



REQUEST FOR PROPOSAL
Graphic Design and Branding Services
for Denver Arts & Venues

• RFP Issued	April 3, 2020	
• Deadline to Submit Additional Questions	April 17, 2020	5:00 P.M. (MST)
• Response to Written Questions	April 24, 2020	
• Proposal Due Date	May 1, 2020	5:00 P.M. (MST)

Vendor offers to furnish the City and County of Denver the materials, supplies, products or services requested in accordance with the specifications and subject to the terms and conditions described herein.

VENDOR SIGN HERE

Company: _____

Address: _____

Contact: _____ | _____

(Authorized Signature)

(Print Name)

Signature constitutes acceptance of all Terms and Conditions listed on this form and all documents attached.

Email: _____

Phone: _____

SECTION A: GENERAL INFORMATION & PROPOSAL INSTRUCTIONS

A.1 PURPOSE:

Denver Arts & Venues (A&V) is seeking partnerships with strategic marketing and creative services firms to provide graphic design services, brand development and creative marketing solutions for its portfolio of venues, cultural programs and agency initiatives. Proposer(s) are encouraged to review A&V's portfolio of work at artsandvenues.com, denverpublicart.org, menicholsbuilding.com, redrocksonline.com, artscomplex.com, denvercoliseum.com and denverconvention.com.

A.2 ROCKY MOUNTAIN E-PURCHASING (BidNet®):

The City is collaborating with Rocky Mountain E-purchasing System (BidNet®) in the advertisement and facilitation of Formal Bids and RFPs administered by A&V.

If the proposer chooses to respond to this RFP through BidNet®, the interested party should familiarize themselves and register with BidNet®. Registration with BidNet® is available at NO CHARGE and allows proposers access to view governmental bids posted on BidNet®; they offer an additional notification service option with an associated fee. It is the responsibility of the proposer/ contractor to evaluate and select the service option of their choice.

The City is not responsible for the actions or lack thereof on the part of the proposer / contractor in regards to their interaction with BidNet®, or any other third-party bid notification service in relation to this RFP.

More information is available at: <http://www.rockymountainbidsystem.com/> or by calling 1-800-835-4603.

A.3 SUBMISSION OF PROPOSALS:

Submission of proposals for this solicitation may be done electronically through two (2) methods:

1. Email directly to **Josh Lenz** with Denver Arts & Venues at josh.lenz@denvergov.org
2. Submit electronically through BidNet® at www.rockymountainbidsystem.com, no later than the date and time indicated in the proposal.

A.4 RFP QUESTIONS:

The City shall not be bound by and the Vendor shall not request or rely on any oral interpretation or clarification of this RFP. Therefore, any questions regarding this RFP are encouraged and should be submitted in writing by email to:

Josh Lenz / E-Mail: josh.lenz@denvergov.org

Questions received up to deadline of 4/17 to will be answered via email by 4/24. Answers to questions from any Vendor will be provided to all Vendors.

No weighting or relative importance of criteria is intended or implied by this list. The City may request interviews or presentations as part of the evaluation process.

SECTION B: SCOPE OF WORK AND TECHNICAL REQUIREMENTS

B.1 GENERAL INFORMATION:

Denver Arts & Venues (A&V) is the City and County of Denver agency responsible for operating some of the region's most renowned facilities, including Red Rocks Park and Amphitheatre, Denver Performing Arts Complex, Colorado Convention Center, Denver Coliseum and McNichols Civic Center Building. A&V also oversees the Denver Public Art Program, Five Points Jazz Festival, Denver's Cultural Plan, Urban Arts Fund, Youth One Book One Denver and other cultural programs.

A&V is looking for one or more full service creative agencies to provide graphic design services, brand development and creative marketing solutions for its portfolio of venues, cultural programs and agency initiatives.

The ideal partner firm(s) should excel at:

- Creating new brand positioning and evolving existing legacy assets
- Developing compelling imagery and messaging that can be effectively communicated across multiple mediums, including digital and print
- Being proactive in sharing data-driven insights, consumer trends and competitive analysis to inform strategy
- Account management and have the capacity to lead/collaborate with other partnering firms on brand applications
- Managing multiple projects concurrently, with deliverables sometimes occurring weekly or daily

B.2: SCOPE OF SERVICES:

The successful strategic marketing and creative services provider(s) will have proven experience with the services below that could include:

- Brand Development & Positioning
- Corporate Identity & Brand Architecture
- Logo Design & Brand Application
- Style Guides & Graphic Standards
- Event & Initiative Branding
- Product & Packaging Design
- Print & Large Format Collateral Design
- Digital, Web, Video, Mobile & Emerging Technology Design Support
- Experiential Design Support
- Cross-platform Marketing Solutions

- Digital & Social Content
- Data/Research, Brand Audits & Competitive Analysis
- Partner Management

Successful proposing firms will also be able to:

- Provide examples of work highlighting a variety of traditional and digital marketing campaigns, ranging from simple implementation projects to strategic client assignments.
- Provide examples of fees and rate structures for simple projects and broad/strategic assignments

B.3 PROPOSAL BUDGET:

Venue, program and project budgets vary annually based on individual needs. The successful firm(s) will work with an estimated budget of up to \$150,000 annually. Note: This contract does not imply an exclusive agreement with A&V, so annual budget may be allocated among multiple firms.

B.4 PROPOSER SUBMISSION REQUIREMENTS

The response to the RFP should be brief but comprehensive. The quality and detail of your responses will figure significantly in the overall evaluation of your proposal.

To standardize the format of all proposals, Proposers are required to respond to all questions in the order given and to list the item number and restate the question prior to giving their answer. Failure to comply with this requirement may result in your proposal being declared non-responsive.

There is a 30-page limit which includes complete response to all evaluation criteria points listed below. The following is not included in the page limit; appendices with resumes, samples of related work, and other required forms in Part 2.

The response shall include the following information for evaluation criteria:

Part 1: RFP Response

- a) Complete answers to the six (6) questions outlined below

Part 2: Additional Required Information

- a) Vendor Information Sheet – Section D
- b) References – Section E
- c) Diversity & Inclusiveness Form – Section F
- d) Small Business Information Request – Section G
- e) Response to proposed Sample Contract Terms and Conditions – Section H
- f) W9 Form

Part 1 – RFP RESPONSE

1. Signed Cover Sheet
2. Transmittal Letter: Include the team composition and point of contact for the consultant team with address, telephone, and email information.
3. General Approach & Firm Experience: Convey overall understanding of the scope of work and expertise in the creative services requested.
 - Describe your organization’s health, staff size, active client roster and capability to provide the planned services.
 - Describe your approach to account management and team staffing and provide a description of the methodology to be used to provide the requested services and deliverables.
 - Describe your proposed approach to working on multiple assignments simultaneously, managing costs and timelines, and your anticipated billing schedule.
4. Comparable Projects and Experience: Provide examples of comparable projects the team has completed and any relevant experience of team members.
 - Describe three (3) projects that best illustrate your ability to provide the scope of work outlined by A&V and/or cultural venues and arts marketing.
 - For each project:
 - Identify the specific role of the team members;
 - Describe the scope of work, the work products provided and the outcome of the project;
 - Describe how the branding or design was used and include sample materials within the response.
5. Project Personnel: Identify specific personnel who will be assigned to the project and the role/discipline of each.
 - Provide resumes for key team members as an Appendix. Specifically identify the project leads or specialists.
 - Describe the way that the team would allocate staff resources to a typical project.
6. Project Budget: Refer to Section C – Complete and attach the Project Budget matrix in Section C.2 to provide an overview of the team personnel and agency hourly rates.

Part 2 – ADDITIONAL REQUIRED INFORMATION

- Vendor Information Sheet – Section D

- References – Section E
- Diversity & Inclusiveness Form – Section F
- Small Business Information Request – Section G
- Response to Proposed Sample Contract – Section H (Contract Certification Form H.2)
- W9 Form

SECTION C: PRICING

C.1: PRICING INFORMATION:

All prices quoted shall be firm and fixed for the specified contract period. All pricing information shall be limited solely to this section of your proposal. The requirements have been developed to allow the City to uniformly evaluate prices submitted for the work. Accordingly, you should follow these instructions carefully and provide all data requested in the formats specified herein and in any referenced attachments.

Any omissions in this proposal shall be identified by each Vendor and incorporated into their proposal. The City will not increase the contract or any purchase order (either dollar amount or time) for items not included in the submitted proposal documents. The City reserves the right to purchase part or the entire proposal. Also, the City will not reimburse for parking, copies, mileage and other reimbursable requests unless preapproved in writing.

C.2: PROJECT BUDGET MATRIX

Please do not alter the City's pricing in anyway

Role Description (or equivalent)	Title of proposed team member in this role	Hourly rate	Name of proposed team member(s) in this role
Principal			
Project Lead/Manager			
Associate			
Researcher			
Marketing Specialist			
Graphic Designer			
Copywriter			
Administrative Support			
Other			

SECTION D: VENDOR INFORMATION

Vendor

Business Name

Tax ID # (TIN or SSN)

Business Address

Telephone Number

City, State Zip

Fax Number

Order Address (If different from above)

Email

City, State, Zip

Ordering Email (If different from above)

Remittance Name

Vendor Entity Type (check one)	
<input type="checkbox"/> Individual	<input type="checkbox"/> LLP/LLC
<input type="checkbox"/> Partnership	<input type="checkbox"/> Sole Proprietor
<input type="checkbox"/> Corporation	<input type="checkbox"/> Government
<input type="checkbox"/> Exempt/Non-Profit	<input type="checkbox"/> Employee

Remittance Address

City, State, Zip

Information

Dun & Bradstreet Number	
SIC Code and/or NAICS Code	

Disadvantaged Business Enterprise (DBE) <input type="checkbox"/> Yes <input type="checkbox"/> No	Certification Source	
Type (check all that apply)	Certification Number	
<input type="checkbox"/> DBE Disadvantage Business Enterprise	Certification Beginning Date	
<input type="checkbox"/> MBE Minority Business Enterprise	Certification Expiration Date	
<input type="checkbox"/> WBE Women Business Enterprise		
<input type="checkbox"/> SBE Small Business Enterprise		
<input type="checkbox"/> SBEC Small Business Enterprise Concessions		
<input type="checkbox"/> ACDBE Airport Concession Disadvantage Business Enterprise		
<input type="checkbox"/> Other: _____		

SECTION E: REFERENCES

E.1 REFERENCE LISTING:

Vendors shall furnish the names, addresses and telephone numbers of a minimum of three (3) firms or government organizations for which the vendor has provided similar projects:

REFERENCE 1

Company Name _____
Address _____
Reference _____
Reference Email Address _____
Telephone Number _____
Project Name _____

REFERENCE 2

Company Name _____
Address _____
Reference _____
Reference Email Address _____
Telephone Number _____
Project Name _____

REFERENCE 3

Company Name _____
Address _____
Reference _____
Reference Email Address _____
Telephone Number _____
Project Name _____

SECTION F: DIVERSITY & INCLUSIVENESS

F.1 DIVERSITY AND INCLUSIVENESS – EXECUTIVE ORDER #101:

Definitions

Diversity: Diversity refers to the extent to which a contractor/consultant has people from diverse background or communities working in its organization at all levels, is committed to providing equal access to business opportunities and achieving diversity in procurement decisions for supplies, equipment, and services, or promotes training and technical assistance to diverse businesses and communities such as mentoring and outreach programs and business engagement opportunities.

Inclusiveness: Inclusiveness, for purposes of Executive Order No. 101, includes the extent to which a contractor/consultant invites values, perspectives and contributions of people from diverse backgrounds and integrates diversity into its hiring and retention policies, training opportunities, and business development methods to provide an equal opportunity for each person to participate, contribute and succeed within the organization’s workplace. Inclusiveness also includes the extent to which businesses have an equal opportunity to compete for new business opportunities and establish new business relationships in the private and public sector.

Requirements

Using the attached form, entitled “Diversity and Inclusiveness in City Solicitations Information Request Form”, please state whether you have a diversity and inclusiveness program for employment and retention, procurement and supply chain activities, or customer service, and provide the additional information requested on the form. The information provided on the Diversity and Inclusiveness in City Solicitations Request Form will provide an opportunity for City contractors/consultants to describe their own diversity and inclusiveness practices. Contractors/Consultants are not expected to conduct intrusive examinations of their employees, managers, or business partners in order to describe diversity and inclusiveness measures. Rather, the City simply seeks a description of the contractor/consultant’s current practices, if any.

Diversity and Inclusiveness information provided by City contractors/consultants in response to City solicitations for services or goods will be collated, analyzed, and made available in reports consistent with City Executive Order No. 101. However, no personally identifiable information provided by or obtained from contractors/consultants will be in such reports.

Please link to the “[Diversity and Inclusiveness in City Solicitations - Information Request Form](#)” here.

If the link is unavailable, enter the following address into your web browser:

<https://fs7.formsite.com/CCDenver/form341/index.html>

SECTION G: SMALL BUSINESS INFORMATION REQUEST

In an effort to engage with underutilized businesses or communities, the City is requesting voluntary disclosure of any certification(s) held by your company, whether it is SBE, MBE, VBE, WBE, DBE or a combination of these categories. If the certifying entity is the City, documentation does not need to accompany your proposal.

Such certification is to be current and the certifying entity documentation should reflect the following information:

- The name of the Certifying body
- Name of the Supplier/vendor certified
- Contact information of the certifying body
- Start date/End date of the certification
- If applicable, commodities and services supplier/vendor is certified to perform
- Additional information as identified by the Certifying entity

The City would also like to know if your company is considered a small business but is not certified by any certifying body. In addition, if your company’s supply chain contains products from an underutilized entity/ small business that go into the creation of the products that you offer, please provide their information as well.

This information is for statistical purposes only and will not have any affect when evaluating the bid proposals.

Supplier Name:	
Type of Certification (s):	
Certifying entity(ies):	

Please submit copies of the appropriate certification(s) with your Proposal.

For more information on the SBA small business determination, the link to the process is <https://www.sba.gov/size-standards/>

SECTION H: SAMPLE CONTRACT

H.1 SAMPLE CONTRACT AGREEMENT

THIS AGREEMENT is made between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “City”) and [REDACTED], a Colorado limited liability company, with its principal place of business located at 1980 E. 4th Avenue, Denver, CO 80206 (the “Consultant”), jointly “the parties”.

The parties agree as follows:

1. COORDINATION AND LIAISON: The Consultant shall fully coordinate all services under the Agreement with the Executive Director of Denver Arts & Venues (“Executive Director”), or the Executive Director’s Designee.

2. SERVICES TO BE PERFORMED:

a. As the Executive Director directs, the Consultant shall diligently undertake, perform, and complete all of the services and produce all the deliverables set forth on **Exhibit A** to the City’s satisfaction.

b. The Consultant is ready, willing, and able to provide the services required by this Agreement.

c. The Consultant shall faithfully perform the services in accordance with the standards of care, skill, training, diligence, and judgment provided by highly competent individuals performing services of a similar nature to those described in the Agreement and in accordance with the terms of the Agreement.

3. TERM: The Agreement shall commence on **August 1, 2020**, and will expire on **July 31, 2023** (the “Term”). Subject to the Executive Director’s prior written authorization, the Consultant shall complete any work in progress as of the expiration date and the Term of the Agreement will extend until the work is completed or earlier terminated by the Executive Director.

4. COMPENSATION AND PAYMENT:

a. Budget. The City shall pay and the Consultant shall accept as the sole compensation for services rendered and costs incurred under the Agreement the line item amounts set forth in the budget contained in **Exhibit B**. Amounts billed may not exceed the budget set forth in **Exhibit B**.

b. Reimbursable Expenses: Reasonable actual expenses incurred by Consultant necessary to perform the services described in **Exhibit A** which are approved by the Executive Director shall be allowed under the Agreement.

c. Invoicing: Consultant shall provide the City with a monthly invoice in a format and with a level of detail acceptable to the City including all supporting documentation required by the City. The City's Prompt Payment Ordinance, §§ 20-107 to 20-118, D.R.M.C., applies to invoicing and payment under this Agreement.

d. Maximum Contract Amount:

(1) Notwithstanding any other provision of the Agreement, the City's maximum payment obligation will not exceed **\$150,000 ANNUALLY (the "Maximum Contract Amount")**. The City is not obligated to execute an Agreement or any amendments for any further services, including any services performed by Consultant beyond that specifically described in **Exhibit A**. Any services performed beyond those in **Exhibit A** are performed at Consultant's risk and without authorization under the Agreement.

(2) The City's payment obligation, whether direct or contingent, extends only to funds appropriated annually by the Denver City Council, paid into the Treasury of the City, and encumbered for the purpose of the Agreement. The City does not by this Agreement irrevocably pledge present cash reserves for payment or performance in future fiscal years. The Agreement does not and is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the City.

5. STATUS OF CONSULTANT: The Consultant is an independent contractor retained to perform professional or technical services for limited periods of time. Neither the Consultant nor any of its employees are employees or officers of the City under Chapter 18 of the Denver Revised Municipal Code, or for any purpose whatsoever.

6. TERMINATION:

a. The City has the right to terminate the Agreement with cause upon written notice effective immediately, and without cause upon ten (10) days prior written notice to the Consultant. However, nothing gives the Consultant the right to perform services under the Agreement beyond the time when its services become unsatisfactory to the Executive Director.

b. Notwithstanding the preceding paragraph, the City may terminate the Agreement if the Consultant or any of its officers or employees are convicted, plead *nolo contendere*, enter into a formal agreement in which they admit guilt, enter a plea of guilty or otherwise admit culpability to criminal offenses of bribery, kick backs, collusive bidding, bid-rigging, antitrust, fraud, undue influence, theft, racketeering, extortion or any offense of a similar nature in connection with Consultant's business. Termination for the reasons stated in this paragraph is effective upon receipt of notice.

c. Upon termination of the Agreement, with or without cause, the Consultant shall have no claim against the City by reason of, or arising out of, incidental or relating to termination, except for compensation for work duly requested and satisfactorily performed as described in the Agreement.

d. If the Agreement is terminated, the City is entitled to and will take possession of all materials, equipment, tools and facilities it owns that are in the Consultant's possession, custody, or control by whatever method the City deems expedient. The Consultant shall deliver all documents in any form that were prepared under the Agreement and all other items, materials and documents that have been paid for by the City to the City. These documents and materials are the property of the City. The Consultant shall mark all copies of work product that are incomplete at the time of termination "DRAFT-INCOMPLETE".

7. EXAMINATION OF RECORDS AND AUDITS: Any authorized agent of the City, including the City Auditor or his or her representative, has the right to access, and the right to examine, copy and retain copies, at City's election in paper or electronic form, any pertinent books, documents, papers and records related to Consultant's performance pursuant to this Agreement, provision of any goods or services to the City, and any other transactions related to this Agreement. Consultant shall cooperate with City representatives and City representatives shall be granted access to the foregoing documents and information during reasonable business hours and until the latter of three (3) years after the final payment under the Agreement or expiration of the applicable statute of limitations. When conducting an audit of this Agreement, the City Auditor shall be subject to government auditing standards issued by the United States Government Accountability Office by the Comptroller General of the United States, including with respect to disclosure of information acquired during the course of an audit. No examination of records and audits pursuant to this paragraph shall require Consultant to make disclosures in violation of state or federal privacy laws. Consultant shall at all times comply with D.R.M.C. 20-276.

8. WHEN RIGHTS AND REMEDIES NOT WAIVED: In no event will any payment or other action by the City constitute or be construed to be a waiver by the City of any breach of covenant or

default that may then exist on the part of the Consultant. No payment, other action, or inaction by the City when any breach or default exists will impair or prejudice any right or remedy available to it with respect to any breach or default. No assent, expressed or implied, to any breach of any term of the Agreement constitutes a waiver of any other breach.

9. INSURANCE:

a. General Conditions: Consultant agrees to secure, at or before the time of execution of this Agreement, the following insurance covering all operations, goods or services provided pursuant to this Agreement. Consultant shall keep the required insurance coverage in force at all times during the term of the Agreement, or any extension thereof, during any warranty period, and for three (3) years after termination of the Agreement. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as "A-"VIII or better. Each policy shall contain a valid provision or endorsement requiring notification to the City in the event any of the above-described policies be canceled or non-renewed before the expiration date thereof. Such written notice shall be sent to the parties identified in the Notices section of this Agreement. Such notice shall reference the City contract number listed on the signature page of this Agreement. Said notice shall be sent thirty (30) days prior to such cancellation or non-renewal unless due to non-payment of premiums for which notice shall be sent ten (10) days prior. If such written notice is unavailable from the insurer, Consultant shall provide written notice of cancellation, non-renewal and any reduction in coverage to the parties identified in the Notices section by certified mail, return receipt requested within three (3) business days of such notice by its insurer(s) and referencing the City's contract number. If any policy is in excess of a deductible or self-insured retention, the City must be notified by the Consultant. Consultant shall be responsible for the payment of any deductible or self-insured retention. The insurance coverages specified in this Agreement are the minimum requirements, and these requirements do not lessen or limit the liability of the Consultant. The Consultant shall maintain, at its own expense, any additional kinds or amounts of insurance that it may deem necessary to cover its obligations and liabilities under this Agreement.

b. Proof of Insurance: Consultant shall provide a copy of this Agreement to its insurance agent or broker. Consultant may not commence services or work relating to the Agreement prior to placement of coverages required under this Agreement. Consultant certifies that the certificate of insurance attached as **Exhibit C**, preferably an ACORD certificate, complies with all insurance requirements of this Agreement. The City requests that the City's contract number be referenced on the Certificate. The City's acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Agreement shall not act as a waiver of Consultant's breach of this Agreement

or of any of the City's rights or remedies under this Agreement. The City's Risk Management Office may require additional proof of insurance, including but not limited to policies and endorsements.

c. Additional Insureds: For Commercial General Liability, Auto Liability Professional Liability, and Excess Liability/Umbrella (if required) Consultant and subcontractor's insurer(s) shall include the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured.

d. Waiver of Subrogation: For all coverages required under this Agreement, Consultant's insurer shall waive subrogation rights against the City.

e. Subcontractors: All subcontractors (including independent contractors, suppliers or other entities providing goods or services required by this Agreement) shall be subject to all of the requirements herein and shall procure and maintain the same coverages required of the Consultant. Consultant shall include all such subcontractors as additional insured under its policies (with the exception of Workers' Compensation) or shall ensure that all such subcontractors maintain the required coverages. Consultant agrees to provide proof of insurance for all such subcontractors upon request by the City.

f. Workers' Compensation/Employer's Liability Insurance: Consultant shall maintain the coverage as required by statute for each work location and shall maintain Employer's Liability insurance with limits of \$100,000 per occurrence for each bodily injury claim, \$100,000 per occurrence for each bodily injury caused by disease claim, and \$500,000 aggregate for all bodily injuries caused by disease claims. Consultant expressly represents to the City, as a material representation upon which the City is relying in entering into this Agreement, that none of the Consultant's officers or employees who may be eligible under any statute or law to reject Workers' Compensation Insurance shall effect such rejection during any part of the term of this Agreement, and that any such rejections previously effected, have been revoked as of the date Consultant executes this Agreement.

g. Commercial General Liability: Consultant shall maintain a Commercial General Liability insurance policy with limits of \$1,000,000 for each occurrence, \$1,000,000 for each personal and advertising injury claim, \$2,000,000 products and completed operations aggregate, and \$2,000,000 policy aggregate.

h. Business Automobile Liability: Consultant shall maintain Business Automobile Liability with limits of \$1,000,000 combined single limit applicable to all owned, hired and non-owned vehicles used in performing services under this Agreement.

i. Professional Liability (Errors & Omissions): Consultant shall maintain limits of \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

j. Additional Provisions:

(i) For Commercial General Liability, the policy must provide the following:

(a) That this Agreement is an Insured Contract under the policy;

(b) Defense costs are outside the limits of liability;

(c) A severability of interests, separation of insureds provision (no insured vs. insured exclusion); and

(d) A provision that coverage is primary and non-contributory with other coverage or self-insurance maintained by the City.

(ii) For claims-made coverage:

(a) The retroactive date must be on or before the contract date or the first date when any goods or services were provided to the City, whichever is earlier.

(b) Consultant shall advise the City in the event any general aggregate or other aggregate limits are reduced below the required per occurrence limits. At their own expense, and where such general aggregate or other aggregate limits have been reduced below the required per occurrence limit, the Consultant will procure such per occurrence limits and furnish a new certificate of insurance showing such coverage is in force.

10. DEFENSE AND INDEMNIFICATION:

a. Consultant agrees to defend, indemnify, reimburse and hold harmless City, its appointed and elected officials, agents and employees for, from and against all liabilities, claims, judgments, suits or demands for damages to persons or property arising out of, resulting from, or relating to the work performed under this Agreement (“Claims”), unless such Claims have been specifically determined by the trier of fact to be the sole negligence or willful misconduct of the City. This indemnity shall be interpreted in the broadest possible manner to indemnify City for any acts or omissions of Consultant or its subcontractors

either passive or active, irrespective of fault, including City's concurrent negligence whether active or passive, except for the sole negligence or willful misconduct of City.

b. Consultant's duty to defend and indemnify City shall arise at the time written notice of the Claim is first provided to City regardless of whether Claimant has filed suit on the Claim. Consultant's duty to defend and indemnify City shall arise even if City is the only party sued by claimant and/or claimant alleges that City's negligence or willful misconduct was the sole cause of claimant's damages.

c. Consultant will defend any and all Claims which may be brought or threatened against City and will pay on behalf of City any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to enforce this indemnity obligation. Such payments on behalf of City shall be in addition to any other legal remedies available to City and shall not be considered City's exclusive remedy.

d. Insurance coverage requirements specified in this Agreement shall in no way lessen or limit the liability of the Consultant under the terms of this indemnification obligation. The Consultant shall obtain, at its own expense, any additional insurance that it deems necessary for the City's protection.

e. This defense and indemnification obligation shall survive the expiration or termination of this Agreement.

11. TAXES, CHARGES AND PENALTIES: The City is not liable for the payment of taxes, late charges or penalties of any nature, except for any additional amounts that the City may be required to pay under the City's prompt payment ordinance D.R.M.C. § 20-107, *et seq.* The Consultant shall promptly pay when due, all taxes, bills, debts and obligations it incurs performing the services under the Agreement and shall not allow any lien, mortgage, judgment or execution to be filed against City property.

12. ASSIGNMENT; SUBCONTRACTING: The Consultant shall not voluntarily or involuntarily assign any of its rights or obligations, or subcontract performance obligations, under this Agreement without obtaining the Executive Director's prior written consent. Any assignment or subcontracting without such consent will be ineffective and void, and will be cause for termination of this Agreement by the City. The Executive Director has sole and absolute discretion whether to consent to any assignment or subcontracting, or to terminate the Agreement because of unauthorized assignment or subcontracting. In the event of any subcontracting or unauthorized assignment: (i) the Consultant shall remain responsible to the City; and (ii) no contractual relationship shall be created between the City and any sub-consultant, subcontractor or assign.

13. INUREMENT: The rights and obligations of the parties to the Agreement inure to the benefit of and shall be binding upon the parties and their respective successors and assigns, provided assignments are consented to in accordance with the terms of the Agreement.

14. NO THIRD PARTY BENEFICIARY: Enforcement of the terms of the Agreement and all rights of action relating to enforcement are strictly reserved to the parties. Nothing contained in the Agreement gives or allows any claim or right of action to any third person or entity. Any person or entity other than the City or the Consultant receiving services or benefits pursuant to the Agreement is an incidental beneficiary only.

15. NO AUTHORITY TO BIND CITY TO CONTRACTS: The Consultant lacks any authority to bind the City on any contractual matters. Final approval of all contractual matters that purport to obligate the City must be executed by the City in accordance with the City's Charter and the Denver Revised Municipal Code.

16. SEVERABILITY: Except for the provisions of the Agreement requiring appropriation of funds and limiting the total amount payable by the City, if a court of competent jurisdiction finds any provision of the Agreement or any portion of it to be invalid, illegal, or unenforceable, the validity of the remaining portions or provisions will not be affected, if the intent of the parties can be fulfilled.

17. CONFLICT OF INTEREST:

a. No employee of the City shall have any personal or beneficial interest in the services or property described in the Agreement. The Consultant shall not hire, or contract for services with, any employee or officer of the City that would be in violation of the City's Code of Ethics, D.R.M.C. §2-51, et seq. or the Charter §§ 1.2.8, 1.2.9, and 1.2.12.

b. The Consultant shall not engage in any transaction, activity or conduct that would result in a conflict of interest under the Agreement. The Consultant represents that it has disclosed any and all current or potential conflicts of interest. A conflict of interest shall include transactions, activities or conduct that would affect the judgment, actions or work of the Consultant by placing the Consultant's own interests, or the interests of any party with whom the Consultant has a contractual arrangement, in conflict with those of the City. The City, in its sole discretion, will determine the existence of a conflict of interest and may terminate the Agreement if it determines a conflict exists, after it has given the Consultant written notice describing the conflict.

18. NOTICES: All notices required by the terms of the Agreement must be hand delivered, sent by overnight courier service, mailed by certified mail, return receipt requested, or mailed via United States mail, postage prepaid, if to Consultant at the address first above written, and if to the City at:

Executive Director of Denver Arts & Venues or Designee

1345 Champa Street

Denver, Colorado 80204

With a copy of any such notice to:

Denver City Attorney's Office
1437 Bannock St., Room 353
Denver, Colorado 80202

Notices hand delivered or sent by overnight courier are effective upon delivery. Notices sent by certified mail are effective upon receipt. Notices sent by mail are effective upon deposit with the U.S. Postal Service. The parties may designate substitute addresses where or persons to whom notices are to be mailed or delivered. However, these substitutions will not become effective until actual receipt of written notification.

19. NO EMPLOYMENT OF ILLEGAL ALIENS TO PERFORM WORK UNDER THE AGREEMENT:

a. This Agreement is subject to Division 5 of Article IV of Chapter 20 of the Denver Revised Municipal Code, and any amendments (the "Certification Ordinance").

b. The Consultant certifies that:

(1) At the time of its execution of this Agreement, it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement.

(2) It will participate in the E-Verify Program, as defined in § 8-17.5-101(3.7), C.R.S., to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.

c. The Consultant also agrees and represents that:

(1) It shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.

(2) It shall not enter into a contract with a subconsultant or subcontractor that fails to certify to the Consultant that it shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.

(3) It has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement, through participation in either the E-Verify Program.

(4) It is prohibited from using either the E-Verify Program procedures to undertake pre-employment screening of job applicants while performing its obligations under the Agreement, and it is required to comply with any and all

federal requirements related to use of the E-Verify Program including, by way of example, all program requirements related to employee notification and preservation of employee rights.

(5) If it obtains actual knowledge that a subconsultant or subcontractor performing work under the Agreement knowingly employs or contracts with an illegal alien, it will notify such subconsultant or subcontractor and the City within three (3) days. The Consultant shall also terminate such subconsultant or subcontractor if within three (3) days after such notice the subconsultant or subcontractor does not stop employing or contracting with the illegal alien, unless during such three-day period the subconsultant or subcontractor provides information to establish that the subconsultant or subcontractor has not knowingly employed or contracted with an illegal alien.

(6) It will comply with any reasonable request made in the course of an investigation by the Colorado Department of Labor and Employment under authority of § 8-17.5-102(5), C.R.S., or the City Auditor, under authority of D.R.M.C. 20-90.3.

d. The Consultant is liable for any violations as provided in the Certification Ordinance. If Consultant violates any provision of this section or the Certification Ordinance, the City may terminate this Agreement for a breach of the Agreement. If the Agreement is so terminated, the Consultant shall be liable for actual and consequential damages to the City. Any such termination of a contract due to a violation of this section or the Certification Ordinance may also, at the discretion of the City, constitute grounds for disqualifying Consultant from submitting bids or proposals for future contracts with the City.

20. DISPUTES: All disputes between the City and Consultant arising out of or regarding the Agreement will be resolved by administrative hearing pursuant to the procedure established by D.R.M.C. § 56-106(b)-(f). For the purposes of that administrative procedure, the City official rendering a final determination shall be the Executive Director as defined in this Agreement.

21. GOVERNING LAW; VENUE: The Agreement will be construed and enforced in accordance with applicable federal law, the laws of the State of Colorado, and the Charter, Revised Municipal Code, ordinances, regulations and Executive Orders of the City and County of Denver, which are expressly incorporated into the Agreement. Unless otherwise specified, any reference to statutes, laws, regulations, charter or code provisions, ordinances, executive orders, or related memoranda, includes amendments or supplements to same. Venue for any legal action relating to the Agreement will be in the District Court of the State of Colorado, Second Judicial District (Denver District Court).

22. NO DISCRIMINATION IN EMPLOYMENT: In connection with the performance of work under the Agreement, the Consultant may not refuse to hire, discharge, promote or demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, gender identity or gender expression, marital status, or physical or mental disability. The Consultant shall insert the foregoing provision in all subcontracts.

23. COMPLIANCE WITH ALL LAWS: Consultant shall perform or cause to be performed all services in full compliance with all applicable laws, rules, regulations and codes of the United States, the State of Colorado; and with the Charter, ordinances, rules, regulations and Executive Orders of the City and County of Denver.

24. LEGAL AUTHORITY: Consultant represents and warrants that it possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution or action passed or taken, to enter into the Agreement. Each person signing and executing the Agreement on behalf of Consultant represents and warrants that he has been fully authorized by Consultant to execute the Agreement on behalf of Consultant and to validly and legally bind Consultant to all the terms, performances and provisions of the Agreement. The City shall have the right, in its sole discretion, to either temporarily suspend or permanently terminate the Agreement if there is a dispute as to the legal authority of either Consultant or the person signing the Agreement to enter into the Agreement.

25. NO CONSTRUCTION AGAINST DRAFTING PARTY: The parties and their respective counsel have had the opportunity to review the Agreement, and the Agreement will not be construed against any party merely because any provisions of the Agreement were prepared by a particular party.

26. ORDER OF PRECEDENCE: In the event of any conflicts between the language of the Agreement and the exhibits, the language of the Agreement controls.

27. INTELLECTUAL PROPERTY RIGHTS: The City and Consultant intend that all property rights to any and all materials, text, logos, documents, booklets, manuals, references, guides, brochures, advertisements, URLs, domain names, music, sketches, web pages, plans, drawings, prints, photographs, specifications, software, data, products, ideas, inventions, and any other work or recorded information created by the Consultant and paid for by the City pursuant to this Agreement, in preliminary or final form and on any media whatsoever (collectively, "Materials"), shall belong to the City. The Consultant shall disclose all such items to the City and shall assign such rights over to the City upon completion of the Project. To the extent permitted by the U.S. Copyright Act, 17 USC § 101, *et seq.*, the Materials are a "work made for hire" and all ownership of copyright in the Materials shall vest in the City at the time the Materials are created. To the extent that the Materials are not a "work made for hire," the

Consultant (by this Agreement) sells, assigns and transfers all right, title and interest in and to the Materials to the City, including the right to secure copyright, patent, trademark, and other intellectual property rights throughout the world and to have and to hold such rights in perpetuity.

28. SURVIVAL OF CERTAIN PROVISIONS: The terms of the Agreement and any exhibits and attachments that by reasonable implication contemplate continued performance, rights, or compliance beyond expiration or termination of the Agreement survive the Agreement and will continue to be enforceable. Without limiting the generality of this provision, the Consultant's obligations to provide insurance and to indemnify the City will survive for a period equal to any and all relevant statutes of limitation, plus the time necessary to fully resolve any claims, matters, or actions begun within that period.

29. ADVERTISING AND PUBLIC DISCLOSURE: The Consultant shall not include any reference to the Agreement or to services performed pursuant to the Agreement in any of the Consultant's advertising or public relations materials without first obtaining the written approval of the Executive Director. Any oral presentation or written materials related to services performed under the Agreement will be limited to services that have been accepted by the City. The Consultant shall notify the Executive Director in advance of the date and time of any presentation. Nothing in this provision precludes the transmittal of any information to City officials.

30. CONFIDENTIAL INFORMATION: Consultant acknowledges and accepts that, in performance of all work under the terms of this Agreement, Consultant may have access to Proprietary Data or confidential information that may be owned or controlled by the City, and that the disclosure of such Proprietary Data or information may be damaging to the City or third parties. Consultant agrees that all Proprietary Data, confidential information or any other data or information provided or otherwise disclosed by the City to Consultant shall be held in confidence and used only in the performance of its obligations under this Agreement. Consultant shall exercise the same standard of care to protect such Proprietary Data and information as a reasonably prudent consultant would to protect its own proprietary or confidential data. "Proprietary Data" shall mean any materials or information which may be designated or marked "Proprietary" or "Confidential", or which would not be documents subject to disclosure pursuant to the Colorado Open Records Act or City ordinance, and provided or made available to Consultant by the City. Such Proprietary Data may be in hardcopy, printed, digital or electronic format.

31. CITY EXECUTION OF AGREEMENT: The Agreement will not be effective or binding on the City until it has been fully executed by all required signatories of the City and County of Denver, and if required by Charter, approved by the City Council.

32. AGREEMENT AS COMPLETE INTEGRATION-AMENDMENTS: The Agreement is the complete integration of all understandings between the parties as to the subject matter of the Agreement. No prior, contemporaneous or subsequent addition, deletion, or other modification has any

force or effect, unless embodied in the Agreement in writing. No oral representation by any officer or employee of the City at variance with the terms of the Agreement or any written amendment to the Agreement will have any force or effect or bind the City.

33. USE, POSSESSION OR SALE OF ALCOHOL OR DRUGS: Consultant shall cooperate and comply with the provisions of Executive Order 94 and its Attachment A concerning the use, possession or sale of alcohol or drugs. Violation of these provisions or refusal to cooperate with implementation of the policy can result in contract personnel being barred from City facilities and from participating in City operations.

34. ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS: Consultant consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature under the Agreement, may be signed electronically by the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

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[SIGNATURE PAGES FOLLOW]

H.2 CONTRACT CERTIFICATION FORM

Request for Proposal:

Graphic Design and Branding Services for Denver Arts and Venues

NOTICE: ANY PROPOSED MODIFICATIONS TO THE LANGUAGE OF THE CITY'S SAMPLE AGREEMENT MUST BE CONTAINED IN THE PARAGRAPHS BELOW OR ON A REDLINED VERSION OF THE SAMPLE AGREEMENT. ANY PROPOSER MODIFICATION THAT DOES NOT INCLUDE SPECIFIC LANGUAGE CHANGES MAY BE CONSIDERED NON-RESPONSIVE BY THE CITY AND PROPOSER WAIVES ANY RIGHTS TO NEGOTIATE THE SAMPLE AGREEMENT LANGUAGE AT A LATER TIME. THE FOLLOWING TERMS OF THE AGREEMENT ARE NON-NEGOTIABLE:

- Governing Law and Venue
- Discrimination in Employment
- Examination of Records

THE FOLLOWING TERMS OF THE AGREEMENT ARE ONLY NEGOTIATED IN EXCEPTIONAL CIRCUMSTANCES:

- Payment
- Defense and Indemnification
- Termination for Convenience

I, on behalf of the proposer identified below, hereby certify that I have read a copy of the sample contract attached to the Proposal. I further hereby certify that it is the proposer's intent to agree to, and comply with each and every term and provision contained in the sample contract and propose no modifications to the sample contract except as follows (add additional lines as necessary):

1) _____

2) _____

I understand that the language modification(s) stated above, if any, are offered for discussion purposes only and that the City reserves the right to accept, reject or further negotiate any and all proposed modification to the sample contract. Proposer expressly agrees to all sample contract language where no modifications are proposed.

Company/Proposer Name: _____

Authorized Signature: _____

Name (please print): _____

Title: _____

Date: _____