request for Proposal. A contract prepared by the City will be finalized and/or negotiated with the successful Offeror. In the event a contract cannot be negotiated with the top ranked Offeror, the City may enter into negotiations with the second highest ranked Offeror, or the City may decide to call for new proposals. Immediately after the notice of award, the successful Offeror will begin planning in conjunction with the City of Colorado Springs staff (to be designated by the City) to ensure fulfillment of all its obligations. The successful Offeror may be expected to attend regular meetings as required by the City to assist in the preparation for startup.



SECTION IV –EXHIBITS & SCHEDULES

1 EXHIBITS

Exhibit 1	Proposal Certification
Exhibit 2	Sample Contract
Exhibit 3	Exceptions
Exhibit 4	Minimum Insurance Requirements
Exhibit 5	Statement of Work
Exhibit 6	Qualification Statement
Exhibit 7	Evaluation Scoresheet
Exhibit 8	Investment Statement Policy
Exhibit 9	Rider 1 Investment Policy Provisions

2 SCHEDULES

Schedule A	Fee Sheet
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EXHIBIT 1 PROPOSAL CERTIFICATION

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

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

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

Yes _____ No _____

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

Colorado Springs Facility - Year established _____

Address of Colorado Springs Facility:

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

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



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

Indicate your ability to comply with the following requirements:

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

Yes _____ No _____

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

Yes _____ No _____

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

Name: _____

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

Yes _____ No _____

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

Yes _____ No _____

3. _____ Provide one (1) copy of current financial statements (if required). Enclose financial information in a separate envelope; do not bind with the other proposal copies. If review of the information is to be restricted to the City's financial officer, it must be marked accordingly.

4. _____ Provide the completed and signed proposal. (Proposals must be identified as specified in this RFP document). All required Exhibits are attached.

By signing below, the Offeror certifies that no person or firm other than the Offeror or as otherwise indicated has any interest whatsoever in this offer or any Contract that may be entered into as a result of this offer and that in all respects the offer is legal and firm, submitted in good faith without collusion or fraud.

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

Telephone: (____) _____

Email: _____



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

(Name of Company)

(Signature)

(Address)

Date

(City, State and Zip)

(Telephone Number)

(Name typed/Printed)

(Title)

(E-Mail Address)

FEDERAL TAX ID # _____

This Company Is: Corporation____ Individual____ Partnership____ LLC____

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

AMENDMENT #1_____ DATED:_____

AMENDMENT #2_____ DATED:_____

AMENDMENT #3_____ DATED:_____

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



REPRESENTATIONS AND CERTIFICATIONS

Exhibit 1 Continued

1. INSURANCE REQUIREMENTS

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

Initials for 1

2. ETHICS VIOLATIONS

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

Initials for 2

3. ILLEGAL ALIENS

If Offeror has any employees or subcontractors, Offeror shall comply with § 8-17.5-101, et seq., C.R.S. regarding Illegal Aliens – Public Contracts for Services, and this section of this Agreement. 8-17.5-102 includes, in part, that:

- 1. Offeror shall not:



- a. Knowingly employ or contract with an illegal alien to perform work under this Agreement; or
 - b. Enter into a contract with a subcontractor that fails to certify to Offeror that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.
2. Offeror has verified or attempted to verify that Offeror does not employ any illegal aliens and, will participate in the E-Verify Program or State Department program in order to confirm eligibility of all employees who are newly hired to perform work under public contract for services.
3. Offeror will not use E-Verify Program or State Department program procedures to undertake pre-employment screening of job applicants while the public contract for services is being performed.
4. If Offeror obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, Provider shall:
 - a. Notify the subcontractor and the City within three days that Offeror has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
 - b. Terminate the subcontract with the subcontractor if within three days of receiving such notice, the subcontractor does not stop employing or contracting with the illegal alien. However, the Offeror shall not terminate the contract with the subcontractor if during this three day period:
 - i. The subcontractor provides information which establishes that the subcontractor has not knowingly employed or contracted with an illegal alien, and
 - ii. The Offeror will not employ the illegal aliens in the performance of any City contract.
5. Offeror shall comply with any reasonable request by the Department of Labor and Employment made in the course of an investigation that the Department is undertaking pursuant to the authority established in §8-17.5-102(5), C.R.S.
6. If Offeror violates this provision, the City may terminate the contract for a breach of contract. If the Agreement is terminated, the Offeror shall be liable for actual and consequential damages.

Initials for 3

4. COOPERATION WITH OTHER CONTRACTORS

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

Initials for 4

5. INTERNET USE

Should the Offeror require access to City Internet resources in the performance of this requirement, a "Contractor's Internet Use Agreement" form must be separately signed by each individual having access to the City Network. The completed Contractor's Internet Use Agreement will be maintained



with this agreement. Inappropriate use of the City Network will be grounds for immediate termination of any awarded contact.

Initials for 5

6. LITIGATION

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

Initials for 6

7. CONTRACTOR'S REGISTRATION INFORMATION

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

- ☐ Large Business (i.e. do not qualify as a small business or non-profit)
- ☐ Nonprofit
- ☐ Small Business
- ☐ Black Owned Business
- ☐ Disadvantaged Business Owner
- ☐ Hispanic Owned Business
- ☐ Native American Owned Business
- ☐ Woman Owned Business
- ☐ Veteran Owned Business
- ☐ Other

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

Initials for 7



8. CONTRACTOR PERSONNEL

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

The individual, _____ (Name)
with position, _____ (Title)
Can be reached at _____
Work telephone number: _____
Home telephone number: _____
Cellular telephone number: _____
E-mail address: _____

Initials for 8

9. OFFEROR'S CERTIFICATION

The undersigned hereby affirms that:

- a) He/She is a duly authorized agent of the Offeror;
- b) He/She has read and agrees to the City's standard terms and conditions attached.
- c) The offer is presented in full compliance with the collusive prohibitions of the City of Colorado Springs. The Offeror certifies that no employee of its firm has discussed, or compared the offer with any other offeror or City employee and has not colluded with any other offeror or City employee.
- d) The Offeror certifies that it has checked all of its figures, and understands that the City will not be responsible for any errors or omissions on the part of the Offeror in preparing its proposal.
- e) By submitting an offer the Offeror certifies that it has complied and will comply with all requirements of local, state, and federal laws, and that no legal requirements have been or will be violated in making or accepting this solicitation.
- I hereby certify that I am submitting the proposal based on my company's capabilities to provide quality products and/or services on time.

Initials for 9

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



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

Initials for 10

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

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

Initials for 11

12. CITY CONTRACTOR SAFETY PROGRAM

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

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



Initials for 12

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

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

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

Initials for 13

14. FRAUD, WASTE, AND ABUSE

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

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

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

Initials for 14

Name of Company:

Federal Tax ID Number:

DUNS Number:

Principle Place of Business:



Signature of Authorized Representative

Printed Name:

Title:

Date:



EXHIBIT 2 SAMPLE CONTRACT

CONSULTANT SERVICES CONTRACT

Contract Number:		Project Name/Title	
Vendor/Contractor			
Contact Name:		Telephone:	
Email Address:			
Address:			
Federal Tax ID #		Please check one:	<input type="checkbox"/> Corporation <input type="checkbox"/> Individual <input type="checkbox"/> Partnership
City Contracting Specialist	Name & Phone#	City Dept Rep	Name & Phone# & Department Name
NOT TO EXCEED Contract Amount:		City Account #	Acct Code (5) Fund (3) Dept (4) Project (7)
Contract Type:		Period of Performance:	

1. INTRODUCTION

THIS TYPE CONTRACT ("Contract") is made and entered into this ____ day of _____, 2021 by and between the City of Colorado Springs, a Colorado municipal corporation and home rule city, in the County of El Paso, State of Colorado, (the "City"), and _____ (the "Contractor").

THE CITY AND THE CONTRACTOR HEREBY AGREE AS FOLLOWS:

The City has heretofore prepared the necessary Contract Documents for the following Activity: CEMETERY ENDOWMENT FUND.

The Contractor did on the ____ day of _____, 2021 submit to the City the Contractor's written offer and proposal to do the work therein described under the terms and conditions therein set forth and furnish all materials, supplies, labor, services, transportation, tools, equipment, and parts for said work in strict conformity with the accompanying Contract Documents, which are attached hereto and incorporated herein by this reference, including the following:

1. This Contract
2. Appendix A – Additional Terms and Conditions
3. Appendix B – Contractor's Proposal,
4. Appendix C – Statement of Work.
5. Appendix D – Insurance Requirements



2. COMPENSATION/CONSIDERATION

Subject to the terms and conditions of the Contract Documents, Contractor shall provide all materials, supplies, labor, services, transportation, tools, equipment, and parts to perform _____ services for the City of Colorado Springs in a good and workmanlike manner to the satisfaction of the City for the estimated price of _____, not to exceed \$ _____ ("Not to Exceed estimate"). If the performance of this Contract involves the services of others or the furnishing of equipment, supplies, or materials, the Contractor agrees to pay for the same in full. At the time of payment by the City, the Contractor shall certify in writing that said payments have been so made.

This is a Time and Material (T&M) type contract. The Not to Exceed estimate is in accordance with the Contractor's T&M proposal and rates, as included in the attached proposal, dated XXXXXX. All labor charges shall be in accordance with the T&M rates provided therein. Invoiced hours shall be subject to City review and approval before payable.

The parties estimate that performance of this Contract will not exceed the Not to Exceed estimate. The Contractor shall notify the City Contracts Specialist in writing whenever it has reason to believe that the costs the Contractor expects to incur under this Contract in the following 60 days, when added to all costs previously incurred, will exceed 75 percent of the estimated cost specified herein; or the total cost for the performance of this Contract will be either greater or substantially less than had been previously estimated. As part of the notification, the Contractor shall provide the Contracts Specialist a revised estimate of the total cost of performing this Contract.

The City is not liable for any costs above the Not to Exceed estimate, and the Contractor is not obligated to continue performance under this Contract (including actions under the Termination clause of this Contract) or otherwise incur costs in excess of the Not to Exceed estimate specified herein, until the City Contracts Specialist

(i) notifies the Contractor in writing that the estimated cost has been increased and

(ii) provides a revised estimated total not to exceed price of performing this Contract.

3. TERM OF CONTRACT

It is further agreed that the Contractor will start work promptly and continue to work diligently until completed. The Contract Period of Performance shall be as follows:

<u>Performance Period</u>	<u>Dates</u>	<u>Price</u>
Base Year:	NTP – September 30, 2022	
Option Year 1:	October 1, 2022 – September 30, 2023	
Option Year 2:	October 1, 2023 – September 30, 2024	
Option Year 3:	October 1, 2024 – September 30, 2025	
Option Year 4:	October 1, 2025 – September 30, 2026	



Option years may be exercised unilaterally by the City at the City's sole discretion. Pricing for option years shall be as indicated above. The City may elect not to exercise an option at any time before start of an option at no additional cost to the City. Further, the City shall have the unilateral option of extending services beyond the term of the Contract, including all options, for a period not to exceed a total of six (6) months if additional time is necessary to solicit and award a new Contract. Options to extend services shall be exercised upon written notification (mailed or otherwise furnished) to the Contractor at least fifteen (15) days prior to the expiration date of the Contract, or to extend Contract for up to four additional one year option periods at the City's sole discretion.

The total value of this Contract for all years shall not exceed \$XXXXXXX. The value and current funding is \$XXXXXXXXX for the base year.

4. INSURANCE

The Contractor shall provide and maintain acceptable Insurance Policy(s) consistent with the Minimum Insurance Requirements attached as Appendix E, which includes Property, Liability and Professional Errors and Omissions coverage, and as otherwise listed in Appendix E. The City of Colorado Springs shall be reflected as an additional insured on the Property and Liability policy(s).

Further, Contractor understands and agrees that Contractor shall have no right of coverage under any existing or future City comprehensive, self, or personal injury policies. Contractor shall provide insurance coverage for and on behalf of Contract that will sufficiently protect Contractor, or Contractor's agents, employees, servants or other personnel, in connection with the services which are to be provided by Contractor pursuant to this Contract, including protection from claims for bodily injury, death, property damage, and lost income. Contractor shall provide worker's compensation insurance coverage for Contractor and all Contractor personnel. Contractor shall file applicable insurance certificates with the City and shall also provide additional insurance as indicated in this Contract. ***A CURRENT CERTIFICATE OF INSURANCE IS REQUIRED PRIOR TO COMMENCEMENT OF SERVICES LISTING THE CITY AS ADDITIONALLY INSURED.***

5. RESPONSIBILITY OF THE CONTRACTOR

- A. The Contractor shall be responsible for the professional quality, technical accuracy, and the coordination of all Scope of Work services furnished by the Contractor under this Contract. The Contractor shall, without additional compensation, correct or revise any errors or deficiencies in services provided under this Contract to the satisfaction of the City.
- B. The City's review, approval of, acceptance of, or payment for the services required under this Contract shall not be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the Contractor shall be and remain liable to the City for any and all damages to the City caused by the Contractor's negligent performance of any of the services furnished under this Contract.



- C. The rights and remedies of the City provided for under this Contract are in addition to any other rights and remedies provided by law.
- D. If the Contractor is comprised of more than one legal entity, each such entity shall be jointly and severally liable hereunder.

6. WORK OVERSIGHT

- A. The extent and character of the work to be done by the Contractor shall be subject to the general approval of the City's delegated Project Manager.
- B. If any of the work or services being performed does not conform with Contract requirements, the City may require the Contractor to perform the work or services again in conformity with Contract requirements, at no increase in Contract amount. When defects in work or services cannot be corrected by re-performance, the City may (1) require the Contractor to take necessary action to ensure that future performance conforms to Contract requirements and (2) reduce the Contract price to reflect the reduced value of the work or services performed.
- C. If the Contractor fails to promptly perform the defective work or services again or to take the necessary action to ensure future performance is in conformity with Contract requirements, the City may (1) by Contract or otherwise, perform the services and charge to the Contractor any cost incurred by the City that is directly related to the performance of such work or service or (2) terminate the Contract for breach of contract.

7. SUBCONTRACTORS, ASSOCIATES, AND OTHER CONTRACTORS

- A. Any subcontractor, outside associates, or other contractors used by the Contractor in connection with Contractor's work under this Contract shall be limited to individuals or firms that are specifically identified by the Contractor in the Contractor's proposal and agreed to by the City. The Contractor shall obtain the City's Project Manager's written consent before making any substitution of these subcontractors, associates, or other contractors.
- C. The Contractor shall include a flow down clause in all of its subcontracts, agreements with outside associates, and agreements with other contractors. The flow down clause shall cause all of the terms and conditions of this Contract, including all of the applicable parts of the Contract Documents, to be incorporated into all subcontracts, agreements with outside associates, and agreements with other contractors. The flow down clause shall provide clearly that there is no privity of contract between the City and the Contractor's subcontractors, outside associates, and other contractors.

8. KEY PERSONNEL

The key personnel listed in the proposal and/or below will be the individuals used in the performance of the work. If any of the listed key personnel leave employment or are otherwise not utilized in the performance of the work, approval to substitute must be obtained by the



Contractor from the City's Project Manager. Any substitute shall have the same or a higher standard of qualifications that the key personnel possessed at the time of Contract award.

9. START AND CONTINUANCE OF WORK

It is further agreed that the Contractor will start work promptly and continue to work diligently until this Contract is completed.

10. APPROPRIATION OF FUNDS

This Contract is expressly made subject to the limitations of the Colorado Constitution and Section 7-60 of the Charter of the City of Colorado Springs. Nothing herein shall constitute, nor be deemed to constitute, the creation of a debt or multi-year fiscal obligation or an obligation of future appropriations by the City Council of Colorado Springs, contrary to Article X, § 20, Colo. Const., or any other constitutional, statutory, or charter debt limitation. Notwithstanding any other provision of this Contract, with respect to any financial obligation of the City which may arise under this Agreement in any fiscal year after the year of execution, in the event the budget or other means of appropriation for any such year fails to provide funds in sufficient amounts to discharge such obligation, such failure (i) shall act to terminate this Contract at such time as the then-existing and available appropriations are depleted, and (ii) neither such failure nor termination shall constitute a default or breach of this Contract, including any sub-agreement, attachment, schedule, or exhibit thereto, by the City. As used herein, the term "appropriation" shall mean and include the due adoption of an appropriation ordinance and budget and the approval of a Budget Detail Report (Resource Allocations) which contains an allocation of sufficient funds for the performance of fiscal obligations arising under this Contract.

11. CHANGES

The Contractor and the City agree and acknowledge as a part of this Contract that no change order or other form or order or directive may be issued by the City which requires additional compensable work to be performed, which work causes the aggregate amount payable under the Contract to exceed the amount appropriated for this Contract as listed above, unless the Contractor has been given a written assurance by the City that lawful appropriations to cover the costs of the additional work have been made or unless such work is covered under a remedy-granting provision of this Contract. The Contractor and the City further agree and acknowledge as a part of this Contract that no change order or other form or order or directive which requires additional compensable work to be performed under this Contract shall be issued by the City unless funds are available to pay such additional costs, and, regardless of any remedy-granting provision included within this Contract, the Contractor shall not be entitled to any additional compensation for any change which increases or decreases the Contract completion date, or for any additional compensable work performed under this Contract, and expressly waives any rights to additional compensation, whether by law or equity, unless, prior to commencing the additional work, the Contractor is given a written change order describing the change in Contract completion date or the additional compensable work to be performed, and setting forth the amount of compensation to be paid, and such change order is signed by the authorized City representative, as defined below. The amount of compensation to be paid, if any, shall be deemed to cover any and all additional,



direct, indirect or other cost or expense or profit of the Contractor whatsoever. It is the Contractor's sole responsibility to know, determine, and ascertain the authority of the City representative signing any change order under this Contract.

No change, amendment, or modification to this Contract shall be valid unless duly approved and issued in writing by the City of Colorado Springs Procurement Services Division. The City shall not be liable for any costs incurred by the Contractor resulting from work performed for changes not issued in writing by the City of Colorado Springs Procurement Services Division.

The following personnel are authorized to sign changes, amendments, or modifications to this Contract.

The Project Manager: Changes up to \$14,999.99

The City of Colorado Springs Chief of Staff: Changes up to \$499,999.99

The Mayor of the City of Colorado Springs: Unlimited

12. ASSIGNMENT

No assignment or transfer by the Contractor of this Contract or any part thereof or of the funds to be received thereunder by the Contractor will be recognized unless such assignment has had the prior written approval of the City and the surety has been given due notice of such assignment. Such written approval by the City shall not relieve the Contractor of the obligations under the terms of this Contract. In addition to the usual recitals in assignment contracts, the following language must be included in the assignment:

It is agreed that the funds to be paid to the assignee under this assignment are subject to a prior lien for services rendered or materials supplied for the performance of the work called for in said contract in favor of all persons, firms, or corporations rendering such services or supplying such materials.

13. CHOICE OF LAW

This Contract is subject to and shall be interpreted under the law of the State of Colorado, and the Charter, City Code, Ordinances, Rules and Regulations of the City of Colorado Springs, Colorado, a Colorado home rule city. Court venue and jurisdiction shall be exclusively in the Colorado District Court for El Paso County, Colorado. The Parties agree that the place of performance for this Contract is deemed to be in the City of Colorado Springs, El Paso County, State of Colorado. The Contractor shall ensure that the Contractor and the Contractor's employees, agents, officers and subcontractors are familiar with, and comply with, applicable Federal, State, and Local laws and regulations as now written or hereafter amended.

14. WORKERS' COMPENSATION INSURANCE

Contractor shall take out and maintain during the Period of Performance, Colorado Worker's Compensation Insurance for the Contractor and all employees of the Contractor. If any service is sublet by the Contractor, the Contractor shall require the subcontractor to provide the same coverage for the subcontractor and subcontractor's employees. Workers'



Compensation Insurance shall include occupational disease provisions covering any obligations of the Contractor in accord with the provisions of the Workers' Compensation Act of Colorado.

15. INDEMNIFICATION

Contractor agrees that the Contractor shall indemnify, defend and hold harmless the City, its officers, employees and agents, from and against any and all loss, damage, injuries, claims, cause or causes of action, or any liability whatsoever resulting from, or arising out of, or in connection with the Contractor's obligations or actions under this Contract caused by any willful or negligent error, omission or act or a failure to observe any applicable standard of care by the Contractor or any person employed by it or anyone for whose acts the Contractor is legally liable. In consideration of the award of this Contract, to the extent damages are covered by insurance, the Contractor agrees to waive all rights of subrogation against the City, its subsidiary, parent, associated and/or affiliated entities, successors, or assigns, its elected officials, trustees, employees, agents, and volunteers for losses arising from the work performed by the Contractor for the City. The indemnification obligation shall survive the expiration or termination of this Contract

16. INDEPENDENT CONTRACTOR

In the performance of the Contractor's obligations under this Contract, it is understood, acknowledged and agreed between the parties that the Contractor is at all times acting and performing as an independent contractor, and the City shall neither have nor exercise any control or direction over the manner and means by which the Contractor performs the Contractor's obligations under this Contract, except as otherwise stated within the Contract terms. The City shall not provide any direction to the Contractor on the work necessary to complete the project. Contractor understands that it is an independent contractor responsible for knowing how to perform all work or tasks necessary to complete project. The Contractor understands and agrees that the Contractor and the Contractor's employees, agents, servants, or other personnel are not City employees. The Contractor shall be solely responsible for payment of salaries, wages, payroll taxes, unemployment benefits or any other form of compensation or benefit to the Contractor or any of the Contractor's employees, agents, servants or other personnel performing services or work under this Contract, whether it is of a direct or indirect nature. Further in that regard, it is expressly understood and agreed that for such purposes neither the Contractor nor the Contractor's employees, agents, servants or other personnel shall be entitled to any City payroll, insurance, unemployment, worker's compensation, retirement or any other benefits whatsoever.

17. APPLICABLE LAW AND LICENSES

In the conduct of the services or work contemplated in this Contract, the Contractor shall ensure that the Contractor and all subcontractors comply with all applicable state, federal and City and local law, rules and regulations, technical standards or specifications. The Contractor shall qualify for and obtain any required licenses prior to commencement of work.



18. PRIOR AGREEMENTS

This is a completely integrated Contract and contains the entire agreement between the parties. Any prior written or oral agreements or representations regarding this Contract shall be of no effect and shall not be binding on the City. This Contract may only be amended in writing, and executed by duly authorized representatives of the parties hereto.

19. INTELLECTUAL PROPERTY

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

20. WAIVERS



No waiver of default by the City of any of the terms, covenants, and conditions hereof to be performed, kept, and observed by the Contractor shall be construed, or shall operate, as a waiver of any subsequent default of any of the terms, covenants, or conditions herein contained to be performed, kept, and observed by the Contractor.

21. THIRD PARTIES

It is expressly understood and agreed that enforcement of the terms and conditions of this Contract, and all rights of action relating to such enforcement, shall be strictly reserved to the Parties hereto, and nothing contained in this Contract shall give or allow any such claim or right of action by any other or third person or entity on such Contract. It is the express intention of the Parties hereto that any person or entity, other than the Parties to this Contract, receiving services or benefits under this Contract shall be deemed to be incidental beneficiaries only.

22. TERMINATION

A. Termination for Convenience.

By signing this Contract, Contractor represents that it is a sophisticated business and enters into the Contract voluntarily, has calculated all business risks associated with this Contract, and understands and assumes all risks of being terminated for convenience, whether such risks are known or not known. Contractor agrees that the City may terminate this Contract at any time for convenience of the City, upon written notice to the Contractor. Contractor expressly agrees to and assumes the risk that the City shall not be liable for any costs or fees of whatsoever kind and nature if termination for convenience occurs before Contractor begins any work or portion of the work. Contractor further expressly agrees and assumes the risks that the City shall not be liable for any unperformed work, anticipated profits, overhead, mobilizations costs, set-up, demobilization costs, relocation costs of employees, layoffs or severance costs, administrative costs, productivity costs, losses on disposal of equipment or materials, cost associated with the termination of subcontractors, costs associated with purchase orders or purchases, or any other costs or fees of any kind and nature, if Contractor has started or performed portions of the Contract prior to receiving notice from the City. The City shall be liable only for the portions of work Contractor actually satisfactorily completed up to the point of the issuance of the Notice of Termination for convenience. Upon receipt of this notice the Contractor shall immediately: discontinue all services affected (unless the notice directs otherwise), and deliver to the City all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this Contract, whether completed or in process.

B. Termination for Cause: The occurrence of any one or more of the following events ("Event of Default") will justify termination for cause:

- i. Contractor's failure to perform the work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the progress schedule as adjusted from time to time.
- ii. Contractor's disregard of the laws or regulations of any public body having jurisdiction.



- iii. Contractor's disregard of the authority of Project Manager.
- iv. Contractor's violation in any material provision of the Contract Documents.
- v. Contractor's failure to make prompt payments to its subcontractors, and suppliers of any tier, or laborers or any person working on the work by, through, or under the Contractor or any of them, any all of their employees, officers, servants, members, and agents.
- vi. Contractor files a petition commencing a voluntary case under the U.S. Bankruptcy Code, or for liquidation, reorganization, or an arrangement pursuant to any other U.S. or state bankruptcy Laws, or shall be adjudicated a debtor or be declared bankrupt or insolvent under the U.S. Bankruptcy Code, or any other federal or state laws relating to bankruptcy, insolvency, winding-up, or adjustment of debts, or makes a general assignment for the benefit of creditors, or admits in writing its inability to pay its debts generally as they become due, or if a petition commencing an involuntary case under the U.S. Bankruptcy Code or an answer proposing the adjudication of Contractor as a debtor or bankrupt or proposing its liquidation or reorganization pursuant to the Bankruptcy Code or any other U.S. federal or state bankruptcy laws is filed in any court and Contractor consents to or acquiesces in the filing of that pleading or the petition or answer is not discharged or denied within sixty (60) Calendar Days after it is filed.
- vii. A custodian, receiver, trustee or liquidator of Contractor, all or substantially all of the assets or business of Contractor, or of Contractor's interest in the Work or the Contract, is appointed in any proceeding brought against Contractor and not discharged within sixty (60) Calendar Days after that appointment, or if Contractor shall consent to or acquiesces in that appointment.
- viii. Contractor fails to commence correction of defective work or fails to correct defective work within a reasonable period of time after written notice.

If one or more of the events identified in Paragraphs i-viii above occur, City may give Contractor written notice of the event and direct the event be cured. Any such Notice to Cure will provide Contractor a minimum of ten (10) calendar days to prepare and submit to the Project Manager a plan to correct the Event of Default. If such plan to correct the Event of Default is not submitted to the Project Manager within ten (10) days after the date of the written notice or such plan is unacceptable to the City, the City may, give Contractor (and the Surety, if any) written notice that Contractor's services are being terminated for cause. Upon delivery of the termination notice, City may terminate the services of Contractor in whole or in part, exclude Contractor from the site, and take possession of the work and of all Contractor's tools, appliances, equipment, and machinery at the project site, and use the same to the full extent they could be used by Contractor (without liability to Contractor for trespass or conversion), incorporate in the work all materials and equipment stored at the site or for which City has paid Contractor but which are stored elsewhere, and finish the work as City may deem expedient. In such case, Contractor shall not be entitled to receive any further payment until Certificate of Completion of the work. In the event City terminates this Contract for Cause and the cost of completing the work exceeds the unpaid balance of the Contract price, Contractor



shall pay City for any costs of completion which exceed the Contract price when combined with all amounts previously paid to Contractor. When exercising any rights or remedies under this paragraph City shall not be required to obtain the lowest price for the work performed. Should the cost of such completion, including all proper charges, be less than the original Contract price, the amount so saved shall accrue to the City. Neither the City nor any officer, agent or employee of the City shall be in any way liable or accountable to the Contractor or the Surety for the method by which the completion of the said work, or any portion thereof, may be accomplished or for the price paid.

Where Contractor's services have been so terminated by City, the termination will not affect any rights or remedies of City against Contractor or Surety then existing or which may thereafter accrue. Any retention or payment of moneys due Contractor by City will not release Contractor from liability.

C. Termination Notice. Upon receipt of a termination notice, whether for convenience or cause, the Contractor shall immediately: discontinue all services affected (unless the notice directs otherwise), and deliver to the City all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this Contract, whether completed or in process.

D. Removal of Equipment. Except as provided above, in the case of termination of this Contract before completion from any cause whatever, the Contractor, if notified to do so by the City, shall promptly remove any part or all of Contractor's equipment and supplies from the property of the City, failing which the City shall have the right to remove such equipment and supplies at the expense of the Contractor.

23. BOOKS OF ACCOUNT AND AUDITING

The Contractor shall make available to the City if requested, true and complete records, which support billing statements, reports, performance indices, and all other related documentation. The City's authorized representatives shall have access during reasonable hours to all records, which are deemed appropriate to auditing billing statements, reports, performance indices, and all other related documentation. The Contractor agrees that it will keep and preserve for at least seven years all documents related to the Contract which are routinely prepared, collected or compiled by the Contractor during the performance of this Contract.

The City's Auditor and the Auditor's authorized representatives shall have the right at any time to audit all of the related documentation. The Contractor shall make all documentation available for examination at the Auditor's request at either the Auditor's or Contractor's offices, and without expense to the City.

24. ILLEGAL ALIENS

Illegal Aliens - Public Contracts for Services - Compliance with Title 8, Article 17.5, Colorado Revised Statutes: The Contractor acknowledges, understands, agrees, and certifies that: In the performance of any work or the provision of any services by the Contractor under this Contract, the Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract; or enter into a contract with any subcontractor that fails to certify to



the Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract or under the subcontract to this Contract. The Contractor certifies in accord with Section 8-17.5-102(1) C.R.S. that, on the date the Contractor signs this Contract, the Contractor does not knowingly employ or Contract with an illegal alien who will perform work under this Contract and that the Contractor shall participate in the e-verify program or Colorado Department of Labor and Employment program in order to confirm the employment eligibility of all employees who are newly hired for employment or to perform work under this Contract. The Contractor is expressly prohibited from using the e-verify program or Colorado Department of Labor and Employment program procedures to undertake pre-employment screening of job applicants while this Contract and any services under this Contract are being performed. If the Contractor obtains actual knowledge that a subcontractor performing work under this Contract for services knowingly employs or contracts with an illegal alien, the Contractor shall notify the subcontractor and the City within three days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien, and terminate the subcontract with the subcontractor if within three days of receiving the notice the subcontractor does not stop employing or contracting with the illegal alien; except that the Contractor shall not terminate the Contract with the subcontractor if during the three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien. The Contractor shall comply with any request by the City, federal government, or the Colorado Department of Labor and Employment made in the course of an investigation. If the Contractor violates or fails to comply with any provision of C.R.S. 8-17.5-101 et seq, the City may terminate this Contract for breach of contract. If this Contract is so terminated, the Contractor shall be liable for any actual and consequential damages to the City.

25. COMPLIANCE WITH IMMIGRATION REFORM AND CONTROL ACT OF 1986

Contractor certifies that Contractor has complied with the United States Immigration Reform and Control Act of 1986. All persons employed by Contractor for performance of this Contract have completed and signed Form I-9 verifying their identities and authorization for employment.

26. LABOR

The Contractor shall employ only competent and skilled workmen and foremen in the conduct of work on this Contract. The Contractor shall at all times enforce strict discipline and good order among Contractor's employees. The Project Manager shall have the authority to order the removal from the work of any person, including Contractor's or any subcontractor's employees, who refuses or neglects to observe any of the provisions of these Plans or Specifications, or who is incompetent, abusive, threatening, or disorderly in conduct and any such person shall not again be employed on the Project.

In no event shall the City be responsible for overtime pay.

27. GRATUITIES

A. This Contract may be terminated if the Mayor, the Mayor's designee, and/or the Procurement Services Manager determine, in their sole discretion, that the Contractor or



any officer, employee, agent, or other representative whatsoever, of the Contractor offered or gave a gift or hospitality to a City officer, employee, agent or Contractor for the purpose of influencing any decision to grant a City contract or to obtain favorable treatment under any City contract.

- B. The terms "hospitality" and "gift" include, but are not limited to, any payment, subscription, advance, forbearance, acceptance, rendering or deposit of money, services, or anything of value given or offered, including but not limited to food, lodging, transportation, recreation or entertainment, token or award.
- C. Contract termination under this provision shall constitute a breach of contract by the Contractor, and the Contractor shall be liable to the City for all costs of reletting the contract or completion of the project. Further, if the Contractor is terminated under this provision, or violates this provision but is not terminated, the Contractor shall be subject to debarment under the City's Procurement Regulations. The rights and remedies of the City provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

28. NON-DISCRIMINATION

- A. In accord with section 24-34-402, C.R.S., the Contractor will not discriminate against any employee or applicant for employment because of disability, race, creed, color, sexual orientation, religion, age, national origin, or ancestry. But, with regard to a disability, it is not a discriminatory or an unfair employment practice for an employer to take into consideration disability if there is no reasonable accommodation that the employer can make with regard to the disability, the disability actually disqualifies the person from the job, and the disability has a significant impact on the job. The Contractor will take affirmative steps to ensure that applicants are employed, and that employees are treated during employment without regard to their disability, race, creed, color, sexual orientation, religion, age, national origin, or ancestry. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training; including apprenticeship.
- B. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- C. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to disability, race, creed, color, sexual orientation, religion, age, national origin, or ancestry.
- D. Contractor will cooperate with the City in using Contractor's best efforts to ensure that Disadvantaged Business Enterprises are afforded the maximum opportunity to compete for subcontracts or work under this Contract.

29. ORDER OF PRECEDENCE



Any inconsistency in this Contract shall be resolved by giving precedence in the following order:

- A. This Contract document with its terms and conditions
- B. The Statement of Work
- C. Other Appendices, Attachments, Exhibits, or Schedules

30. HEADINGS

The section headings contained in this Contract are for reference purposes only and shall not affect the meaning or interpretation of this Contract.

31. DISPUTES

- A. All administrative and contractual disputes arising from or related to this Contract shall be addressed in the following manner:
 - i. If either Party disputes or disagrees with a Contract term or the other Party's interpretation of a Contract term or has any other administrative or contractual dispute not addressed in the Unanticipated Circumstances provisions, such Party shall promptly give the other Party written notice of said dispute.
 - ii. The Parties shall hold a meeting as soon as reasonably possible, but in no event later than thirty (30) calendar days from the initial written notice of the dispute, attended by persons with decision-making authority regarding the dispute, to attempt in good faith to negotiate a resolution of the dispute; provided, however, that no such meeting shall be deemed to vitiate or reduce the obligations and liabilities of the Parties or be deemed a waiver by a Party of any remedies to which such Party would otherwise be entitled unless otherwise agreed to by the Parties in writing.
 - iii. If, within thirty (30) calendar days after such meeting, the Parties have not succeeded in negotiating a resolution of the dispute, they agree to submit the dispute to non-binding mediation and to bear equally the costs of the mediation.
 - iv. The Parties will jointly appoint a mutually acceptable mediator. If they fail to do so within twenty (20) calendar days from the conclusion of the negotiation period, they shall each select a mediator. The two mediators will then appoint a third mediator who shall conduct mediation for the Parties as the sole mediator.
 - v. The Parties agree to participate in good faith in the mediation and negotiations for a period of thirty (30) calendar days. The substantive and procedural law of the State of Colorado shall apply to the proceedings. If the Parties are not successful in resolving the dispute through mediation, then the Parties shall be free to pursue any other remedy afforded by the laws of the State of Colorado.
 - vi. Until final resolution of any dispute hereunder, the Contractor shall diligently proceed with the performance of this Contract as directed by the City. For purposes of this Contract, termination for convenience shall not be deemed a dispute. The City of Colorado Springs and the Contractor agree to notify each other in a timely manner of any claim, dispute, or cause of action arising from or related to this Contract, and to negotiate in good faith to resolve any such claim, dispute, or cause of action. To the extent that such negotiations fail, the City of Colorado Springs



and the Contractor agree that any lawsuit or cause of action that arises from or is related to this Contract shall be filed with and litigated only by the Colorado District Court for El Paso County, CO.

32. DELIVERY

The City may cancel this Contract or any portion thereof if delivery is not made when and as specified, time being of the essence in this Contract. Contractor shall pay the City for any loss or damage sustained by the City because of failure to perform in accordance with this Contract.

33. PAYMENTS

The City will make payments for services on a monthly basis for services performed during the previous month in accordance with this Contract. All labor Invoices shall include labor categories, rates, hours worked, and total amounts per category. All labor categories and rates charged must be included in this Contract. No other categories or rates will be allowed or payable. All labor invoices are subject to City approval.

Materials will be payable on a reimbursable basis with no additional profit, fee, overhead, handling, or General and Administrative (G&A) costs. All costs for materials shall be approved by the City Contracts Specialist before the costs are incurred and payable.

The City will pay the Contractor, upon submission of proper invoices, the prices stipulated in the Contract for services rendered and accepted, less any deductions provided in this Contract within 30 days (Net 30). The City will not pay late fees or interest. Any discount payment terms offered on the invoice may be taken by the City.

34. INSPECTION OF SERVICES

The Contractor is responsible for performing or having performed all inspections and tests necessary to substantiate that the services furnished under this Contract conform to Contract requirements, including any applicable technical requirements for specified manufacturers' parts. This clause takes precedence over any City inspection and testing required in the Contract's specifications, except for specialized inspections or tests specified to be performed solely by the City.

- A. Definition of "services", as used in this clause, includes services performed, workmanship, and material furnished or utilized in the performance of services.
- B. The Contractor shall provide and maintain an inspection system acceptable to the City covering the services under this Contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the City during Contract performance and for as long afterwards as the Contract requires.
- C. The City has the right to inspect and test all services called for by the Contract, to the extent practicable at all times and places during the term of the Contract. The City will perform inspections and tests in a manner that will not unduly delay the work.



- D. If the City performs inspections or test on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in Contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties.

35. SECURITY

The City maintains security requirements regarding access to City buildings and other City workplaces and worksites on City property. All Contractor personnel accessing City buildings, workplaces, or worksites, may be required to produce a valid, Government issued picture identification. Contractor personnel lacking such identification may not be allowed access to such sites. No costs incurred by the Contractor due to City security requirements shall be allowable or payable under this Contract.

36. TIME IS OF THE ESSENCE

In as much as the Contract concerns a needed or required service, the terms, conditions, and provisions of the Contract relating to the time of performance and completion of work are of the essence of this Contract. The Contractor shall begin work on the day specified and shall prosecute the work diligently so as to assure completion of the work within the number of calendar days or date specified, or the date to which the time for completion may have been extended.

37. EMPLOYMENT OF LABOR

The Contractor shall comply with, and defend and hold the City harmless from any violation of all laws and lawful rules and regulations, both of the State of Colorado and of the United States, relating to Workmen's Compensation, unemployment compensation, Social Security, payment for overtime, and all other expenses and conditions of employment under this Contract.

38. SALES TAX

The Contractor must have a tax-exemption certificate from the Colorado Department of Revenue for this project. The certificate does not apply to City of Colorado Springs Sales and Use Tax which shall be applicable. The tax exempt project number and the exemption certificate only applies to County, PPRTA (Pikes Peak Rural Transportation Authority), and State taxes when purchasing construction and building materials **to be incorporated into this project**.

Furthermore, the exemption **does not** include or apply to the purchase or rental of equipment, supplies or materials that **do not become a part of the completed project or structure**. Such purchases and rentals are subject to full applicable taxation.

All contracts with subcontractors must include the City of Colorado Springs Sales and Use Tax on the work covered by the Contract, and other taxes as applicable.



Note: For all equipment, materials and supplies incorporated into the work purchased from vendors or suppliers not licensed to collect City Sales Tax (i.e. out of state suppliers, etc.), City Use Tax is due and payable to the City. The Contractor shall execute and deliver, and shall cause the Contractor's subcontractors to execute and deliver to the City Sales Tax Office, ST 16 forms listing all said equipment, materials and supplies and the corresponding use tax due, along with payment for said taxes. Any outstanding taxes due may be withheld from the final payment due the Contractor and may result in suspension of Contractor from bidding on City projects.

Forms and instructions can be downloaded at <https://coloradosprings.gov/sales-tax/page/construction-contractors>. Questions can be directed to the City Sales Tax Division at (719) 385-5903 or Construction_SalesTax@coloradosprings.gov.

Our Registration Numbers are as follows:

City of Colorado Springs

Federal I.D.: 84-6000573

Federal Excise: A-138557

State Sales Tax: 98-03479

The Contractor's payment or exemption of State of Colorado, El Paso County and City Sales and Use Taxes shall be as specified herein.

39. SEVERABILITY

If any terms, conditions, or provisions of this Contract shall be held unconstitutional, illegal, or void, such finding shall not affect any other terms, conditions, or provisions of this Contract.

40. LIABILITY OF CITY EMPLOYEES

All authorized representatives of the City are acting solely as agents and representatives of the City when carrying out and exercising the power or authority granted to them under the Contract. There shall not be any liability on them either personally or as employees of the City.

41. USE OF CITY NAME OR LOGO

Except as otherwise provided in this Contract, the Contractor shall not refer to this Contract or the City of Colorado Springs in any advertising or promotions in such a manner as to state or imply that the product or service provided is endorsed or preferred by the City of Colorado Springs, its employees, or its Departments, or is considered by these entities to be superior to other products or services. Any use of the name or logo of the City of Colorado Springs in advertising or promotions must be approved in writing by the City of Colorado Springs Contracts Specialist assigned to the Contract prior to such use.

42. TRAVEL

If travel expenses are included as a line item in this Contract, all travel expenses incurred and billable by the Contractor are subject to City approval. Air travel shall be limited to the round trip "economy coach" fare. Travel from the Colorado Springs Airport is encouraged. Unless



there are extenuating circumstances, the Contract should take advantage of lower airfares by purchasing tickets more than 14 days in advance of travel. In-state travel by air must be more economical than travel by private vehicle. Use of a private vehicle may be reimbursed per mile at the current rate published by the IRS annually. Short-term parking, long-term parking or cab fare associated with airport departure and arrival may be allowable expenses. Valet parking will not be allowed unless it is the least expensive or only option. Car rental rates may be reimbursed for car rentals no greater than the intermediate or standard classification. The City will not reimburse any other travel methods or expenses. The City will pay for lodging, meals, and miscellaneous expenses on a per diem basis only, in accordance with the current per diem rates published by the IRS annually. The City will not pay for Contractor expenses exceeding the per diem rates. Receipts for all reimbursable expenses must be provided with the Contractor's invoice.

43. ELECTRONIC SIGNATURES

This Agreement and all other documents contemplated hereunder may be executed using electronic signatures with delivery via facsimile transmission, by scanning and transmission of electronic files in Portable Document Format (PDF) or other readily available file format, or by copy transmitted via email, or by other electronic means and in one or more counterparts, each of which shall be (i) an original, and all of which taken together shall constitute one and the same agreement, (ii) a valid and binding agreement and fully admissible under state and federal rules of evidence and (iii) enforceable in accordance with its terms.

44. APPENDICES

The following Appendices are made a part of this Agreement:

1. Appendix A – Additional Terms and Conditions
2. Appendix B – Contractor's Proposal,
3. Appendix C – Statement of Work.
4. Appendix D – Insurance Requirements



CONTRACT SIGNATURE PAGE

The Contractor certifies in accord with Section 8-17.5-102(1) C.R.S. that, on the date the Contractor signs this Contract, the Contractor does not knowingly employ or Contract with an illegal alien who will perform work under this Contract and that the Contractor shall participate in the e-verify program or Colorado Department of Labor and Employment program in order to confirm the employment eligibility of all employees who are newly hired for employment or to perform work under this Contract. The Contractor is expressly prohibited from using the e-verify program or Colorado Department of Labor and Employment program procedures to undertake pre-employment screening of job applicants while this Contract and any services under this Contract are being performed.

IN WITNESS WHEREOF, the parties have caused these presents to be executed on the day and the year first above written.

This Contract is executed in one (1) original copy.

**THE CITY OF COLORADO SPRINGS,
COLORADO:**

Jeffrey H. Greene
Chief of Staff

Date

SECOND PARTY:

SAMPLE CONTRACT ONLY

Corporate Name

Signature

Date

Title



EXHIBIT 3 EXCEPTIONS

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

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

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

Company Name: _____

Address: _____
(City, State and Zip Code)

Authorized Signature: _____

Date: _____

Printed Name/Title: _____

Return this form with your Proposal.



EXHIBIT 4 MINIMUM INSURANCE REQUIREMENTS

1. X Commercial General Liability for limits not less than \$1,000,000 combined single limit for bodily injury and property damage for each occurrence. Coverage shall include blanket contractual, broad form property damage, products and completed operations.
2. X Workers' Compensation and Employers Liability as required by statute. Employers Liability coverage is to be carried for a minimum limit of \$100,000.

Automobile Liability covering any auto (including owned, hired, and non-owned autos) with a
3. X minimum of \$1,000,000 each accident combined single limit.
4. X Professional Liability Insurance covering any damages caused by an error, omission or any negligent acts with limits of not less than \$2,000,000 per occurrence and in the aggregate.
 - a. In the event that any professional liability insurance required by this Contract is written on a claims-made basis, Consultant warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of three (3) years beginning at the time work under this Contract is completed.
 - b. Policy shall contain a waiver of subrogation against the CITY.
Employee Crime Coverage shall include employee dishonesty, forgery or alteration and computer fraud. If Contractor is physically located on CITY premises, third party fidelity coverage extension shall apply. The policy shall include coverage for all directors, officers, agents and employees of the Contractor. Coverage limit will be not less than \$1,000,000 per loss.
 - a. The bond or policy shall include coverage for extended theft and mysterious disappearance.
 - b. The bond or policy shall not contain a condition requiring an arrest and conviction.
5. X

(Name of Company)

(Signature)

(Date)



EXHIBIT 5 STATEMENT OF WORK FOR CEMETERY ENDOWMENT SERVICES

5.1 Background

The City of Colorado Springs is seeking proposals from investment advisors who are registered with the Securities and Exchange Commission and the Colorado State Division of Securities to provide portfolio management services for the City of Colorado Springs Cemetery Endowment Fund (the Fund) to be managed on a discretionary basis. The assets of the Fund as of December 31, 2020 were valued at approximately \$12.9 million.

The purpose of the Fund is to provide perpetual maintenance of the City owned cemeteries (Evergreen Cemetery and Fairview Cemetery), preservation of principal, and income. The investment instruments held by the Fund will vary from time to time in response to changes in the economy and prospects for achieving the total rate of return desired given the City's risk tolerance for the Fund.

The Colorado Springs City Council has formed an Investment Advisory Committee. Citizens, ideally from the banking or investment industry, are encouraged to apply and if appointed, serve three-year terms. The Investment Advisory Committee advises City staff and City Council on investment policy and reviews performance and investment decisions of the Investment Advisors.

5.2 Scope of Work

The investments of the Cemetery Endowment Fund are governed by a Cemetery Endowment Fund Investment Policy (Policy) and the Colorado State Statute "Public Funds Investment Act."

The primary objectives of the Fund are:

- Protection of principal and minimization of realized losses.
- Annual income to meet the goals for cemetery operations in the Cemetery Enterprise Fund. Current transfers to Cemetery Enterprise are calculated according to the Policy. The goal will be reviewed with the Cemetery Enterprise management annually.
- Maximization of total returns (income plus capital appreciation or depreciation) to achieve a net annual compounded return of 5% to 8% over a full market cycle.

The City is therefore seeking investment advisors who:

- Have experience working with institutional clients.
- Demonstrate extensive experience with management of portfolios seeking the multiple purposes of principal protection, income generation, and overall asset growth.
- Demonstrate extensive expertise in analyzing investment alternatives including fixed income, equities, commodities, and hedge funds and how they are incorporated into a strategic and tactical asset allocation to achieve the investment objectives of the Fund as described above.

- Demonstrate the experience and capability to provide user friendly, comprehensive and detailed financial reports and GASB 40 compliant reports.
- Provide recommendations regarding modifications to the Cemetery Endowment Fund Investment Policy to achieve the investment objectives of the Fund as described above.

The City's Investment Advisory Committee meets at least semi-annually to review investment performance and strategy and the advisor(s) is/are expected to attend these meetings in Colorado Springs at no additional cost to the City. Scheduled meetings are held the third Tuesday of February and August each year and additionally as needed.

5.3 MINIMUM SERVICE REQUIREMENTS

The Investment Advisor shall:

- Be a registered Investment Advisor as defined and regulated by the Securities and Exchange Commission and be registered with the Colorado State Division of Securities.
- Be either completely independent of any financial institution or securities brokerage firm; or fully and continuously disclose any relationships with such financial institution(s) and/or securities brokerage firm(s), and further disclose any commissions, bonuses or soft-dollar payments resulting from the firm's relationship with the City.
- Take no possession of City moneys or investment securities, nor have access to or control over such moneys and/or securities.
- Comply with Colorado State law and the ordinances and policies of the City of Colorado Springs.
- Review and recommend changes to the City's Cemetery Endowment Fund Investment Policy.
- Review the present investment management procedures and documentation and propose improvements.
- Assist in developing and implementing investment strategies that will enhance portfolio performance under current and anticipated changes in market conditions within the parameters of established investment policy and cash flow needs.
- Provide discretionary management of the City's Cemetery Endowment Fund portfolio by acting in an advisory and administrative capacity within the confines of the Cemetery Endowment Fund Investment Policy.
- Provide timely assessment of the market including market reaction to economic events.
- Respond to inquiries from City staff, Investment Advisory Committee members, or City elected officials within 24 hours or the following business day.
- Provide detailed monthly reports, in a format acceptable to the City, which includes, but is not limited to, the following information on each security: par value, amortized cost value, book value, market value, and percent of investment to total portfolio.



- Provide detail required for reporting in the Annual Comprehensive Financial Report as requested, including information to meet requirements of GASB 40 and GASB 72.
- Attend semi-annual Investment Advisory Committee meetings on the third Tuesday of February and August and present performance reports that include current information regarding the investment strategy, the creditworthiness of investments in the portfolio, total return comparisons of the Fund's portfolio to the established index for the quarter, year to date, and since inception; and market commentary and future outlooks as it pertains to the Fund's portfolio(s). Attendance must be in person 50% of the time.
- The Advisor shall select Fund Managers that meet the criteria as outlined in Attachment **R21-091 Investment Policy Statement**.
- Advisor shall ensure Managers' portfolios adherence to limitations outlined in Attachment **R21-091 Investment Policy Statement**.

The City has separately contracted for securities clearing and safekeeping with UMB Bank for all portfolios, except the Cemetery Endowment Fund. Currently, securities clearing and safekeeping for the Cemetery Endowment Fund is provided by US Bank, NA.



EXHIBIT 6 – QUALIFICATION STATEMENT

CITY OF COLORADO SPRINGS QUALIFICATION STATEMENT

This statement will provide information which will enable the City to evaluate the qualifications of your firm and staff with regard to the requirements of this Request for Proposal. Please complete this form in its entirety and submit it (in the number of copies requested) along with the other required proposal documents. If a request in the Qualification Statement is contained in the proposal, indicate the section in the proposal where that information can be found.

(PRINT)

FIRM

NAME: _____

ADDRESS: _____

CITY STATE _____

ZIP: _____

AUTHORIZED
REPRESENTATIVE: _____

TITLE: _____

AUTHORIZED

SIGNATURE: _____

PHONE: _____ FAX: _____

E-MAIL

ADDRESS: _____

1. TYPE OF BUSINESS

CORPORATIO
N

☐

INDIVIDUAL

☐

PARTNERSHIP

☐

JOINT
VENTURE

☐

OTHER: _____

2. TYPE OF LICENSE & LOCATION

**3. TYPE OF SERVICE TO BE PROVIDED FOR
RFP:**

**4. NUMBER OF YEARS IN
BUSINESS:**

**5. ON A SEPARATE SHEET PROVIDE A BRIEF HISTORY OF YOUR FIRM, STAFF
SIZE**

**AND EXPERIENCE. SUBMIT A RESUME FOR THE PROJECT MANAGER AND
EACH**

KEY PERSONNEL ASSIGNED TO THIS PROJECT.



6. WHAT OTHER NAME(S) HAS YOUR COMPANY OPERATED UNDER: _____

7. HAVE YOU OR YOUR FIRM EVER FAILED TO COMPLETE ANY WORK AWARDED TO

YOU? YES ☐ NO ☐ IF "YES", EXPLAIN:

8. HAS ANY OFFICER OR PARTNER OF YOUR ORGANIZATION EVER BEEN AN OFFICER

OR PARTNER OF ANOTHER ORGANIZATION THAT FAILED TO COMPLETE A CONTRACT WITHIN THE LAST FIVE (5) YEARS?

YES ☐ NO ☐
S

IF "YES", EXPLAIN:

9. HAS YOUR FIRM OR ANY PARTNERS OR OFFICERS EVER BEEN INVOLVED IN ANY

BANKRUPTCY ACTION? YES ☐ NO ☐ IF "YES", EXPLAIN:

10. ARE YOU PRESENTLY INVOLVED IN ANY LITIGATION WITH ANY GOVERNMENT AGENCY? YES ☐ NO ☐ IF "YES", EXPLAIN TYPE, KIND, PLAINTIFF, DEFENDANT, ETC., AND STATE THE CURRENT STATUS:

11. BANK REFERENCE:

ADDRESS: _____
CONTACT: _____ PHONE: _____

12. LIST THREE (3) SIMILAR PROJECTS (LOCAL OR STATE-WIDE) FROM LAST FIVE (5)



YEARS-INCLUDE LOCATION OF PROJECT, SIZE OF PROJECT (CONTRACT AMOUNT), CONTACT NAME, ADDRESS, TELEPHONE NUMBERS
NOTE: DETAILED INFORMATION ON THESE PROJECTS MAY ALSO BE REQUESTED IN THE RFP PACKAGE.

1. Location of Project: _____
Size of Project: _____
Contract Amount: _____
Contact Name and Title: _____
Contract Address: _____
Contact telephone and FAX Numbers: _____
2. Location of Project: _____
Size of Project: _____
Contract Amount: _____
Contact Name: _____
Contact Address: _____
Contact telephone and FAX Numbers: _____
3. Location of Project: _____
Size of Project: _____
Contract Amount: _____
Contact Name: _____
Contact Address: _____
Contact telephone and FAX Numbers: _____

13. LIST CURRENT SIMILAR PROJECTS (LOCAL OR STATE-WIDE) UNDER CONTRACT-
INCLUDE LOCATION OF PROJECT, SIZE OF PROJECT (CONTRACT AMOUNT)
CONTACT NAME, ADDRESS, TELEPHONE NUMBERS.
NOTE: DETAILED INFORMATION ON THESE PROJECTS MAY ALSO BE REQUESTED IN THE RFP PACKAGE.

1. Location of Project: _____
Size of Project: _____
Contract Amount: _____
Contact Name and Title: _____
Contact Address: _____

Contact telephone and FAX Numbers: _____
2. Location of Project: _____
Size of Project: _____
Contract Amount: _____
Contact Name and Title: _____
Contact Address: _____
Contact telephone and FAX Numbers: _____
3. Location of Project: _____
Size of Project: _____
Contract Amount: _____



Contact Name and Title:
Contact Address:
Contact telephone and FAX Numbers:

14.	LIST OF SUB-CONTRACTORS TO BE USED FOR THIS PROJECT: (INCLUDE NAME, ADDRESS, TELEPHONE NUMBER, TYPE OF WORK)
1.	Name: Address: Telephone Number: Type of Work:
2.	Name: Address: Telephone Number: Type of Work:
3.	Name: Address: Telephone Number: Type of Work:

IF ADDITIONAL INFORMATION IS PROVIDED ON A SEPARATE SHEET FOR ANY OF THE ITEMS, CLEARLY SPECIFY WHERE IT CAN BE LOCATED IN YOUR PROPOSAL PACKAGE.

EXHIBIT 7 – EVALUATION SCORESHEET



PROPOSAL EVALUATION SCORE SHEET
SOLICITATION NUMBER AND TITLE:

Proposer's Name: _____

Evaluator's Name: _____

RFP EVALUATION CRITERIA DESCRIPTION	SCORE
1. EXPERTISE AND QUALIFICATIONS AREA	
In this section, the Offeror must demonstrate that it meets and/or exceeds all requirements regarding expertise and qualifications of personnel proposed to complete the work defined in the Statement of Work/Scope of Services of this RFP. Qualifications of personnel are considered of the essence of the services provided. Therefore, the Offeror must provide information on Key Personnel who will be the personnel performing the consulting services.	
A. Relevant Experience	
<p>In the Expertise and Qualifications Area, the Offeror should provide at least three references or identify contracts demonstrating that it successfully provided services/products that are the same or similar to those required in the RFP. The proposal should adequately explain the successful outcomes of the projects. It is highly recommended that the Offeror provide sufficient content and detail to answer completely the following questions.</p> <ol style="list-style-type: none"> 1. Does the proposal include at least three references or past performance citations? 2. Are the references or past performance citations relevant to the requirements of the Statement of Work of the RFP? 3. Does the Offeror explain how they were successful on the projects provided as past performance? 4. Does the Offeror apply the past performance to the City requirement in such a way as to demonstrate added value due to experience? <p>COMMENTS:</p>	<p>5 – Exceptional 4 – Very Good 3 – Satisfactory 2 – Marginal 1 – Unacceptable</p> <p>Rating: ____</p>
B. Key Personnel	
<p>In the Expertise and Qualifications Area, resumes must be provided for all personnel who would be performing work on the resultant Contract. Resumes do not count toward the page limit. It is highly recommended that the Offeror provide sufficient content and detail to answer completely the following questions. Explain how the key personnel were related to the projects cited as relevant past performance.</p>	<p>5 – Exceptional 4 – Very Good 3 – Satisfactory 2 – Marginal 1 – Unacceptable</p>

<ol style="list-style-type: none"> 1. Does the Offeror provide complete resumes, including education, experience, background information, accomplishments, and other pertinent information? 2. Does the Offeror provide resumes for all key personnel, as required by the RFP? 3. Do the resumes demonstrate adequate professional, technical, and management levels to accomplish the work effectively and efficiently? 4. Do the key personnel possess all requisite certifications, licenses, experience, etc.? <p>COMMENTS:</p>	<p>Rating: ____</p>
<p>Sum of Ratings in Technical Area (Add numbers in Section 1.A. and 1.B):</p>	
<p>Evaluation Factor:</p>	<p>.50</p>
<p>Expertise and Qualifications Area Evaluation Score (Multiply the sum of ratings in Technical Area by the evaluation factor):</p>	
<p>2. PRICE AREA</p>	
<p>In the Price Area, the Offeror should provide a detailed breakdown of the price for each year of performance. The price must be fully loaded/all-inclusive and include unit cost for material, labor, other direct costs (e.g. travel), indirect costs (i.e. overhead and general and administrative costs), and profit/fee. Offers must include sufficient detail to allow insight into the fairness and reasonableness of the price. If the contract type will be T&M, labor categories, labor rates, separated profit, and estimated material costs must be included in detail.</p> <p>In addition, although price may not be the most important factor, it is still very important to the City of Colorado Springs. The Offeror's pricing must be competitive as compared to the budget amount, market pricing in the industry, and the pricing of the other Offerors.</p> <p>Consider the following questions:</p> <ol style="list-style-type: none"> 1. How does the price compare to the industry competition? 2. If low, is it unrealistically low? 3. If high, is there demonstrated added value for the additional cost? 4. Can you see how the price was built? If so, do the costs look appropriate for the task? 5. Does the Offeror leave applicable costs out of the calculations? For instance, some will say travel is not included and will be an extra cost. This should be considered when comparing to other Offerors. 6. Are there additional costs not addressed that the City would incur if the Offeror were awarded the contract? If so, include those costs when comparing to the budget amount and the competition. 	<p>5 – Exceptional 4 – Very Good 3 – Satisfactory 2 – Marginal 1 – Unacceptable</p> <p>Rating: ____</p>



COMMENTS:	
Total Price/Cost Area (Insert number from Section 2 evaluation above):	
Evaluation Factor:	.40
Price/Cost Area Evaluation Score (Multiply the Total Price/Cost Area by the evaluation factor):	
3. PROPOSAL PRESENTATION	
<p>Presentation is an important factor. Offerors should provide a highly professional product, which is complete, accurate, easily understood, and effectively presented.</p> <p>COMMENTS:</p>	<p>5 – Exceptional 4 – Very Good 3 – Satisfactory 2 – Marginal 1 – Unacceptable</p> <p>Rating: ____</p>
Total Proposal Presentation Area (Insert number from Section 3 evaluation above):	
Evaluation Factor:	.10
Proposal Presentation Area Evaluation Score (Multiply the Total Proposal Presentation Area score by the evaluation factor):	
EXCEPTIONS PROPOSED	
<p>What (if any) exceptions (redlines to our terms and conditions) were proposed? Are they acceptable?</p> <p>COMMENTS:</p>	Pass/Fail
<p>INSURANCE REQUIREMENTS</p> <p>Does the Offeror meet all insurance requirements?</p>	Pass/Fail
TOTAL SCORE – Add Evaluation Scores from Sections 1-4 and location bonus (if applicable). The sum is the total score.	Total Score:



Overall Proposal **Strengths:**

Overall Proposal **Weaknesses:**

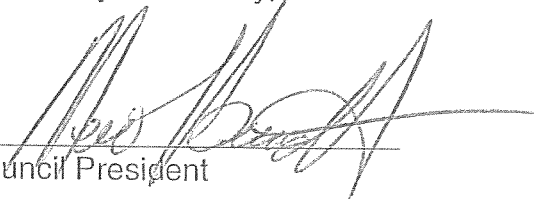
RESOLUTION NO. 2-16

A RESOLUTION APPROVING THE CEMETERY
ENDOWMENT FUND INVESTMENT POLICY

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF
THE CITY OF COLORADO SPRINGS:

Section 1. The City Council hereby approves the attached Investment Policy
for the Cemetery Endowment Fund.

Dated at Colorado Springs, CO, this 26th day of January, 2016.


Council President

ATTEST:


Sarah B. Johnson, City Clerk



INVESTMENT POLICY STATEMENT

FOR

CITY OF COLORADO SPRINGS
CEMETERY ENDOWMENT FUND

Established January 1995

Revised November 2011

Revised January 2016

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The City of Colorado Springs has established an endowment, known as the Cemetery Endowment Fund (the “Fund”). The purpose of the Fund is to provide the funding for the perpetual maintenance of the cemeteries under the jurisdiction of the City of Colorado Springs, Colorado. The Chief Financial Officer is responsible for developing the Fund’s overall objectives and guidelines. The Colorado Springs City Council has formed an Investment Advisory Committee to provide insight and advice to the Chief Financial Officer, City staff and the City Council on investment policy and objectives for the management and oversight of the Fund.

Purpose

The main investment objective of the Fund is to achieve long-term growth of the assets to preserve the ability of the Fund to meet its current and long-term spending policies while minimizing risk of realized losses on principal assets. To achieve these objectives, the definition of income is updated to refer to total return, including dividends and interest plus appreciation on investments. The 2006 Uniform Prudent Management of Institutional Funds Act (“UPMIFA”) clarifies this definition as it relates to endowment funds.

The purpose of this Policy Statement is to achieve the following:

1. Document investment objectives, performance expectations and investment guidelines for Fund assets.
2. Establish an appropriate investment strategy for managing all Fund assets, including an investment time horizon, risk tolerance ranges and asset allocation to provide sufficient diversification and overall return over the long-term time horizon of the Fund.
3. Establish investment guidelines to control overall risk and liquidity.
4. Establish periodic performance reporting requirements to monitor investment results and confirm that the investment policy is being followed.
5. Comply with fiduciary, prudence, due diligence and legal requirements for Fund assets.

Investment Authority

The Chief Financial Officer is responsible for developing the Fund’s overall objectives and guidelines and has authority to implement the investment policy and guidelines in the best interest of the Fund to best satisfy the purposes of the Fund. The Chief Financial Officer, with insight and assistance from the investment advisor and the Investment Advisory Committee, is responsible for development and review of the investment policy, review of investment performance and investment decisions made by the investment advisor, and making changes, as necessary. The Chief Financial Officer is also responsible for selecting and monitoring the investment advisor, Endowment custodian and any other service providers necessary in the fulfillment of this policy and the Fund objectives and overseeing certain policies and procedures related to the operation and administration of the Fund.

In implementing this Policy Statement, the Chief Financial Officer maintains the responsibility outlined above but may delegate certain functions to:

1. An investment advisor (“Advisor”) to assist the Chief Financial Officer in the investment process and to maintain compliance with this Policy Statement. The Advisor may assist the Chief Financial Officer in establishing investment policy objectives and guidelines. The Advisor will adjust the asset allocation within a reasonable time period, to ensure the portfolio remains substantially in compliance with the Asset Allocation Ranges, set forth in this Policy Statement and the Asset Allocation Targets, as determined by the Chief Financial Officer, in the Addendum. The Advisor will also select investment managers (“Managers”) and strategies consistent with its role as a fiduciary for the Fund. The investment vehicles allowed may include mutual funds, commingled trusts, separate accounts, limited partnerships and other investment vehicles deemed to be appropriate by the Advisor. The Advisor may also select investments with discretion to purchase, sell, or hold specific securities, such as Exchange Traded Funds, that will be used to meet the Fund’s investment objectives. The Advisor is also responsible for monitoring and reviewing investment managers; measuring and evaluating performance versus appropriate benchmarks; and other tasks as deemed appropriate in its role as Advisor for Fund assets. The Advisor shall never take possession of securities, cash or other assets of the Fund, all of which shall be held by the custodian. The Advisor must be registered with the Securities and Exchange Commission.
2. A custodian selected by the Fund to maintain possession of physical securities and records of street name securities owned by the Fund, collect dividend and interest payments, redeem maturing securities, and effect receipt and delivery following purchases and sales. The custodian may also perform regular accounting of all assets owned, purchased, or sold, as well as movement of assets into and out of the Fund.
3. A trustee appointed by the Fund, such as a bank trust department, if the Fund does not have its own Trustees, to assume fiduciary responsibility for the administration of Fund assets; provided, however, that if the Chief Financial Officer has appointed an investment advisor, then any trustee appointed under this paragraph shall have no authority with respect to selection of investments.
4. Specialists such as attorneys, auditors, actuaries and consultants to assist in meeting responsibilities and obligations to administer Fund assets prudently.
5. City staff within the Finance Department to assist with administrative and accounting tasks.

Statement of Investment Objectives

The investment objectives of the Fund are as follows:

1. To invest assets of the Fund in a manner consistent with the following fiduciary standards:
(a) all transactions undertaken must be for the sole interest of Fund beneficiaries, and (b) assets are to be sufficiently diversified in order to minimize the impact of large losses from individual investments.

2. To provide for funding and anticipated withdrawals on a continual basis for spending policy needs and reasonable expenses for the operation of the Fund.
3. To enhance the value of Fund assets in real terms over the long-term through asset appreciation and income generation, while maintaining a reasonable investment risk profile.
4. To minimize principal fluctuations, subject to performance expectations over the Time Horizon (as defined below).
5. To achieve a long-term level of return commensurate with contemporary economic conditions and equal to or exceeding the investment objective set forth in this Policy Statement under the section labeled "Performance Expectations."

Investment Guidelines

Within this section of the Policy Statement, several terms will be used to articulate various investment concepts. The descriptions are meant to be general and may share investments otherwise considered to be in the same asset class. They are:

"Growth Assets" - a collection of investments and/or asset classes whose primary risk and return characteristics are focused on capital appreciation. Investments within the Growth Assets category can include income and risk mitigating characteristics, so long as the predominant investment risk and return characteristic is capital appreciation. Examples of such investments or asset classes are: domestic and international equities or equity funds, private or leveraged equity, certain real estate investments, and hedge funds focused on equity risk mitigation or equity-like returns.

"Income Assets" - a collection of investments and/or asset classes whose primary risk and return characteristics are focused on income generation. Investments within the Income Assets category can include capital appreciation and risk mitigating characteristics, so long as the primary investment risk and return characteristic is income generation. Examples of such investments or asset classes are: fixed income securities, guaranteed investment contracts, certain real estate investments, and hedge funds focused on interest rate risk mitigation or income investment-like returns.

"Real Return Assets" - a collection of investments and/or asset classes whose primary risk and return characteristics are focused on real returns after inflation. Investments within the Real Return category can include inflation protected securities, commodities, certain real estate investments and hedge funds.

Time Horizon

The Fund's investment objectives are based on a long-term investment horizon ("Time Horizon") of five to ten years or longer. Interim fluctuations should be viewed with appropriate perspective. The Chief Financial Officer has adopted a long-term investment horizon such that the risks and duration of investment losses are carefully weighed against the long-term potential for appreciation of assets.

Liquidity and Diversification

In general, the Fund may hold some cash, cash equivalent, and/or money market funds for near-term Fund spending needs and expenses (the “Fund Distributions”). Remaining assets will be invested in longer-term investments and shall be diversified with the intent to minimize the risk of long-term investment losses. Consequently, the total portfolio will be constructed and maintained to provide diversification with regard to the concentration of holdings in individual issues, issuers, countries, governments or industries.

Asset Allocation

The Chief Financial Officer believes that to achieve the greatest likelihood of meeting the Fund’s investment objectives and the best balance between risk and return for optimal diversification, assets will be invested in accordance with the targets for each asset class as follows to achieve an average total annual rate of return that is equal to or greater than the Fund’s target rate of return over the long-term, as described in the section titled “Performance Expectations”. The Chief Financial Officer, with input from the Investment Advisor and Investment Advisory Committee, has the authority to determine the target asset allocation.

<u>Asset Classes</u>	<u>Range</u>
Growth Assets	
Domestic Equity	10% - 60%
International Equity	0% - 40%
Other	0% - 20%
Income Assets	
Fixed Income	20% - 80%
Other	0% - 20%
Real Return Assets	0% - 20%
Cash Equivalents	0% – 20%

The performance of the total funds under direct management of the Advisor and each Manager will be evaluated against an appropriate benchmark and peer group.

Rebalancing Philosophy

The asset allocation range established by this Policy Statement represents a long-term perspective. As such, rapid unanticipated market shifts or changes in economic conditions may cause the asset mix to fall outside Policy Statement ranges. When allocations breach the specified ranges, the Advisor will rebalance the assets within the specified ranges, as soon as practical. The Advisor may also rebalance based on market conditions.

Risk Tolerance

Subject to investment objectives and performance expectations, the Fund will be managed in a style that seeks to minimize principal fluctuations over the established Time Horizon. The Fund is expected to have an average standard deviation of approximately 10%, or less, over a 5-10 year period, based upon the target asset allocation.

Performance Expectations

Over the long-term, five – ten years or longer, the performance objective for the Fund will be to achieve an average total annual rate of return that is equal to or greater than 6%, a combination of expected spending, 2.5%-3% annually, and inflation. Additionally, it is expected that the annual rate of return on Fund assets will be commensurate with the then prevailing investment environment. Measurement of this return expectation will be judged by reviewing returns in the context of industry standard benchmarks, peer universe comparisons for individual Fund investments and blended benchmark comparisons for the Fund in its entirety.

Selection of Investment Managers

The Advisor shall prudently select appropriate Managers to invest the assets of the Fund. Managers must meet the following criteria:

- ☐ The Manager must provide historical quarterly performance data compliant with Global Investment Performance Standards (GIPS[®]), Securities & Exchange Commission (“SEC”), Financial Industry Regulatory Agency (“FINRA”) or industry recognized standards, as appropriate.
- ☐ The Manager must provide detailed information on the history of the firm, key personnel, support personnel, key clients, and fee schedule (including most-favored-nation clauses). This information can be a copy of a recent Request for Proposal (“RFP”) completed by the Manager or regulatory disclosure.
- ☐ The Manager must clearly articulate the investment strategy that will be followed and document that the strategy has been successfully adhered to over time.
- ☐ The investment professionals making the investment decisions must have a minimum of three (3) years of experience managing similar strategies either at their current firm or at previous firms.
- ☐ Where other than common funds such as mutual funds or commingled trusts are utilized, the Manager must confirm receipt, understanding and adherence to this Policy Statement and any investment specific policies by signing a consent form provided to the Manager prior to investment of Fund assets.

Guidelines for Portfolio Holdings

Direct Investments by Advisor

Every effort shall be made, to the extent practical, prudent and appropriate, to select investments that have investment objectives and policies that are consistent with this Policy Statement (as outlined in the following sub-sections of the “Guidelines for Portfolio Holdings”). However, given the nature of the investments, it is recognized that there may be deviations between this Policy Statement and the objectives of these investments. All assets need to be held in the name of the City of Colorado Springs.

Limitations on Managers’ Portfolios

EQUITIES

No more than the greater of 5% or weighting in the relevant index (Russell 3000 Index for U.S. issues and MSCI ACWI ex-U.S. for non-U.S. issues) of the total equity portfolio valued at market may be invested in the common equity of any one corporation; ownership of the shares of one company shall not exceed 5% of those outstanding; and not more than 40% of equity valued at market may be held in any one sector, as defined by the Global Industry Classification Standard (GICS).

Domestic Equities. Other than the above constraints, there are no quantitative guidelines as to issues, industry or individual security diversification. However, prudent diversification standards should be developed and maintained by the Manager.

International Equities. The overall non-U.S. equity allocation should include a diverse global mix that is comprised of the equity of companies from multiple countries, regions and sectors.

FIXED INCOME

Fixed income securities of any one issuer shall not exceed 5% of the total bond portfolio at time of purchase. The 5% limitation does not apply to issues of the U.S. Treasury or other Federal Agencies. The overall rating of the fixed income assets as calculated by the Advisor shall be investment grade, based on the rating of one Nationally Recognized Statistical Rating Organization (“NRSRO”).

OTHER ASSETS (ALTERNATIVES)

Alternatives may consist of non-traditional asset classes such as hedge funds, private equity, real estate and commodities, when deemed appropriate. The total allocation to this category may not exceed 20% of the overall portfolio. Prior to adding an allocation to any of the following asset classes, with the exception of publicly-traded mutual fund vehicles, the Advisor shall receive approval from the Committee.

Hedge Funds: Primary objective shall be to enhance the risk-return profile of the overall portfolio. This can be accomplished by using a combination of hedge fund strategies that may enhance returns at a reasonable level of risk or reduce volatility while providing a reasonable level of return. These asset classes may differ from traditional public market asset classes due to the use of certain strategies including short-selling, leverage, and derivatives. Hedge funds may also invest across asset classes. The use of direct hedge funds and fund-of-hedge funds are allowed. For purposes of asset allocation targets and limitations, single strategy hedge funds will be categorized under the specific asset class of the fund. For example, a long/short U.S. equity fund will be categorized as “Other” in the Growth Assets category while a long/short credit fund will be categorized as “Other” in the Income Assets category. Multi-strategy hedge funds that cannot be easily categorized under one asset class will be included in “Other” under either the Growth Assets or Income Assets category depending on the risk-return profile of the strategy.

Private Equity: Private equity is less liquid than publicly traded equity securities and may provide returns that are greater than what is available in publicly traded markets. The private equity portfolio may include investments in a variety of commingled/partnership and direct investment vehicles including, but not limited to, venture capital, buyout, turnaround, mezzanine, distressed security, and special situation funds. The private equity portfolio is recognized to be long-term in nature and highly illiquid. Due to their higher risk, private equity investments are expected to provide higher returns than publicly traded equity securities. For purposes of asset allocation targets and limitations, these funds will be categorized as “Other” under the Growth Assets category.

Real Estate: Consists of publicly traded Real Estate Investment Trust (“REIT”) securities and/or non-publicly traded private real estate and shall be diversified across a broad array of property types and geographic locations. Investments of this type are designed to provide a stable level of income combined with potential for price appreciation, particularly in periods of unexpected inflation. For private real estate, the illiquid, long-term nature should be considered. For purposes of asset allocation targets and limitations, publicly traded REITs will be categorized as “Other” under the Growth Assets category. Depending on the investment characteristics of a private real estate fund, the fund will be categorized as “Other” under either the Income Assets category, for example, a core real estate fund, or under the Growth Assets category, for example, an opportunistic real estate fund where capital gains are expected to make up a significant portion of the total return.

Inflation Hedge: Shall consist of pooled vehicles holding among other assets: Treasury Inflation Protected Securities (“TIPS”), commodities or commodity contracts, index-linked derivative contracts, certain real estate or real property funds and the equity of companies in businesses thought to hedge inflation. Inflation hedge assets will be reported in the Real Return Assets category.

CASH EQUIVALENTS

Cash equivalents shall be held in funds complying with Rule 2(a)-7 of the Investment Company Act of 1940.

Portfolio Risk Hedging

Portfolio investments designed to hedge various risks including volatility risk, interest rate risk, etc. are allowed to the extent that the investments are not used for the sole purpose of leveraging Fund assets. One example of a hedge vehicle is an exchange traded fund (“ETF”) which takes short positions.

Prohibited Investments

Except for purchase within authorized investments, securities having the following characteristics are not authorized and shall not be purchased: letter stock and other unregistered securities, direct commodities or commodity contracts, or private placements (with the exception of Rule 144A securities). Further, derivatives, options, or futures for the sole purpose of direct portfolio leveraging are prohibited. Direct ownership of real estate, natural resource properties such as oil, gas or timber and the purchase of collectibles is also prohibited.

Safekeeping

All assets of the Fund shall be held by a custodian approved by the Chief Financial Officer for safekeeping of Fund assets. The custodian shall produce statements on a monthly basis, listing the name and value of all assets held, and the dates and nature of all transactions in accordance with the terms in the Custodial Agreement. Investments of the Fund not held as liquidity or investment reserves shall, at all times, be invested in interest-bearing accounts. Investments and portfolio securities may not be loaned.

Control Procedures

Review of Investment Objectives

The Advisor shall review annually and report to the Chief Financial Officer and City Council the appropriateness of this Policy Statement for achieving the Fund’s stated objectives. It is not expected that this Policy Statement will change frequently. In particular, short-term changes in the financial markets should not require an adjustment in this Policy Statement.

Review of Investment Performance

The Advisor shall provide quarterly reports to the Chief Financial Officer and meet on at least a semi-annual basis with the Chief Financial Officer and Investment Advisory Committee to review the investment performance of the Fund. In addition, the Advisor will be responsible for keeping the Chief Financial Officer and designated City Staff advised of any material change in investment strategy, Managers, and other pertinent information potentially affecting performance of the Fund.

The Advisor shall compare the investment results on a quarterly basis to appropriate peer universe benchmarks, as well as market indices in both equity and fixed income markets. Examples of benchmarks and indexes that will be used include the Russell 3000 Index for broad U.S. equity

strategies; S&P 500 Index for large cap U.S. equities, Russell 2000 Index for small cap U.S. equities, MSCI ACWI ex-U.S. Index for broad based non-U.S. equity strategies; MSCI Europe, Australasia, and Far East (EAFE) Index for developed markets international equities, Barclays Capital Aggregate Bond Index for fixed income securities, and the U.S. 91 Day T-bill for cash equivalents. The Russell 3000 Index will be used to benchmark the U.S. equities portfolio; the MSCI ACWI ex-U.S. Index will be used to benchmark the non-U.S. equities portfolio; the Barclays U.S. Aggregate Bond Index will be used to benchmark the fixed income portfolio. The categories “Other” will be benchmarked against appropriate indices depending on the specific characteristics of the strategies and funds used.

Voting of Proxies

The Chief Financial Officer recognizes that proxies are a significant and valuable tool in corporate governance. The voting rights of individual stocks held in separate accounts or collective, common, or pooled funds will be exercised by the investment managers in accordance with their own proxy voting policies. The voting rights of funds will be exercised by the Advisor.

Adoption of Investment Policy Statement

Any changes and exceptions to this Policy Statement will be made in writing and presented to the City Council of Colorado Springs for formal adoption and approval by resolution. Once adopted, changes and exceptions will be delivered to each Manager, as appropriate, by the Advisor.

Addendum to Cemetery Endowment Fund Investment Policy Statement

Asset Allocation Targets

The Chief Financial Officer, with input from the Investment Advisor and Investment Advisory Committee, has the authority to adjust the target asset allocations depending upon portfolio needs, market conditions and other factors that influence determination of the optimal diversification.

The Chief Financial Officer in consultation with the Investment Advisor and the Investment Advisory Committee (IAC) has determined the current asset allocation targets to be the following:

<u>Asset Classes</u>	<u>Asset Weightings</u>	
	<u>Range</u>	<u>Target</u>
Growth Assets		
Domestic Equity	10% - 60%	33%
International Equity	0% - 40%	17%
Other	0% - 20%	0%
Income Assets		
Fixed Income	20% - 80%	50%
Other	0% - 20%	0%
Real Return Assets	0% - 20%	0%
Cash Equivalents	0% - 20%	0%

Approved:



Chief Financial Officer

1/29/16
Date

Appendix D
Rider 1

16 September 2015

INVESTMENT ADVISOR PROVISIONS.

- A. The Contractor will determine the asset allocation of investments (the "Investment Strategy") for the City's long-term fund (the "Fund") (the "Investment Strategy" of the Fund) on the basis of information provided by the City, including the Fund's written investment policy, or other service providers, including the anticipated amounts of cash required by the Fund for distributions and other expenses, and the appropriate risk tolerance for the Fund based upon the cash needs of the Fund and the City's resources. The Contractor will then execute the Investment Strategy of the Fund by buying and selling shares of the investment funds. Initially the Fund shall be invested in investment funds in specified proportions as set forth in a separate schedule delivered to the City by the Contractor at or prior to the time the Fund is initially funded (as the same may be revised by the Contractor from time to time, the "Schedule").

The Contractor will reassess and may alter the Investment Strategy asset allocation at least annually and "rebalance" the investment funds as reflected in the Schedule at least annually to maintain the ratios of the Investment Strategy, and will consult with the City at least annually to determine whether there are reasons to revise the Investment Strategy. The Contractor will conduct a review at least annually of the performance of the investment funds held by the Fund and, in its judgment, will add to or reduce allocations to each investment fund and will add or delete investment funds (within the parameters of the Investment Strategy). The Contractor will promptly advise the City in writing of any revision of the Fund's Investment Strategy and any additions to or deletions from the investment funds held by the Fund. In addition, the Contractor will provide to the City a quarterly analysis of the performance of the investment funds in which the Fund is invested together with notice of any reallocation of assets among investment funds; the asset balances and market values for such analysis shall be as supplied to the Contractor by the Custodian (as hereinafter defined). In connection with all of the foregoing, the Contractor will promptly give the City written notice of any changes to the Schedule.

The City agrees to legally appoint or has appointed a custodian (the "Custodian") to take and have custody of cash, assets and securities of the Fund. The Custodian shall not be the Contractor and shall be independent of the Contractor. The City agrees to enter, or that it has entered, into a custodian agreement with the Custodian. The Contractor is authorized to give instructions to the Custodian with respect to the Fund as to deliveries of securities and payments of cash for the payment of securities. The Contractor shall not take possession of or act as custodian for the cash, securities or other assets of the Fund and shall have no responsibility in connection therewith. The Contractor agrees to recommend and to monitor the Custodian so that the City's custodial and transaction costs are appropriate for the level and nature of services rendered by the Custodian to the Fund, the City and the Contractor.

Authorized investments shall include only those investments which are permissible under applicable statutes and regulations and the Fund's written investment policy, as provided by the City to the Contractor. The Custodian or an affiliate of the Custodian may be the investment advisor of investment funds selected by the Contractor.

- B. If and to the extent that City shall request the Contractor to render services other than those to be rendered by the Contractor under this Contract, such additional services shall be compensated separately on terms to be agreed upon between the Contractor and City.
- C. The Contractor shall furnish at its own expense all necessary administrative services, office space, equipment, clerical personnel, telephone and other communication facilities, investment advisory facilities, and executive and supervisory personnel for managing the Fund. Except as expressly provided otherwise herein, the City shall pay all of its own expenses including, without limitation, taxes, commissions, fees and expenses of the City's independent auditors and legal counsel, if any, brokerage and other expenses connected with the execution of portfolio security transactions, insurance premiums, and fees and expenses of the Custodian.
- D. The Contractor hereby represents it is a registered investment advisor under the Investment Advisers Act of 1940. The Contractor shall immediately notify the City if at any time during the term of this Contract it is not so registered or if its registration is suspended. The Contractor agrees to perform its duties and responsibilities under this Contract with reasonable care. The federal securities laws impose liabilities under

certain circumstances on persons who act in good faith. Nothing herein shall in any way constitute a waiver or limitation of any rights which the City may have under any federal securities laws. The City hereby authorizes the Contractor to sign I.R.S. Form W-9 on behalf of the City and to deliver such form to broker-dealers or others from time to time as required in connection with securities transactions pursuant to this Contract.

- E. The City understands that the Contractor performs investment advisory services for various other clients which may include investment companies, commingled trust funds and/or individual portfolios. The City agrees that the Contractor, in the exercise of its professional judgment, may give advice or take action with respect to any of its other clients which may differ from advice given or the timing or nature of action taken with respect to the Fund. The Contractor shall not have any obligation to purchase, sell or exchange any security for the Fund solely by reason of the fact that the Contractor, its principals, affiliates, or employees may purchase, sell or exchange such security for the account of any other client or for itself or its own accounts.
- F. The Contractor shall have no liability for any losses arising out of the delays in performing or inability to perform the services which it renders under this Contract which result from events beyond its control, including interruption of the business activities of The Contractor or other financial institutions due to acts of God, acts of governmental authority, acts of war, terrorism, civil insurrection, riots, labor difficulties, or any action or inaction of any carrier or utility, or mechanical or other malfunction.
- G. The Contractor shall promptly give notice to the City if the Contractor shall have been found to have violated any state or federal securities law or regulation in any final and unappealable judgment in any criminal action or civil suit in any state or federal court or in any disciplinary proceeding before the Securities and Exchange Commission or any other agency or department of the United States, any registered securities exchange, FINRA, or any regulatory authority of any State based upon the performance of services as an investment advisor.
- H. The Contractor shall maintain records of all transactions in the Fund. The Contractor shall use its best efforts to cause the Custodian to provide the City with a statement, no less frequently than monthly, showing deposits, withdrawals, purchases and sales (or maturities) of investments, earnings received, and the value of assets held on the

last business day of the month all as provided for in the Custodian agreement between the City and the Custodian.

- I. The Contractor warrants that it has delivered to the City prior to the execution of this Contract the Contractor's current Securities and Exchange Commission Form ADV, Part 2A (brochure) and Part 2B (brochure supplement). The City acknowledges receipt of such brochure and brochure supplement prior to the execution of this Contract.



SCHEDULE A- FEE SCHEDULE

Fee Schedule	
Assets Under Management	Annual Fee (Invoiced Monthly in Arrears)
First \$10 million	
Next \$10 million	
Next \$30 million	
Next \$50 million	
Assets in excess of \$100 million	