



CITY OF EVANS STORMWATER MANAGEMENT PLAN

REQUEST FOR PROPOSALS

Notice is hereby given that the City of Evans, Colorado is seeking a qualified consulting firm to provide professional planning services for the completion of a Stormwater Management Plan.

RFP SCHEDULE

Pre-Submittal Meeting	April 27, 2015 @ 2:00pm
Proposals Submittal Deadline:	May 4, 2015 @ 5:00pm MST
Interviews for Selected Consultants:	Week of May 11-15, 2015
City Council Approval of Consultant Contract:	June 2, 2015

Proposals shall be submitted no later than 5:00 pm on the above date and addressed to:

Name: Chad Reischl
Title: City Planner
Address: 1100 37th St.
Evans, CO 80620-2036
Email: creischl@evanscolorado.gov

CONTACT INFORMATION

All questions regarding this solicitation should be directed to the City representative listed below. Do not attempt to contact other City staff members regarding your submittal or any related proposal submittal. Emails will receive a quicker response than phone calls.

Name: Chad Reischl
Title: City Planner
Phone: 970-475-1136
Email: creischl@evanscolorado.gov

The City of Evans, Colorado reserves the right to reject any or all proposals or portions thereof, to accept a proposal or portion thereof, and to waive any informality.

TABLE OF CONTENTS

- I. Introduction
- II. Purpose & Goals
- III. Scope of Services
- IV. Submission Requirements
- V. Evaluation Criteria and Procedures
- VI. Terms and Conditions
- VII. Attachments
 - a. Sample Agreement

I. INTRODUCTION

The City of Evans, Colorado is seeking a qualified professional planning firm or consultant to facilitate a community planning process that culminates in the development of a Stormwater Master Plan (as described under “Project Objective” below). The planning study is funded by disaster recovery money through the Community Development Block Grant program (CDBG-DR) awarded to the City by the Colorado Department of Local Affairs. The selected consultant will facilitate discussions with city staff, engage the public on storm water management issues/concerns, and propose and prioritize improvements to the existing system. They will also aid the City of Evans in creating best practice standards for future residential, commercial, industrial and institutional development within the City, addressing system maintenance and management needs, creating cost estimates for our capital improvement plan and summarizing options for funding the implementation of the master plan.

STUDY AREA DESCRIPTION

The City of Evans, located along the South Platte River, was incorporated in 1869. From an initial population of around 400 Evans has grown to nearly 19,000 residents living in an urban area with a rural feel. Today, Evans is a community where our residents have a wide choice of housing, great schools, all the amenities of a large town, and a high quality of life.

The City consists of over 10 square miles of land although there is a significant amount of unincorporated land interspersed within the incorporated city limits. Nearly all the development within the City falls north of the South Platte River, although recent annexations have opened up the possibility of developments to the South of the River. The map shown in “Figure A” shows the boundaries of the study area for this project.

In September of 2013, devastating floods affected portions of the Study Area, destroying over 208 homes, damaging 100+ acres of regional park facility, and causing severe flooding with associated loss of roads, public infrastructure and private property. While most of the damage was caused from heavy rainfall upstream, the City realizes that considerable damage could occur if a similar storm hit us directly. In that light, the City is currently planning for the future with an interest in sustainability and resiliency whether the next major storm is up-stream or within our city.

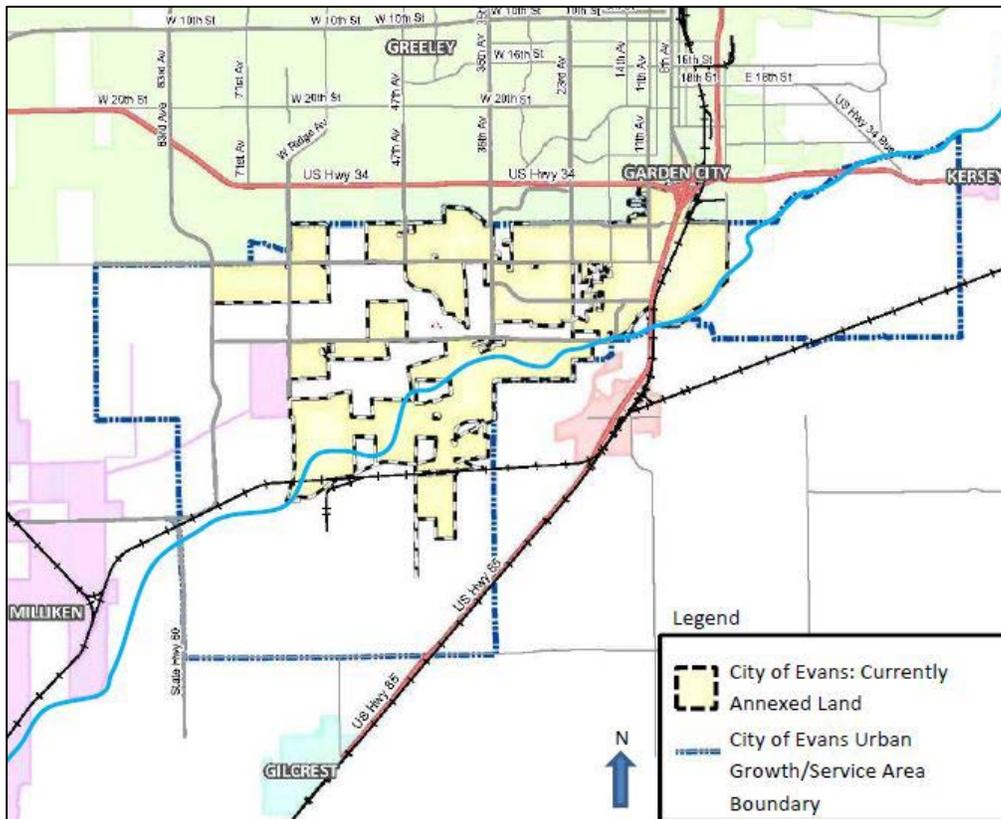


Figure A: Map of Evans with Urban Growth Area

II. PURPOSE AND GOALS

In March 1997 the City of Evans approved a Comprehensive Drainage Study for the community. This was the last time that the City's stormwater system was given a full examination. Since 1997 the city has more than doubled in size in both population and area. The city has grown both within the boundaries set forward in the previous study and has grown significantly in areas outside the boundary as well. Since completing the plan, we have seen new commercial developments with their associated parking lots and impervious surfaces spring up around town, constructed new stormwater infrastructure and made changes and upgrades to old systems. Time and growth have dictated that we now provide a new holistic look at our stormwater management system. Additionally the South Platte River flooding of 2013 and the damage associated with it reinforced our need to plan for the future with sustainability and resiliency in mind.

The purpose of this plan is to provide a comprehensive review and analysis of the existing stormwater system, to recommend improvements to ensure current and future demands are met, and to maintain the City's sustainability goals. This report will provide further detailed information of where the critical repairs in the City's infrastructure are most warranted and what alternatives would be best suited for the City. This plan will prioritize the environmental, fiscal, operations and maintenance needs for the City of Evans over the next 10+ years. The improvements suggested in this report will incorporate regulatory impacts, sustainability (based on best management practices), sustainable infrastructure, operations and maintenance, and cost estimates which will be prioritized into a Capital Improvements Plan (CIP)

While the stormwater management plan will provide detailed mapping and analysis of all drainage ways and stormwater infrastructure within the City of Evans and its growth area, a special focus will need to be placed on the following areas:

- The Highway 85 corridor – Identified in Northeast Colorado Regional Hazard Mitigation Plan as an area of concern for street flooding in a major storm event.
- The Riverside Neighborhood east of Highway 85 where there is currently a lack of stormwater infrastructure. This area saw a great deal of street flooding during the heavy rains preceding the 2013 flood. It will specifically address how to best serve the stormwater needs of the riverside neighborhood without putting a significant strain on community fiscal resources.
- Protecting the Evans Ditch from stormwater infiltration.
- Impacts of the flood on stormwater infrastructure and drainage ways along the South Platte River.

This project seeks to address multiple objectives for the city including

- Hazard Mitigation
- Quality of Life
- Economic and Community Development
- Fiscal Sustainability
- Flood Resiliency

III. SCOPE OF SERVICES

The selected consultant will be expected to provide a full range of planning and engineering services in order to meet the goals of the city listed above. This scope of services will include, but not be limited to the following:

- **Meeting and engaging with all necessary city staff** - In order to fully understand existing infrastructure and determine areas of concern within the city, the consultant team will need to meet extensively with city staff including public works, planning, finance, parks and recreation, fire, police, etc.
- **Public engagement** – While much of this planning process will be directed by the knowledge and experience of city staff, planning should never occur without the input of the community. Therefore, some level of public engagement

should be considered in this planning process. That input may be garnered from community meetings, community surveys, or other means deemed appropriate by the planning team. The consultant should address how they intend to engage the public in their proposal. This proposed public involvement plan will be reviewed and approved during the negotiation of a final contract.

- **Mapping** – The City of Evans has very limited mapping resources. The planning/engineering team will need to consider how they will provide adequate mapping for hydrologic analysis of existing drainage ways. Additional on the ground analysis may be necessary to fully map and analyze all current infrastructure and drainage ways, including facilities on private property. As part of the process, the City would like to work with the consultant to acquire GIS data sets created during the process for future use.
- **Coordination with other planning efforts** – The City is currently engaged in several planning, financing and infrastructural projects including, but not limited to, the Riverside Neighborhood Master Plan, a complete overhaul of the wastewater treatment system, re-design and reconstruction of Riverside Park, an impact fee study, and a restoration master plan for the South Platte River. These and all existing plans will need to be taken into consideration in this planning effort.
- **Reporting** – The consultant team should provide a 50% review copy to city staff, a 75% draft plan for public comment and following an appropriate comment period a full report to be approved by the Water and Sewer Board as well as City Council. The final report shall fully address all items listed below as well as feedback received from both city staff and public comment.
 - **Inventory and Analysis of Existing Public and Private Infrastructure** – A comprehensive evaluation of the existing facilities related to stormwater runoff, especially those impacted by the 2013 flooding. This inventory will involve coordination with previous and ongoing planning efforts of the City of Evans and where necessary those of neighboring jurisdictions.
 - **Proposed System Improvements** – Recommended improvements to the existing infrastructure analyzed in the above section. Alternatives will be evaluated to determine the most environmentally conscious, economical, and sustainable solution in accordance with the City’s goals.
 - **Sustainability** – The City’s goals are to implement low impact design solutions and integrated management practices that serve the stormwater needs of the city while improving quality of life, and lowering the impacts on town resources and the surrounding environment.
 - **Resilience** - Incorporate resiliency by tracking the following items in the event of 25, 50 and 100 yr. storms.
 - # and location of properties currently at risk of localized flooding and building damage
 - List of public facilities (e.g. playgrounds, bike trails, buildings, equipment storage, pump houses, etc) at risk of flooding
 - Locations and number of miles of roadway potentially impacted by street flooding and/or flooding of drainage ways
 - **Capital Improvement Plan** – Conceptual level cost estimates will be included as part of the capital improvement plan for projects identified in the planning efforts. Projects are prioritized and categorized into near-term (0-3 years), medium-term (4-7 years), and long-term (7+ years) improvements.
 - **Suggested Development Standards** – Recommended best management practices for new developments shall be provided in order to ensure that new growth and its associated infrastructure best integrates into the existing system. Furthermore, specific minimum design and specification criteria shall be provided for analysis of future storm drainage facilities.
 - **System Maintenance** – A summary of system maintenance items to be frequently addressed in order to maintain the functionality of the stormwater system.

- **System Management Requirements** – A summary of system requirements to maintain the highest order of efficiencies from the proposed improvements in order to accommodate future needs and generations well in to the future.
- **Funding Options**– A summary of the available grants and loan options from various agencies.

Schedule:

The city of Evans is anticipating a 14 to 16 month schedule for this planning project and hopes to have planning activities wrapped up by mid-2016. Following the RFP process and awarding of this project the selected consultant will work with city planning staff to develop an appropriate schedule for this project.

IV. SUBMISSION REQUIREMENTS

The proposal response should be fully self-contained and display clearly and accurately the capabilities, knowledge, experience, and capacity of the Respondent to meet the requirements of the project and the RFP. Respondents are encouraged to utilize methods they consider appropriate in communicating the required information. At a minimum, this will include submission of the information requested below:

- Firm Description
- Relevant Experience
- Resumes of Project Team
- Approach to Fulfilling Project Objectives
- Time Frame to complete
- Fee Schedule
- References (Minimum of three references within the last five years)
- Consultant and Professional Services Agreement/Insurance

The selected consultant will also be required to obtain a City of Evans, Colorado Business License.

One (1) bound copy (marked as original) of qualifications and one copy in PDF format on a flash drive should be submitted to Chad Reischl at the City of Evans offices at 1100 37th Street, Evans, Colorado 80620 no later than 5:00 pm by **Monday May 4, 2015**. Questions can be sent to Chad Reischl, City Planner, at creischl@evanscolorado.gov or (970) 475.1136. Interviews with the most qualified firms will be held on the week of May 11 – May 15, 2015.

In order to be considered, all requested information requested below shall be submitted. All material shall be presented in a succinct manner in the same order as presented in this RFP. Facsimile, emailed or electronic format proposals are not acceptable. The City will not be responsible for proposals delivered to a person/location other than that specified above.

A. FIRM DESCRIPTION AND EXPERIENCE

1. Consultant: Name, address, telephone number, FAX number, e-mail address, website address (if available)
2. Year the firm was established
3. Primary contacts within the company: Title, telephone number and email address for each. Indicate which person will be the contact for the RFP process.
4. Number of employees in firm and office locations
5. Consultant specialties: List of the type(s) of work the firm specializes in.
6. List of Lead Professional Personnel by Area of Expertise: Provide an organization chart describing staff available to handle the desired work. Provide a brief but detailed history of the number of years of experience with the

current firm and other firms, education, professional registration/certifications, and qualified work experience relevant to the services requested. Use separate pages for each person.

7. Current/Prior Experience with Municipal Projects (with emphasis on Study Area Master Plan projects): List up to five (5) projects, starting with the most recent, that the professional personnel of your firm have worked within the past 5 years. Provide the year the project was performed, the name of the municipality/jurisdiction and location (city), the owner's name, address, and contact name and phone number, e-mail address and the scope of work performed. Other related experience may be included.
8. Experience in working with flood related information and technical data, including working with Colorado State agencies and FEMA and other federal agencies is highly desired.

B. APPROACH TO FULFILLING THE PROJECT OBJECTIVE

1. Provide the tasks and narrative of how your firm will comply with fulfilling the project objective, and what special services and products your firm has to meet our needs and not exceed the agreement amount.
2. A description of how the firm provides the desired services and quality control to assure adequate level of service and successful project completion and management.
3. A time frame or chart showing start dates and major milestones along the way.
4. A statement indicating the firm is independent, properly licensed to practice in Colorado, and has no conflict of interest with regard to any other work performed by the firm for the City.

C. RATE SCHEDULE

Provide an itemized rate schedule that reflects the work proposed in Item B, Approach to Fulfilling the Project Objective. The rate schedule should include typical hourly charge rates for labor classifications anticipated.

D. REFERENCES

Provide three (3) references (names, addresses, phone numbers, e-mail addresses and contact persons) for comparable work for your firm and for the team members. Provide a brief description and magnitude of services provided for each reference.

E. CONSULTANT AND PROFESSIONAL SERVICES AGREEMENT / INSURANCE

Brief statement acknowledging the Consultant's willingness to accept the attached City's standard Consultant and Professional Services Agreement as is, detailing any modifications (see Attachment A).

The selected consultants/firm(s) shall demonstrate that they can meet the City of Evans, Colorado insurance requirements. Please refer to the attached City of Evans, Colorado Standard Consultant and Professional Services Agreement.

F. CONDITIONS OF REQUEST AND REQUIREMENTS

The following conditions apply to this RFP:

1. The City of Evans, Colorado (City) reserves the right to withdraw this solicitation of a proposal at any time without prior notice. Further, the City makes no representations that any agreement will be awarded to any firm submitting a proposal.
2. The City reserves the right to reject any and all proposals submitted in response to this request and to reject any sub-consultant or individual working on a consulting team.
3. Any changes to the proposal requirements will be made by addendum.
4. In any event, the City shall not be liable for any pre-contractual expenses incurred by any proposal or Consultant. This shall include pre-contractual expenses such as preparing the Proposal, submitting the Proposal to the City, negotiating with the City on any matter related to the Proposal or other expenses incurred prior to the date of award for any agreement related to the services herein described.

5. No prior, current or post award verbal agreement(s) with any officer, agent or employees of the City shall affect or modify any terms or modifications of this RFP or any contract or option resulting from this process.
6. The City reserves the right to waive any minor irregularities, informalities or oversights at its sole discretion. The term “minor” as used herein means any proposer or City irregularities or oversights that does not materially affect or alter the intent and purpose of this RFP, and is not in violation of any State of Colorado or Federal Government rules, laws and regulations that may apply to this procurement.

V. EVALUATION CRITERIA AND PROCEDURES

A. DISTRIBUTION AND OUTREACH

This RFP is being publicly posted and distributed and is open to any and all consultants who have expertise in related areas.

B. SELECTION TEAM

The City will rate prospective consultants (firms) for this work using only objective criteria based upon the information obtained from the Proposals. The firms with the highest ranking, based on experience and qualifications as described in the Proposal, will be invited for interviews. The proposed project manager and personnel will be requested to represent the firm at the interviews.

C. SELECTION CRITERIA

The City’s evaluation will consist of a matrix of requirements, qualifications and experience. The following criteria will be used in evaluating the submittals received in response to this RFP:

- Background and experience of firm and personnel
- Past performance and service on similar assignments/projects
- Firm’s quality assurance and control procedures
- Proposed approach to the completing the project objectives and community engagement (proposed scope of work)
- Technical qualifications (staff who will actually work on the projects)

D. SELECTION PROCEDURE

Consideration of a prospective consultant’s (firm’s) proposal will be made only if the prospective consultant meets all the minimum requirements of this RFP. The City reserves the right to adjust, increase, limit, suspend or rescind the rating based on subsequently learned information. The City reserves the right to award a contract to the firm (or firms) that present the best qualifications and which will best accomplish the desired results for the City.

Any consultant (firm) deemed not qualified, or consultants (firms) who’s rating changes sufficiently to disqualify them, will be notified in writing. No consultant shall have the right to an appeal based upon an incomplete or late submission of the proposal.

Request for Supplemental Information: The City reserves the right to require, from any or all consultants (firms), supplemental information that clarifies submitted materials.

Questions: All questions regarding this solicitation should be directed to the City representative listed in this RFP. Do not attempt to contact other City staff members regarding your submittal or any related proposal submittal.

Incomplete Proposals: Incomplete and/or unsigned submissions will not be considered. However, if a submission is incomplete, and if it appears that the omission can be corrected promptly, the affected firm may be contacted and offered the opportunity to complete the proposal and provide the required information within a prescribed period of time, which will not be extended. If a firm does not respond within the time stated, the proposal will not be considered.

Rejection of Submitted RFP: Proposals that are not current, accurate, and/or completed accurately in accordance with the prescribed format shall be considered non-responsive and eliminated from further consideration.

Selection Process Termination: The City reserves the right to terminate the selection process, at any time, without making an award to any or all consultants.

Disqualification: Factors such as, but not limited to, any of the following may be considered just cause to disqualify a proposal without further consideration:

- Any attempt to improperly influence any member of the selection staff;
- Existence of any lawsuit, unresolved contractual claim or dispute between consultant and the City;
- Evidence of consultant's inability to successfully complete the responsibilities and obligations of the proposal; and
- Consultant's default under any agreement, which results in termination of the agreement.

Undue Influence: All firms submitting proposals declare and warrant, on a separate attachment, that no undue influence or pressure is used against or in concert with any officer or employee of the City of Evans, Colorado in connection with the award or terms of Agreement that will be executed as a result of award of this contract, including any method of coercion, confidential financial arrangement, or financial inducement. No officer or employee of the City of Evans, Colorado will receive compensation, directly or indirectly, from the consultant, or from any officer, employee or agent of the consultant, in connection with the award of the Agreement or any work to be conducted as a result of the Agreement.

VI. EQUAL OPPORTUNITY

The City of Evans is an Equal Opportunity Employer and no otherwise qualified individual shall be subject to discrimination on the basis of race, color, religion or religious affiliation, sex, familial status, age, genetics, disability, or national origin in any phase of employment for this position.

The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 70u (Section 3) which states that: 1) Employment, training, contracting and other economic opportunities generated by HUD assistance shall, to the greatest extent feasible, be directed to low and very low-income persons residing within the project area; and 2), Contracts for work in connection with the project be awarded to businesses which are located in, or owned substantially by persons residing in the project area. All CDBG-DR funded projects must, to the greatest extent feasible, comply with Section 3 when contracting for professional services.

IV. ATTACHMENTS

A. Sample Agreement

CITY of EVANS, COLORADO

CONTRACT FOR PROFESSIONAL CONSULTING SERVICES

THIS AGREEMENT is made this ____ day of _____, 2015 by and between the City of _____, Colorado, a Colorado City (hereafter “the City”), and _____, (hereafter the “Consultants”).

RECITALS

WHEREAS, The City desires to obtain consulting services during the period from _____ through _____, in connection with the procurement of the _____ (hereafter the “Project”).

WHEREAS, The Consultants provide professional consulting services to the public and are fully qualified to perform the consulting services needed by the City in connection with the Project.

WHEREAS, pursuant to Title I of the Housing and Community Development Act of 1974, as amended, the State of Colorado Department of Local Affairs (DOLA) is authorized by the federal Department of Housing and Urban Development (HUD) to provide State of Colorado Community Development Block Grant Disaster Recovery Program funds (hereinafter referred to as CDBG-DR funds) to units of local government selected to undertake and carry out certain programs and projects under the State of Colorado Community Development Block Grant Disaster Recovery Program in compliance with all applicable local, state, and federal laws, regulations and policies.

WHEREAS, the City of Evans, as part of its CDBG-DR grant agreement with the Consultants under contract number CDBG-DR _____, has been awarded CDBG-DR funds for the purposes set forth herein.

WHEREAS, the Scope of Work included in this contract is authorized as part of the City of _____’s approved CDBG-DR project.

WHEREAS, it would be beneficial to the City of Evans to utilize the Consultants as an independent entity to accomplish the Scope of Work as set forth herein and such endeavor would tend to best accomplish the objectives of the local CDBG-DR project.

NOW, THEREFORE, in consideration of the mutual promises, covenants and provisions contained herein, and the mutual benefits to be derived therefrom, the parties hereto agree as follows:

COVENANTS AND CONDITIONS

NOW, THEREFORE, in consideration of the promises and obligations set forth below, the City and the Consultants agree as follows:

I. SCOPE OF SERVICES

A. General.

The Consultants shall serve as the City’s professional advisors and representatives in connection with the Project and shall consult with and advise the City as it reasonably requires during the term of this Agreement. As a general matter, they shall communicate with the City about the Project only through _____, who has been assigned by the City to the Project as Project Manager.

B. Specific Duties and Responsibilities

In connection with the Project, the Consultants shall undertake the duties and responsibilities and provide the services described in Appendix A, captioned “Scope of Work” which consists of ____ pages and is attached hereto and made a part hereof.

C. Extra Services.

Upon the express, written request of the City, the Consultants shall perform services beyond the scope of the duties and responsibilities described in Appendix A. The Consultants shall charge the City for such extra services, if any, in accordance with the provisions of Subsection IV.B.

D. Documents.

All work notes, reports, documents, computer programs (non-proprietary), computer input and output, analyses, tests, maps, surveys, or any other materials developed specifically for the Project are and shall remain the sole and exclusive property of the City. The Consultants, upon request by the City, agree to provide documents or any other materials developed specifically for the Project in an electronically editable format (for example, Word or WordPerfect). The Consultants shall not provide copies of any material prepared under this Agreement to any other party without the prior written consent of the City.

II. COOPERATION BY THE CITY

The City will thoroughly and as expeditiously as reasonably possible consider all reports, sketches, drawings, specifications, proposals, and other documents prepared by the Consultants, and it shall inform the Consultants of all decisions that it has made which would affect the Consultants’ work under this Agreement as soon as reasonably feasible. The City will inform the Consultants of any pending change or revision to the Project as soon as reasonably feasible. The City will provide the Consultants with current, updated plans, if any, for the Project as soon as reasonably feasible after they are produced.

III. TIME OF PERFORMANCE

The Consultants’ services are anticipated to be provided over the course of _____ months, occurring between _____ and _____. A detailed project schedule is presented in Appendix A. However, it is understood by the parties that the actual schedule may differ from what is anticipated. The City shall advise the Consultants in writing of each change in the schedule as soon as feasible after it becomes aware thereof, and the Consultants shall thereafter adjust the timing of their services so as to comply with the revised schedule. The Consultants shall provide their services at such times as are necessary in order to promote the smooth progress of the Project.

IV. AMOUNT OF PAYMENTS TO CONSULTANTS

A. Aggregate Limits.

Unless services in addition to those specified in Section I are subsequently agreed upon in writing, the total amount paid by the City to the Consultants pursuant to this Agreement shall not exceed the sum of **XXXXXX**

Dollars (\$_____).

B. Specific Charges.

The Consultants' primary employees who will work on the Project and their billing rates are set forth Appendix B, which consists of ____ page(s) and is attached hereto and made a part hereof. The City will pay the Consultants on the basis of their time and direct expenses incurred in order to provide the services required by this Agreement.

- I. The charge for time shall consist of the hourly rates for the Consultants' employees multiplied by the number of hours and parts of hours each such employee works directly on the Project. The time each such employee must spend traveling in order to provide the services required by this Agreement will be charged in the same way as his or her other time spent working on the Project. It is understood by the parties that the rates include a surcharge intended to cover profit and overhead, including, but not limited to, taxes, employee benefits, administrative support staff and supplies, office rent and utilities, and insurance. The Consultants' primary employees who will work on the Project and their billing rates, which includes the surcharge, are set forth in Appendix B.
2. Direct expenses incurred by the Consultants in connection with the Project shall be charged to the City on the basis of the expenses actually incurred by the Consultants, without any additional surcharge added by the Consultants. Such direct expenses shall include printing costs and long-distance telephone charges. Any direct or indirect expenses incurred by the Consultants while working on the Project that are in common with work on other projects for other clients shall be prorated among all those clients according to the benefit derived by each client. The City shall not pay for the expense of the Consultants' owned or hired automobiles used in the connection with the Project, which shall be considered a part of the Consultants' hourly rates.

V. RECORDS

The Consultants agree to maintain such records and follow such procedures as may be required under the state's CDBG-DR Program and any such procedures as the City of Evans may prescribe. In general, such records will include information pertaining to the contract, obligations and unobligated balances, assets and liabilities, outlays, equal opportunity, labor standards (as appropriate), and performance.

All such records and all other records pertinent to this contract and work undertaken under this contract shall be retained by the Consultants for a period of three years after final audit of the City of Evans' CDBG-DR project, unless a longer period is required to resolve audit findings or litigation. In such cases, the City of Evans shall request a longer period of record retention.

The City of Evans and other authorized representatives of the state and federal government shall have access to any books, documents, papers and records of the consultants which are directly pertinent to the contract for the purpose of making audit, examination, excerpts, and transcriptions.

The City of Evans, and duly authorized officials of the state and federal government shall have full access and the right to examine any pertinent documents, papers, records and books of the Consultants involving transactions related to this local program and contract.

VI. TIME OF PAYMENTS TO CONSULTANTS

The Consultants shall bill their charges to the City periodically, but no more frequently than once a month. Each bill shall contain a statement of the time that the primary employees spent on the Project since the previous bill, a brief description of the services provided by each such employee and an itemization of direct expenses for each task.

VII. QUALIFICATIONS ON OBLIGATIONS TO PAY

Notwithstanding any other terms of this Agreement, the City may withhold any payment (whether a progress payment or final payment) to the Consultants if any one or more of the following conditions exists:

- A. The Consultants are in default of any of their obligations under this Agreement.
- B. Any part of such payment is attributable to services which are not performed according to this Agreement. (The City will pay for any part thereof attributable to services performed according to this Agreement).
- C. The Consultants have failed to make payments promptly to any third parties used in the services for which the City has made payment to the Consultants.
- D. The City, in its good faith judgment, determines that the portion of the compensation then remaining unpaid will not be sufficient to complete the Project or any task according to this Agreement. In such case, no additional payments will be due to the Consultants until the Consultants, at their sole cost, perform a sufficient portion of the Project or task so that the City determines that the compensation then remaining unpaid is sufficient to complete the Project or task.
- E. No partial payment shall be final acceptance or approval of that part of the Project or task paid for, or shall relieve the Consultants of any of their obligations under this Agreement.

VIII. CONSULTANTS' DUTIES

- A. Abilities, Qualifications, Experience, and Best Efforts.

Notwithstanding anything to the contrary contained in this Agreement, the City and the Consultants agree and acknowledge that the City enters into this Agreement relying on the special and unique abilities of the Consultants to accomplish the Project. The Consultants accept the relationship of trust and confidence established between them and the City by this Agreement. The Consultants covenant with the City to use their best efforts. The Consultants shall further the interests of the City according to the City's requirements and procedures, according to the highest professional standards and in compliance with all applicable national, federal, state, municipal laws, regulations, codes, ordinances, orders and with those of any other body having jurisdiction.

- B. No Conflicts.

The Consultants represent, covenant, and agree that they have and will undertake no obligations, commitments, or impediments of any kind that will limit or prevent them from the timely completion of the Project, loyally and strictly according to the best interests of the City. In case of any conflict between interests of the City and any other entity, the Consultants shall fully and

immediately disclose the issue to the City and shall take no action contrary to the City's interests.

C. Limitation on Public Statements and Lobbying Activity.

Consultants are retained to provide information and advice to the City that includes confidential data, work product, and other privileged or confidential information that is protected under pertinent laws and City policies. In order to maintain the fact and appearance of absolute objectivity, loyalty, and professionalism, Consultants shall not, without the prior written consent of the City, do any of the following:

1. Disclose at any time information obtained as a result of this contractual relationship to any third party;
2. Lobby any City agency on any pending matter while they are under contract to the City;
3. Make any public statements or appear at any time to give testimony at any public meeting on the subject matters with regard to which Consultant is or was retained by the City.

To the extent that the City provides written consent for the disclosure of information or authorizes the making of public statements, the City may impose such conditions upon such disclosure or communications as it thinks appropriate, and Consultants agree to comply with those conditions.

This provision shall not preclude Consultants from providing information to law enforcement officials in connection with any criminal justice investigation.

D. Quality of Services.

The Consultants represent, covenant, and agree that all of the services that they will furnish under this Agreement shall be of at least the standard and quality prevailing among highly competent professionals who perform work of a similar nature to the work described in this Agreement.

E. Accuracy of Work.

The Consultants represent, covenant, and agree that its work will be accurate and free from any material errors. The Consultants additionally represent, covenant, and agree that the planning for the Project will conform to all foreseeable uses thereof. City approval shall not diminish or release the Consultants' duties, since the City is ultimately relying upon the Consultants' skill and knowledge.

F. Duty to Warn.

The Consultants agree to call to the City's attention errors in any drawings, plans, sketches, instructions, information, requirements, procedures, and other data supplied to the Consultants (by the City or any other party) that it becomes aware of and believes may be unsuitable, improper, or inaccurate in a material way. However, Consultants shall not independently verify the validity, completeness, or accuracy of such information unless otherwise expressly engaged to do so by the City. Nothing shall detract from this obligation unless the Consultants advise the City in writing that

such data may be unsuitable, improper, or inaccurate and the City nevertheless confirms in writing that it wishes the Consultants to proceed according to the data as originally given.

G. Attendance at Meetings.

The Consultants shall attend such meetings on the work required by this Agreement as the City requires. The City will give reasonable notice of any such requirement so that the Consultants may schedule and attend.

H. Efficiency.

The Consultants represent, covenant, and agree to furnish efficient business administration and superintendence and perform the services required by this Agreement in the best, most expeditious and most economical manner consistent with the interests of the City.

I. Books and Records.

The Consultants shall keep their books and records for the Project and reimbursable expenses according to recognized accounting principles and practices, consistently applied. The Consultants shall make them available for the City's inspection at all reasonable times. The Consultants shall retain such books and records for at least three years after completion of the Project.

J. Payment of Bills.

The Consultants shall promptly pay all bills for labor and material performed and furnished by others in performance of the Project.

IX. SUSPENSION

If the Consultants fail to comply with the terms and conditions of this contract, or whenever the Consultants are unable to substantiate full compliance with provisions of this contract, the City of Evans may suspend the contract pending corrective actions or investigation, effective not less than seven (7) days following written notification to the Consultants or its authorized representative. The suspension will remain in full force and effect until the Consultants have taken corrective action to the satisfaction of the City of Evans and are able to substantiate their full compliance with the terms and conditions of this contract. No obligations incurred by the Consultants or its authorized representative during the period of suspension will be allowable under the contract except

- A. Reasonable, proper and otherwise allowable costs which the Consultants could not avoid during the period of suspension;
- B. If upon investigation, the Consultants are able to substantiate complete compliance with the terms and conditions of this contract, otherwise allowable costs incurred during the period of suspension will be allowed; and
- C. In the event all or any portion of the work prepared or partially prepared by the Consultant is suspended, abandoned or otherwise terminated, the City of Evans shall pay the Consultants for work performed to the satisfaction of the City of Evans, in accordance with the percentage of the

work completed.

X. TERMINATION

A. Termination for Breach.

This Agreement may be terminated by either party for a material breach of this Agreement by the other party not caused by any action or omission of the terminating party by giving the other party written notice at least three days in advance of the termination date. The termination notice shall specify in reasonable detail each such material breach. In the event of such termination by either party, the Consultants shall promptly deliver to the City all drawings, computer programs, computer input and output, analysis, plans, photographic images, tests, maps, surveys, and written materials of any kind generated in the performance of services under this Agreement up to and including the date of termination. If this Agreement is so terminated by the Consultants, they will be paid for all services rendered up to the date of termination, except as set forth in Section VI above. If this Agreement is so terminated by the City, the Consultants will be paid for all services rendered to the date of termination, except those services which, in the City's judgment, constituted the grounds, in whole or in part, of the notice of termination, and except as set forth in Section VI, above. Upon such payment, all obligations of the City to the Consultants under this Agreement shall cease.

B. Termination for Convenience.

In addition to the foregoing, this Agreement may be terminated by the City for its convenience and without cause of any nature by giving the Consultants written notice at least seven days in advance of the termination date. In the event of such termination, the Consultants will be paid for all services rendered to the date of termination, except as set forth in Section VI, above, and upon such payment, all obligations of the City to the Consultants under this Agreement shall cease. Furthermore, in the event of such termination, the Consultants shall promptly deliver to the City all drawings, computer programs, computer input and output, plans, photographic images, analyses, test, maps, surveys, and written materials of any kind generated in the performance of their services under this Agreement up to and including the date of termination.

XI. LAWS TO BE OBSERVED

A. Compliance with Laws: This contract is funded in whole or in part with CDBG-DR funds through the City of Evans' Community Development Block Grant Program as administered by the Division of Local Government, Department of Local Affairs. Contractors are responsible for complying with those regulations and restrictions normally associated with federally-funded programs and any other requirements that the state may prescribe. The Consultants shall comply with all applicable laws, ordinances and codes of the state and local government and the Consultants shall save the City of Evans harmless with respect to any damages arising from any tort done in performing any of the work embraced by this contract.

B. Title VI of the Civil Rights Act of 1964: Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, creed, religion, sex or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

- C. Section 109 of the Housing and Community Development Act of 1974: No person in the United States shall on the grounds of race, color, creed, religion, sex or national origin be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.
- D. Age Discrimination Act of 1975, as Amended: No person shall be excluded from participation, denied program benefits, or subjected to discrimination on the basis of age under any program or activity receiving federal funding assistance. (42 U.S.C. 610 et. seq.)
- E. Section 504 of the Rehabilitation Act of 1973, as Amended: No otherwise qualified individual shall, solely by reason or his or her disability, be excluded from participation (including employment), denied program benefits, or subjected to discrimination under any program or activity receiving Federal funds. (29 U.S.C. 794)
- F. Public Law 101-336, Americans with Disabilities Act of 1990: Subject to the provisions of this title, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.
- G. Section 3 of the Housing and Community Development Act of 1968 Compliance in the Provision of Training, Employment, and Business Opportunities:
1. The work to be performed under this contract is on a project assisted under a program providing direct federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower-income residents of the project area; and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part, by persons residing in the area of the project.
 2. The parties to this contract will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of HUD set forth in 24 CFR 135, and all applicable rules and orders of HUD and CTED issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability that would prevent them from complying with these provisions.
 3. The Consultants will send to each labor organization or representative of workers with which they have a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or workers' representative of their commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
 4. The Consultant will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant, or recipient of federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of HUD, 24 CFR Part 135. The Consultant will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract, unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

5. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of HUD and CTED issued hereunder prior to the execution of the contract, shall be a condition of the federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject the applicant, or recipient, its consultants and subcontractors, its successors and assigned to those sanctions specified by the grant or loan agreement or contract through which federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

XII. PERMITS AND LICENSES

The Consultants shall procure all permits and licenses, pay all charges, fees, and taxes and give all notices necessary and incidental to the due and lawful prosecution of their services under this Agreement.

XIII. PATENTED DEVICES, MATERIALS AND PROCESSES

The Consultants shall hold and save harmless the City from any and all claims for infringement, by reason of the use of any patented design, device, material, process, or trademark or copyright and shall indemnify the City for any costs, expenses, and damages, including court costs and attorney fees, which it might be obligated to pay by reason of infringement at any time during the prosecution or after completion of their services under this Agreement.

XIV. NO MULTIPLE FISCAL YEAR OBLIGATION

Nothing herein shall constitute a multiple fiscal year obligation pursuant to Colorado Constitution, Article X, Section 20. Notwithstanding any other provision of this Agreement, the City's obligations under this Agreement are subject to annual appropriation by the City Council of the City. Any failure of a City Council/Board annually to appropriate adequate monies to finance the City's obligations under this Agreement shall terminate this Agreement at such time as such then-existing appropriations are to be depleted. Notice shall be given promptly to the Consultants of any failure to appropriate such adequate monies.

XV. INDEPENDENT CONTRACTOR

The relationship between the Consultants and the City is that of an independent contractor. The Consultants shall supply all personnel, equipment, materials and supplies at their own expense, except as specifically set forth herein. The Consultants shall not be deemed to be, nor shall they represent themselves as, employees, partners, or joint ventures of the City. No employee or officer of the City shall supervise the Consultants. **The Consultants are not entitled to workers' compensation benefits and are obligated to directly pay federal and state income tax on money earned under this Agreement.**

XVI. PERSONNEL

The Consultants represent that they have, or will secure at their own expense, all personnel required in order to perform under this contract. Such personnel shall not be employees of, or have any contractual relationship to, the City of Evans.

All services required hereunder will be performed by the Consultants or under their supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under federal, state and local law to perform such services.

None of the work or services covered by this contract shall be subcontracted without prior written approval of the City of Evans. Any work or services subcontracted hereunder shall be specified in written contract or agreement and shall be subject to each provision of this contract.

XVII. INTEREST OF CONSULTANT AND EMPLOYEES

The Consultants covenant that they presently have no interest and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of their services hereunder. The Consultants further covenant that in the performance of this contract, no person having such interest shall be employed.

XVIII. AUDITS AND INSPECTIONS

The City of Evans, the State Auditor, and HUD or their delegates shall have the right to review and monitor the financial and other components of the work and services provided and undertaken as part of the CDBG-DR project and this contract, by whatever legal and reasonable means are deemed expedient by the City of Evans, the State Auditor and HUD.

XIX. INDEMNIFICATION

The Consultant shall comply with the requirements of all applicable laws, rules, and regulations in connection with the services of Consultant, and shall exonerate, indemnify, and hold harmless the City, its officers, agents, and all employees from and against them, and local taxes or contributions imposed or required under the Social Security, Workers' Compensation, and Income Tax Laws. Further, Consultant shall exonerate, indemnify, and hold harmless the City with respect to any damages, expenses, or claims arising from or in connection with any of the work performed or to be performed under this Contract by Consultant. This shall not be construed as a limitation of the Consultant's liability under this agreement or as otherwise provided by law.

XX. INSURANCE

A. The Consultants agree to procure and maintain in force during the terms of this Agreement, at its own cost, the following minimum coverages:

1. Workers' Compensation and Employers' Liability

State of Colorado: Statutory

Applicable Federal: Statutory

Employer's Liability: \$100,000 Each Accident
\$500,000 Disease-Policy Limit
\$100,000 Disease-Each Employee

Waiver of Subrogation

2. Commercial General Liability

Bodily Injury & Property Damage General Aggregate Limit \$1,000,000

Personal & Advertising Injury Limit \$1,000,000

Each Occurrence Limit \$1,000,000

The policy shall be on an Occurrence Form and include the following coverages: Premises Operations; Personal and Advertising Injury; Medical Payments; Liability assumed under an Insured Contract; Independent Contractors; and Broad Form Property Damage. Coverage provided should

be at least as broad as found in Insurance Services Office (ISO) form CG0001.

3. Professional Liability (errors and omissions)

Each Claim/Loss: \$1,000,000

Aggregate: \$1,000,000

City of Evans may require that this coverage remain in place for one year after the project is complete.

4. Commercial Automobile Liability Limits

Bodily Injury & Property Damage Combined Single Limit \$1,000,000

Medical Payments per person \$ 5,000

Uninsured/Underinsured Motorist \$ 100,000

Coverage is to be provided on Business Auto, Garage, or Truckers form. Coverage provided should be at least as broad as found in ISO form CA0001 (BAP), CA0005 (Garage) or CA0012 (Trucker) including coverage for owned, non-owned, & hired autos.

B. Coverage.

Insurance required by this Agreement shall be primary coverage, unless otherwise specified, and shall specify that in the event of payment for any loss under the coverage provided, the insurance company shall have no right of recovery against the City or its insurers. All policies of insurance under this Agreement shall be provided by a reputable insurance company or companies qualified to conduct business in Colorado. The City reserves the right, but shall not have the duty, to reject any insurer which it finds to be unsatisfactory and insist that the Consultants substitute another insurer that is reasonably satisfactory to the City. Property and Liability Insurance Companies shall be licensed to do business in Colorado and shall have an AM Best rating of not less than A- VI. This insurance shall be maintained in full force and effect during the term of this Agreement and for the additional periods set forth herein and shall protect the Consultants, its agents, employees and representatives, from claims for damages for personal injury and wrongful death and for damages to property arising in any manner from negligent or wrongful acts or omissions of the Consultants, their agents, employees, and representatives in the performance of the services covered herein.

C. Additional Insureds.

All Insurance policies (except Workers Compensation and Professional Liability) **shall include City of Evans and its elected officials and employees as additional insureds as their interests may appear.** The additional insured endorsement should be at least as broad as ISO form CG2010 for General Liability coverage and similar forms for Commercial Auto and Umbrella Liability.

D. Automobile Coverage.

Automobile insurance shall, without limitation, cover all automobiles used in performing any services under this Agreement.

E. Claims-Made Policies.

If coverage is to be provided on Claims Made forms, Consultants must refer policy to the City Attorney's Office for approval and additional requirements. In the case of any claims-made insurance policies, the Consultants shall procure necessary retroactive dates, Atail@ coverage and extended reporting periods to cover a period at least two years beyond the expiration date of this Agreement. This obligation shall survive the termination or expiration of this Agreement.

F. The Consultants shall not cancel, materially change, or fail to renew required insurance coverages. The Consultants shall notify the Project Manager of any material reduction or exhaustion of aggregate limits. Should the Consultants fail to immediately procure other insurance, as specified, to substitute for any policy canceled before final payment to the Consultants, the City may procure such insurance and deduct its cost from any sum due to the Consultants under this Agreement.

G. Certificates.

Certificates showing that the Consultants are carrying the above-described insurance, and the status of the additional insureds, shall be furnished to the City prior to the execution of this Agreement by the City. Certificates of insurance on all policies shall give the City of Evans written notice of not less than fifteen (15) days prior to cancellation or change in coverage. The Consultants shall forthwith obtain and submit proof of substitute insurance in the event of expiration or cancellation of coverage.

H. Non-Waiver.

The parties understand and agree that the parties are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations (now \$150,000 per person and \$600,000 per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S., as from time to time amended, or otherwise available to the parties, their officers, or their employees.

XXI. PROHIBITIONS ON PUBLIC CONTRACTS FOR SERVICES

The Consultants certify that it shall comply with the provisions of section 8-17.5-101 *et seq.*, C.R.S. The Consultants shall not knowingly employ or contract with an illegal alien to perform work under this contract or enter into a contract with a subcontractor that fails to certify to the Consultants that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract.

The Consultants represent, warrant, and agree (i) that it has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this contract through participation in either the E-Verify or the Department Program; (ii) that the Consultants are prohibited from using either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while the public contract for services is being performed; and (iii) if the Consultants obtain actual knowledge that a subcontractor performing work under the public contract for services knowingly employs or contracts with an illegal alien, the Consultants shall be required to:

1. Notify the subcontractor and the contracting state agency or political subdivision within three days that the Consultants has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
2. Terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to 8-17.5-102(2)(b)(III)(A) the subcontractor does not stop employing or contracting with the illegal alien; except that the Consultants shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

The Consultants further agree that it shall comply with all reasonable requests made in the course of an investigation under section 8-17.5-102(5), C.R.S. by the Colorado Department of Labor and Employment. If the Consultants fail to comply with any requirement of this provision or section 8-17.5-101 et seq., C.R.S. the City may terminate this contract for breach and the Consultants shall be liable for actual and consequential damages to the City.

XXII. INTEGRATION

This document constitutes the entire agreement between the City and the Consultants and incorporates all prior verbal and written communications between the parties concerning the subject matter included herein.

XXIII. CAPTIONS

Each paragraph of this Contract has been supplied with a caption to serve only as a guide to the contents. The caption does not control the meaning of any paragraph or in any way determine its interpretation or application.

XXIV. NO ASSIGNMENT

Neither party shall assign, sublet, or transfer any interest in this Agreement without the written consent of the other.

XXV. AMENDMENT IN WRITING

No amendment or modification shall be made to this Agreement unless it is in writing and signed by both parties.

XXVI. GOVERNING LAW AND VENUE

This Agreement is governed by the laws of the State of Colorado. Any suit between the parties arising under this Agreement shall be brought only in a court of competent jurisdiction for the Twentieth Judicial District of the State of Colorado.

XXVII. NO THIRD PARTY BENEFICIARIES

The parties intend no third party beneficiaries under this Agreement. Any person other than the City or the Consultants receiving services or benefits under this Agreement is an incidental beneficiary only.

XXVIII. FINANCIAL OBLIGATIONS OF THE CITY

All financial obligations of the City under this Agreement are contingent upon appropriation, budgeting, and availability of specific funds to discharge such obligations. Nothing in this Agreement shall be deemed a pledge of the City's credit, or a payment guarantee by the City to the Consultants.

XXIX. NO WAIVER

No waiver of any breach or default under this Agreement shall be a waiver of any other or later breach of default.

XXX. ADDRESSES FOR NOTICES AND COMMUNICATIONS

_____ Manager/Chair/Etc.	_____ , Principal
City	Consultant
XXX Main Street	XXX Main Street
City, Colorado ZIP	City, Colorado ZIP

XXXI. AUTHORITY

Consultants warrant that the individual executing this Agreement is properly authorized to bind the Consultants to this Agreement.

XXXII. INTEREST OF MEMBERS OF THE CITY

No member of the governing body of the City and no other officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any interest, direct or indirect, in this Contract; and the Consultant shall take appropriate steps to assure compliance.

XXXIII. INTEREST OF OTHER LOCAL PUBLIC OFFICIALS

No member of the governing body of the locality and no other public official of such locality, who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect in this Contract; and the Consultant shall take appropriate steps to assure compliance.

XXXIV. AUTHORIZATION

This Agreement is authorized by City Resolution _____, adopted _____, copies of which are attached hereto as Appendix C and made a part hereof.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have signed this Agreement effective as of the day and year first above written.

CONSULTANTS

By: _____

Title: _____

STATE OF COLORADO)

) ss.

COUNTY OF _____)

Acknowledged before me, a notary public, this _____ day of _____ 2015, by

_____, as _____.

Witness my hand and official seal.

My commission expires:

Notary Public

(SEAL)

CITY OF EVANS

City Mayor/Chair

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney's Office

Appendix A
Scope of Work

Appendix B
Primary Employees and Billing Rates

Appendix C
Authorization Resolution