REQUEST FOR QUALIFICATIONS

SCHEDULE OF EVENTS

<table>
<thead>
<tr>
<th>Event</th>
<th>Date</th>
<th>Time</th>
<th>Location</th>
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<tbody>
<tr>
<td>Request for Qualifications Issued</td>
<td>September 2, 2021</td>
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<tr>
<td>Deadline to Submit Questions</td>
<td>September 10, 2021</td>
<td>10:00 a.m.</td>
<td>Local Time</td>
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<tr>
<td>Response to Written Questions</td>
<td>September 14, 2021</td>
<td>5:00 p.m.</td>
<td>Local Time</td>
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<tr>
<td>Submittal Due</td>
<td>September 23, 2021</td>
<td>10:00 a.m.</td>
<td>Local Time</td>
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Submitter offers to furnish to 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.

SUBMITTER TO SIGN HERE:

Company Name: ____________________________________________________________

By: ____________________________________________________________________

(Printed or Typed Name)

Signature: __________________________________________________________________

(Signature constitutes acceptance of all items listed on this form and all documents attached.)

Email: ___________________________________________________________________

Phone: ___________________________________________________________________
The Department of Transportation and Infrastructure, City and County of Denver, has issued a Request for Qualifications (the “RFQ”) for technical and logistical assistance services for the Denver Engaged and Active Communities project, as further described below. A link to the RFQ documents can be found at www.work4denver.com. Interested parties shall email their contact information to doti.procurement@denvergov.org to receive addendum and communication regarding this solicitation.

Submission of Responses shall be done electronically to doti.procurement@denvergov.org Responses are due at 10:00 a.m. MST September 23, 2021 delivered the email address above, Attn: Administrator - Danielle Abbott. Late submissions will not be accepted. Submitters who feel they are unable to prepare and submit an electronic submittal should submit a request in writing to the Administrator, no later than the Question due date, for permission and instructions for submitting a hardcopy submittal.

General Statement of Work: The City and County of Denver, Department of Transportation and Infrastructure, desires to solicit Statements of Qualifications submittals (“SOQ”) for technical assistance for built environment assessments, community organizing, and relationship building. The selected firm will also provide technical and logistical support for events, community outreach, education and trainings, and evaluation. Ideally, this firm will have a robust history with data assessments, community engagement, demonstration projects, policy efforts, and tactical urbanism within the built environment and active transportation field.

Question Deadline: All questions shall be submitted in writing by September 10, 2021 at 10:00am local time.

Minimum Wage Requirement: City contracts are subject to payment of City Minimum Wage established pursuant to Section 20-82 through 20-84 D.R.M.C.

General: As the City’s best interests may appear, the Executive Director of the Department of Transportation and Infrastructure reserves the right to waive informalities in, and to reject any or all, submittals.

Miscellaneous: Without limiting the generality of the foregoing, the awarded submittler shall comply with any and all applicable public emergency or public health orders issued by any federal, state, municipal or local governmental entity, or any department or agency thereof, including the Colorado Department of Public Health & Environment (CDPHE) and the Denver Department of Public Health & Environment (DDPHE).

Publication Dates: September 2, 3, 7, 2021
Published In: The Daily Journal
SECTION A: GENERAL INFORMATION & SUBMITTAL INSTRUCTIONS

A.1 BACKGROUND AND SCOPE:

The City and County of Denver, Department of Transportation and Infrastructure, hereinafter referred to as the City, desires to solicit Statements of Qualifications submittals (“SOQ”) relating to technical and logistical assistance services for the Denver Engaged and Active Communities project. Denver Department of Transportation and Infrastructure (DOTI) is a modern agency focused on increasing mobility and safety while reducing congestion and fighting climate change. Denver’s Department of Transportation and Infrastructure (DOTI) works with community partners, city agencies, and community members to increase the quantity and quality of built environment spaces that encourage physical activity through the Denver Engaged and Active Communities project, which includes the implementation of a range of programs and activities aimed at creating environmental and policy change to improve the built environment and safe places for physical activity for Denver communities. This program is publicly known as the Denver Community Active Living Coalition (Denver CALC, www.denvercalc.org). The goal of this project is to improve the health of communities experiencing the highest health and built environment disparities through grassroots engagement and the institutionalization of health equity in city planning, prioritization, and policy systems. The Denver CALC’s vision is a city with safe, convenient, and fun spaces to walk, roll, bike, and take transit where residents of all ages and abilities can connect to their environment and one another.

DOTI will lead the coordination effort, creating community coalitions that include youth and disparate community residents, improving coordination among partners for assessment and implementation, evaluating and improving policies related to safe routes and the built environment, and creating effective messaging about active transportation opportunities and benefits.

As an important partner on the Denver Engaged and Active Communities project, the selected contractor will provide technical assistance for built environment assessments, community organizing, and relationship building. They will also provide technical and logistical support for events, community outreach, education and trainings, and evaluation. The ideal contractor will have a robust history with data assessments, community engagement, demonstration projects, policy efforts, and tactical urbanism within the built environment and active transportation field. The term of this contract will be from September 1, 2021-June 30, 2023.

A.2 SAMPLE AGREEMENT:

The City’s policy is not to negotiate contract terms. The Defense and Indemnification provision, insurance requirements, the Audit provision, provisions relating to non-discrimination, DSBO program goals where applicable, prevailing wage requirements where applicable, minimum wage and appropriation are standardized City provisions and not subject to negotiation. All concerns regarding the sample contract must be raised at the time of proposal or will be considered waived.

A.3 SUBMISSION REQUIREMENTS:

Submit one electronic document to doti.procurement@denvergov.org, no later than the date and time listed in the Schedule of Events. Late submissions will not be accepted.
Submittals shall consist of the following separate sections:

**Section 1** Letter of Transmittal listing the following:
   a) Complete Vendor Signature Page
   b) Provide Certificate of Good Standing from Colorado Secretary of State

**Section 2** Contract Comments - Any award as a result of this submittal shall be contingent upon the execution of an appropriate contract (see Sample Agreement). If there is contention(s) with the Terms and Conditions, a brief explanation and alternative language, if any, should be included in your submittal, as designated above. Any exceptions to the Terms and Conditions will be taken into consideration when evaluating submittals. The City reserves the right to reject any or all of your proposed modifications.

**Section 3** Statement of Qualifications
   a) Qualifications and experience of firm in the professional areas listed in the scope, including community engagement, coalition building, and capacity building. (20 points)
   b) Qualifications and experience of key personnel (including any subconsultants) who will be assigned to this contract, including the key point of contact clearly identified. (10 points)
   c) Project Approach: Provide a narrative describing the project approach, including how the firm will effectively complete the scope of the project. (15 points) (max 5 pages)
   d) Potential engagement strategies and partners (10 points)
   e) Project management and communication (10 points)
   f) Related Experience: Provide a brief summary of related/past experience with delivery of similar scopes. (10 points) (max 3 pages)
   g) Diversity, Equity, and Inclusion (DEI) Plan: Provide a narrative describing how firm incorporates DEI into overall work, and how firm will incorporate DEI into this scope. (15 points) (3-5 pages)
   h) Mission Alignment: Provide a brief narrative of your organization’s primary goals/mission, indicating your connections to or commitments to the program, DOTI, and City goals/mission (10 points) (1 page)

**A.4 RFQ QUESTIONS**

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

**Administrator:** Danielle Abbott at doti.procurement@denvergov.org

Questions received up to deadline in the Schedule of Events will be answered in writing. Answers to questions from any Contractor/consultant will be provided to all firms.

All communications regarding this proposal shall only be through the City’s administrator listed above. No communication is to be directed to any other City personnel, communication with City employees, other than the Administrator, regarding the subject of this RFQ during procurement may, in the City’s sole discretion, result in disqualification.
A.5 ADDENDA

In the event it becomes necessary to revise, change, modify or cancel this RFQ or to provide additional information, an addenda will be issued to all recipients of this RFQ who have provided contact information to the Administrator listed above.

A.6 ALTERNATE RESPONSES

It is our intent to solicit submittals that afford the City the most cost efficient, technically responsive submittal for the acquisition of the subject matter of this RFQ. However, we recognize that there may be arrangements different from that requested hereunder that would offer additional benefits to the City while satisfying the applicable requirements of this RFQ. Accordingly, you may submit alternative submittals for consideration, that offer such additional benefits in addition to the requested baseline submittal. These alternatives will be evaluated in conjunction with the primary (baseline) approach for each submittal.

A.7 TECHNICAL REQUIREMENTS/STATEMENT OF WORK

Section B of this RFQ contains the proposed Statement of Work and/or Technical Requirements (“SOW/TR”). This document shall form the basis of a Contractual Agreement covering the subject matter of this RFQ. Exceptions or deviations to this SOW/TR must not be added to the submittal pages but must be on contractor/consultant's letterhead and accompany submittal. Any exceptions to this documentation will be taken into consideration when evaluating submittals. The City reserves the right to reject any or all proposed modifications. The City welcomes cost saving submittals which still satisfy all technical and business objectives.

A.8 RFQ CONDITIONS AND PROVISIONS

This submittal must be signed by a duly authorized official of the proposing company. The completed and signed submittal (together with all required attachments) must be returned to the Department of Transportation and Infrastructure (“DOTI”). All participating Contractor/consultants, by their signature hereunder, shall agree to comply with all of the conditions, requirements, and instructions of this RFQ as stated or implied herein. Any alteration, erasure, or interlineation by the Contractor/consultant in this submittal shall constitute cause for rejection by Executive Director of DOTI. Exceptions or deviations to this submittal must not be added to the submittal pages but must be on contractor/consultant's letterhead and accompany submittal. Should the City omit anything from this RFQ which is necessary to a clear understanding of the work, or should it appear that various instructions are in conflict, then the Contractor/consultant shall secure written instructions from the Administrator at least forty-eight (48) hours prior to the time and date shown on Schedule of Events.

a) DOTI requires firms register with the System for Award Management site (“SAM.gov”) prior to entering into a contract with DOTI, there is no cost to use this site. Firms should register at the following link immediately if interested in contracting with DOTI. System for Award Management.

b) Typographical errors in entering quotations on submittal may result in loss of award of this submittal.

c) All firms are required to complete all information requested in this submittal. Failure to do so may result in the disqualification of submittal.
d) The City reserves the right to postpone or cancel this RFQ, or reject all submittals, if in its judgment it deems it to be in the best interest of the City to do so.

e) The Executive Director of DOTI reserves the right to waive any technical or formal errors or omissions and to reject any and all submittal(s), or to award contract for the items hereon, either in part or whole, if he deems it to be in the best interests of the City to do so.

f) The successful Contractor/consultant shall be in complete compliance with all of the specifications, terms and conditions of this submittal as outlined above.

g) The City shall not be liable for any costs incurred by contractor/consultant in the preparation of submittals or for any work performed in connection therein.

A.9 GRATUITIES AND KICKBACKS:

It shall be a breach of ethical standards for any person to offer, give, or agree to give any employee or former employee (within six months of termination from City employment), or for any employee or former employee (within six months of termination from City employment) to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding of application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or submittal therefore.

It shall be a breach of ethical standards for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor/subconsultant under a contract to the prime contractor/consultant or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

In the event that any gratuities or kickbacks are offered or tendered to any City and County of Denver employee, the submittal shall be disqualified and shall not be reinstated.

A.10 NON-COLLUSIVE CERTIFICATION:

By the submission of this submittal, the contractor/consultant certifies that:

A. The submittal has arrived by the contractor/consultant independently and has been submitted without collusion with any other contractor/consultant.

B. The contents of the submittal have not been communicated by the contractor/consultant, nor, to its best knowledge and belief, by any of its employees or agents, to any person not an employee or agent of the contractor/consultant or its surety on any bond furnished herewith, and will not be communicated to any such person prior to the official opening of the submittal.

C. No contractor/consultant shall submit more than one submittal for this solicitation. It shall be the responsibility of each contractor/consultant to obtain the prior written permission of the Executive Director of Public Works before submittal opening in every situation in which the contractor/consultant, due to corporate association or other affiliation, may be found to be impermissibly associated with another contractor/consultant. Failure to observe this requirement could result in all such affiliated submittals being rejected.

A.11 EVALUATION AND AWARDS:

The criteria to be used for the submittal evaluation include but are not limited to:
a) Demonstrate qualifications/experience of the firm in the professional areas listed herein, including community engagement, coalition building, data collection, planning community events, and capacity building.

b) Demonstrate qualifications/experience of key personnel

c) Describe how project approach aligned to support scope

d) Demonstrate strong practices, strategies, and partners for community engagement

e) Ability to manage project and communicate/report on tasks/outcomes

f) Diversity, Equity, and Inclusion Plan is strong, feasible and aligned with DOTI/Mayoral objectives.

 g) Demonstration of connections and commitments to program, DOTI, and city goals/mission

The Selection Committee for this solicitation is comprised of the following individuals:
Kayla Gilbert – DOTI Office of Community and Business Engagement
Michele Foust – DOTI Executive Office
Rebecca Draper - DOTI Office of Community and Business Engagement

All inquiries and questions regarding this RFQ shall be directed to Danielle Abbott in the Department of Transportation and Infrastructure in writing via email at DOTI.Procurement@denvergov.org.

A.12 GREENPRINT DENVER POLICY AND GUIDANCE:

The City and County of Denver, through its Greenprint Denver action plan, is committed to protecting the environment, and the health of the public and its employees. In accordance with this policy, City agencies are directed to procure cost-competitive products and services that minimize resource consumption and negative impacts on the environment and human health.

In requesting submittals for the City, when specifically required in the evaluation criteria, expects all responsive proposers to demonstrate commitment to and experience in environmental sustainability and public health protection practices applicable to their line of services. The City during its evaluation processes will actively assess the quality and value of all submittals.
SECTION B: SCOPE AND TECHNICAL REQUIREMENTS

To support Denver Engaged and Active Communities and to fulfill the project objectives, the proposer will perform the following activities through this agreement.

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<th>Deliverables</th>
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<tr>
<td><strong>Local Community Active Living Coalitions (L-CALCs):</strong></td>
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<tr>
<td>1. Assist with recruiting new members and supporting ongoing events and meetings in three L-CALC regions: Southwest Denver, Northwest Denver, and Northeast Denver (see L-CALC areas in Map 1).</td>
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<tr>
<td>2. Provide technical assistance to CALC Community Connectors (staffed in DOTI) for each L-CALC related to locally identified priorities. This may include community outreach and recruitment; built environment assessments; education and trainings; evaluation; and/or planning and implementation of community projects.</td>
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| **Community Active Living Coalition (Citywide)** |
| 1. Provide technical assistance to other priority neighborhoods (see DOTI Equity Index areas in Map 1) related to locally-identified priorities. This may include built environment assessments; community outreach and education; and/or planning and implementation of tactical urbanism or similar projects, including microgrant programs. |
| 2. Attend meetings of the CALC, review and contribute to deliverables such as the quarterly reporting, writing documentation/case studies/blog posts, collaborate on policy initiatives, participate in outreach/recruitment and evaluation, and provide additional support as needed. |
| 3. Co-facilitate Denver CALC Micro-Grant program with DEAC team, including promotion, application review, technical assistance to grantees, gathering evaluation/feedback, and creating case studies, blog posts, or other promotional material about specific projects or micro-grant. |
| 4. Create a case study or report on at least one technical assistance activity per year in either city-wide or L-CALC. |
| 5. Collaborate with DEAC leadership team and DOTI to identify and pursue additional opportunities for program funding and sustainability, including developing proposals for additional grant or budget requests. |

| **Tactical Urbanism Lending Library** |
| 1. Work with DOTI and other community partners to develop and maintain a tactical urbanism lending library, including supplies that local coalitions and residents of other priority neighborhoods can borrow for projects focused on locally-identified priorities. |

| **Streets for People Summit** |

RFQ B-1
1. Co-lead planning and organizational efforts for annual community-focused Streets for People Summit, a conference to engage Denverites in topics around built environment and health equity. Attend and support regular planning meetings, recruit and coordinate speakers and volunteers, and assist with promotion and logistical planning efforts.

**Total Budget: $95,000 over two-year contract**
$45,000 in Year 1 (Sept 1, 2021 – June 30, 2022; $50,000 in Year 2 July 1, 2022 – June 30, 2023)

Map 1: CALC Program Map and DOTI Equity Index
SECTION C: SAMPLE AGREEMENT

The City’s policy is not to negotiate contract terms. The Defense and Indemnification provision, insurance requirements, the Audit provision, provisions relating to non-discrimination, minimum wage and appropriation are standardized City provisions and not subject to negotiation. All concerns regarding the sample contract must be raised at the time of proposal or will be considered waived. Submittal shall include either that all terms and conditions are acceptable or that some are acceptable, and some are not. Underline or highlight those words, phrases, sentences, paragraphs, etc. that are not satisfactory and note any exceptions by referencing the appropriate article number, a brief explanation and alternative language, if any, and submit same as specified above.
AGREEMENT

THIS AGREEMENT is made between the CITY AND COUNTY OF DENVER, a municipal corporation of the State of Colorado (the “City”) and CONSULTANT, a Colorado corporation, with its principal place of business located at Street Address, City, Colorado ZIP (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 Transportation and Infrastructure, (“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 services and produce all deliverables set forth on Exhibit A, the Scope of Work, 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 will commence on July 1, 2021 and will expire on June 30, 2023 (the “Term”). The term of this Agreement may be extended by the City under the same terms and conditions for up to one (1) additional one (1) year renewal terms by a written amendment to this Agreement. 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. Fee: The City shall pay on a percentage or work complete basis, and Consultant shall accept as compensation for all services rendered and all costs incurred (except for reimbursable expenses permitted below) the lump sum fee set forth in Exhibit B.
b. **Reimbursable Expenses:** The City shall pay Consultant for only those expenses pre-approved in writing and identified in **Exhibit B.** All other expenses and costs are included in Consultant’s fee.

c. **Sole Compensation:** Consultant’s sole compensation shall consist of the Fees and Reimbursable Expenses described above.

d. **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.

e. **Maximum Contract Amount:**

   (1) Notwithstanding any other provision of the Agreement, the City’s maximum payment obligation will not exceed **NO DOLLARS AND NO CENTS** ($0.00) (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 thirty (30) 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, kickbacks, 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:** 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 forgoing 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 time 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 and Subconsultants:** All subcontractors and subconsultants (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 and subconsultants maintain the required coverages. Consultant agrees to provide proof of insurance for all such subcontractors and subconsultants 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. **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.

h. **Professional Liability (Errors & Omissions):** Consultant shall maintain limits of $1,000,000 per claim and $1,000,000 policy aggregate limit. Policy shall include a severability of interest or separation of insured provision (no insured vs. insured exclusion) and a provision that coverage is primary and non-contributory with any other coverage or self-insurance maintained by the City.

i. **Additional Provisions:**

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

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

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

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

      (iv) 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 hereby 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 the Department of Transportation and Infrastructure or Designee  
   201 W. Colfax Ave., Dept. 111  
   Denver, CO 80202

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 A WORKER WITHOUT AUTHORIZATION 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 a worker without authorization who will perform work under this Agreement, nor will it knowingly employ or contract with a worker without authorization to perform work under this Agreement in the future.
(2) It will participate in the E-Verify Program, as defined in § 8-17.5-101(3.7), C.R.S., and confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.

(3) 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 a worker without authorization to perform work under this Agreement.

(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 this Agreement knowingly employs or contracts with a worker without authorization, 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 worker without authorization, 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 a worker without authorization.

(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.

c. 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 this 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 the 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, demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, ethnicity, citizenship, immigration status, gender, age, sexual orientation, gender identity, gender expression, marital status, source of income, military status, protective hairstyle, or 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 agree that 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 of Consultant, including without limitation the ______® (collectively “Consultant Materials”) made available, directly or indirectly, by Consultant to City as part of the Scope of Services, are the exclusive property of Consultant or the third parties from whom Consultant has secured the rights to use such product. The Consultant Materials, processes, methods and services shall at all times remain the property of the Consultant; however, the Consultant hereby grants to the City a nonexclusive, royalty free, perpetual and irrevocable license to use the Consultant Materials. The Consultant shall mark or identify all such Consultant Materials to the City.

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:**
a. **City 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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