



City of
Evans, Colorado

RIVERSIDE PARK MASTER PLAN

REQUEST FOR PROPOSALS

Notice is hereby given that the City of Evans, Colorado is seeking a qualified consulting firm to provide professional planning, community design, and public meeting facilitation services in preparation of the Riverside Park Master Plan.

RFP SCHEDULE

Proposals Submittal Deadline:	May 16, 2014 @ 5:00pm MST
Interviews for Selected Consultants:	Week of May 26 – May 30, 2014
City Council Approval of Consultant Contract:	June 17, 2014

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

Sheryl Trent
City of Evans
1100 37th Street
Evans, Colorado 80620

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.

Brian Stone, Recreation Director
970.475.1125
bstone@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.

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I. PROJECT BACKGROUND AND DESCRIPTION

The City of Evans, Colorado is seeking a qualified professional planning firm or consultant to facilitate a community planning process that culminates in a Riverside Park Master Plan (as described under “Project Objective” below) for Evans, Colorado. The selected consultant will facilitate the public outreach efforts, develop conceptual elements based on the input received through the public participation efforts, and prepare recommendations for location, design, and features of park and recreation elements

STUDY AREA DESCRIPTION

Known as the "Queen City of the Platte" when incorporated in 1869, Evans was the County Seat of Weld County for many years. From a population of around 400 in a true Wild West town, Evans has grown to nearly 19,000 residents living in an urban area with a rural feel. For a long time Evans was the only town in the area to allow liquor and gambling, which made it the center of activity in the area!

Today, Evans is a community where our residents have a wide choice of housing, great schools, all the shopping and amenities of a large town, and a great quality of life. With over 300 days of sunshine each year and a full four seasons, many people relocate to Evans to experience the best of northern Colorado.

Residents enjoy over 300 acres of parks and open space (including a dog park), several hiking and biking trails along the river and within the town, easy access to the Denver International Airport, and quick drives south to Denver or west to the Rocky Mountains. A local airport has flights around the country leaving daily, the access to I-25, US 85 and US 34 are only minutes away, and the conveniently located Union Pacific Railroad offers opportunities for shipping and receiving materials. Evans is a wonderful place to raise a family, start a business, and buy a home.

In September of 2013, devastating floods affected the Study Area, destroying over 208 homes, damaging 100+ acres of regional park facility (Riverside Park), and causing severe flooding with associated loss of roads, public infrastructure and private property. While the immediate crisis is past, the City has begun to imagine the redevelopment of the Study Area. A separate Master Plan process is underway for Historic Evans, and this planning process will be a critical component of that overall Master Plan. By appointing a Citizen Task Force to oversee the Historic Evans Master Plan, the City intends to involve the entire community in the vision for the future of the area. This same Task Force will work with the Consultant on the Riverside Park Master Plan. Additionally, a South Platte River Corridor Master Plan is underway to determine concepts for recreational use along the river in Evans, and a larger river hydrology study for South Platte Corridor from the influx of the St. Vrain down river to the Poudre is in the selection process. An existing Park and Recreation Master Plan was last updated in 2000.

The City has received a Flood Recovery Grant from GOCO in the amount of \$100,000 to assist with this project. Part of that funding will be allocated to hiring the consultant for this project.

STUDY AREA ISSUES AND OPPORTUNITIES

Historically, the center of community activity in Evans was located east of US 85. At one time, the “Old Town” neighborhood included more small-scale stores and local businesses, along with the Post Office, City Hall, and the original Chappelow School. However, the community has dispersed somewhat as it has grown to the west. The new Riverside Library and Cultural Center is under construction (opening in August of 2014) at 3700 Golden Street in the area.

Riverside Park is located in that area, and was created through a series of land purchases and donations in the early 1990's. Construction commenced on the park during that time. Prior to the flood, it was the largest regional park in the area, and had as a part of the recreation facilities:

A trail
Ball fields
Soccer fields
Basketball courts
Pavilion
Playground
Open Space
Riverside Lake
Access to the South Platte River
Restroom

Additionally, large events were staged at Riverside Park including Evans Fest and other community events.

While the flood completely destroyed Riverside Park, it also uncovered a previously unknown problem: household trash under some areas of the park near the river. In large part the destruction by the rising flood waters was significantly compounded by the scouring of the dirt covering the trash, which then was swept onto the park and remains imbedded.

FEMA will assist in the replacement of the park, based on an estimate of damages (currently at approximately \$10,000,000). However, the City would like to accomplish the following objectives prior to any project construction.

PROJECT OBJECTIVE

In order to determine how best to address the issues faced at Riverside Park, the City would like a Consultant to update the existing Master Plan and develop a plan to address parks and recreation facilities as they might relate to the Riverside Park area. At a minimum, the Master Plan will include:

1. A needs study of the community.
2. A facilities study to update current conditions.
3. A maintenance and operations review to determine whether those existing facilities have appropriate funding.
4. A report on recommended facilities as derived from the community needs study and the facilities review
5. A determination of the best location for any needs and facilities identified in those studies
6. A conceptual plan for each location determined, including land acquisition.
7. Coordination with existing plans and documents.
8. A plan of recommended implementation measures including regulations, policies, public infrastructure projects, private investment in development, and timing needed to carry out the plan.
9. A program of funding that implementation plan including financial resources and contacts.
10. Other subjects necessary or desirable to implement the plan.

PUBLIC PARTICIPATION

Public participation is a key element in this process. The City has established a Citizen Task Force for the Master Plan (see website for more information). The Task Force represents a cross-section of community interests and concerns. Community-Based Organizations will be identified and will play a key role in this planning process. Workshops, community meetings, interviews and design charettes will be utilized to gain face-to-face, first-hand feedback on design elements.

Outreach activities should focus on a variety of stakeholders, including property and business owners, residents, recreational users and the general population of the City.

The community outreach efforts may also include (see Project Implementation for more information):

- Stakeholder interviews.
- Stakeholder group meetings.

- Online survey and face to face survey
- Other methods to measure the public’s reaction to the process and adjust the planning process as necessary.

PROJECT IMPLEMENTATION

The Proposed Project will have two very important components:

1. A community participation process that includes meetings, workshops, interviews and public outreach materials. City staff and the Task Force will assist the selected consultant in the development and utilization of these public participation elements, which shall include a web page, a FaceBook page, and other elements deemed necessary to reach out to the public. To ensure these elements are conducted in an efficient and timely manner, meetings with the Task Force must be conducted at the outset of the project to refine the schedule, assign responsibilities, and ensure accountability is built into the process.
2. Public Participation Conceptual Elements developed by the selected consultant. These are various design elements to be presented to the community to measure the receptivity to the design features under consideration. These conceptual elements will be modified as necessary, based on feedback from the stakeholders. At least two (2) public meetings shall be held (in a variety of locations and time) in addition to any public hearings in order to adopt the plan. In addition, data will be gathered and presented as needed to supplement the conceptual elements by meeting with stakeholders and others. As with item (1.) above, the schedule will be refined during the initial meetings with the selected consultant.

A final recommendation for a parks and recreation plan to address the needs created by the will be developed by the selected consultant with input from City staff at the conclusion of the public participation process. This plan will be presented to the Planning Commission and City Council for adoption; the consultants’ presence at one or more of these meetings may be requested. The timing for this final report will be determined (preliminarily) at the meetings with the selected consultant at the outset of the project, and may be adjusted during the course of the project. The process will increase the residents’ knowledge of the issues that are present Study Area and provide a vehicle for eliciting public input for solutions to these issues. Ultimately, the project will gain public support and make it more likely that implementation of the Plan elements will occur.

II. 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 the City of Evans offices at 1100 37th Street, Evans, Colorado 80620 no later than 5:00 pm by **Friday, May 16, 2014**. Submittals and questions can be sent to Brian Stone, Recreation Director, at bstone@evanscolorado.gov or (970) 475.1128. Interviews with the most qualified firms will be held on the week of May 26 - 30, 2014.

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 specialized 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.

III. EVALUATION CRITERIA AND PROCEDURES

A. DISTRIBUTION AND OUTREACH

This RFP is being distributed to a list of 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 City will have the Citizen's Task Force screen proposals. The firms with the highest ranking based on experience and qualifications as described in the Proposal to provide the required services 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 Task Force 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 objective (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.

IV. ATTACHMENTS

A. Sample Agreement

City of Evans, Colorado

AGREEMENT FOR PROFESSIONAL SERVICES BY INDEPENDENT CONTRACTOR

THIS AGREEMENT is made and entered into this __ day of _____, 2014, by and between the City of Evans, State of Colorado (hereinafter referred to as the "City"), and _____ (hereinafter referred to as "Consultant").

RECITALS:

- A. The City requires professional services.
- B. Consultant has held itself out to the City as having the requisite expertise and experience to perform the required services for the Project.

NOW, THEREFORE, it is hereby agreed, for the consideration hereinafter set forth, that Consultant shall provide to the City professional consulting services for the Project.

I. SCOPE OF SERVICES

Consultant shall furnish all labor and materials to perform the services required for the complete and prompt execution and performance of all duties, obligations and responsibilities for the Project, which are described or reasonably implied from **Exhibit A**, which is attached hereto and incorporated herein by this reference.

II. THE CITY'S OBLIGATIONS/CONFIDENTIALITY

The City shall provide Consultant with reports and such other data as may be available to the City and reasonably required by Consultant to perform hereunder. No project information shall be disclosed by Consultant to third parties without prior written consent of the City or pursuant to a lawful court order directing such disclosure. All documents provided by the City to Consultant shall be returned to the City. Consultant is authorized by the City to retain copies of such data and materials at Consultant's expense.

III. OWNERSHIP OF INSTRUMENTS OF SERVICE

The City acknowledges that the Consultant's documents are an instrument of professional service. Nevertheless, the documents prepared under this Agreement shall become the property of the City upon completion of the services. Any reuse of the Consultant's documents is at the City's own risk.

IV. COMPENSATION

A. In consideration for the completion of the services specified herein by Consultant, the City shall pay Consultant \$xx per hour. Invoices will be itemized and include hourly breakdown for all personnel and other charges. The maximum fee specified herein shall include all fees and expenses incurred by Consultant in performing all services hereunder.

B. Consultant may submit monthly or periodic statements requesting payment. Such request shall be based upon the amount and value of the services performed by Consultant under this Agreement, except as otherwise supplemented or accompanied by such supporting data as may be required by the City.

1. All invoices, including Consultant's verified payment request, shall be submitted by Consultant to the City no later than the twenty-fourth (24th) day of each month for payment, pursuant to the terms of this Agreement. In the event Consultant fails to submit any invoice on or before the twenty-fourth (24th) day of any given month, Consultant defers its right to payment, pursuant to said late invoice, until the following month.
 2. Progress payments may be claimed on a monthly basis for reimbursable costs actually incurred to date as supported by detailed statements, including hourly breakdowns for all personnel and other charges. The amounts of all such monthly payments shall be paid within thirty (30) days after the timely receipt of invoice, as provided by this Agreement.
- C. The City has the right to ask for clarification on any Consultant invoice after receipt of the invoice by the City.
- D. In the event payment for services rendered has not been made within forty-five (45) days from the timely receipt of the invoice for any uncontested billing, interest will accrue at the rate of twelve percent (12%) per annum compounded annually. In the event payment has not been made within ninety (90) days from the receipt of the invoice for any uncontested billing, Consultant may, after giving seven (7) days' written notice and without penalty or liability of any nature, suspend all authorized services specified herein. In the event payment in full is not received within thirty (30) days of giving the seven (7) days' written notice, Consultant may terminate this Agreement. Upon receipt of payment in full for services rendered, Consultant will continue with all authorized services.
- E. Final payment shall be made within sixty (60) calendar days after all data and reports (which are suitable for reproduction and distribution by the City) required by this Agreement have been turned over to and approved by the City and upon receipt by the City of Consultant's written notification that services required herein by Consultant have been fully completed in accordance with this Agreement and all data and reports for the Project.

V. COMMENCEMENT AND COMPLETION OF SERVICES

Within seven (7) days of receipt from the City of a Notice to Proceed, Consultant shall commence services on all its obligations as set forth in the Scope of Services or that portion of such obligations as is specified in said Notice. Except as may be changed in writing by the City, the Project shall be complete and Consultant shall furnish the City the specified deliverables, as provided in **Exhibit A**.

VI. CHANGES IN SCOPE OF SERVICES

A change in the Scope of Services shall constitute any material change or amendment of services which is different from or additional to the Scope of Services specified in Section I of this Agreement. No such change, including any additional compensation, shall be effective or paid, unless authorized by written amendment executed by the City. If Consultant proceeds without such written authorization, then Consultant shall be deemed to have waived any claim for additional compensation, including a claim based on the theory of unjust enrichment, quantum merit or implied contract. Except as expressly provided herein, no agent, employee or representative of the City shall have the authority to enter into any changes or modifications, either directly or implied by a course of action, relating to the terms and scope of this Agreement.

VII. PROFESSIONAL RESPONSIBILITY

- A. Consultant hereby warrants that it is qualified to assume the responsibilities and render the services

described herein and has all requisite corporate authority and professional licenses in good standing, as required by law.

B. The services performed by Consultant shall be in accordance with generally accepted professional practices and the level of competency presently maintained by other practicing professional firms in the same or similar type of services in the applicable community.

C. Consultant shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all designs, drawings, specifications, reports, and other services furnished by Consultant under this Agreement. Consultant shall, without additional compensation, correct or resolve any errors or deficiencies in his designs, drawings, specifications, reports, and other services, which fall below the standard of professional practice, and reimburse the City for construction costs caused by errors and omissions which fall below the standard of professional practice.

D. Approval by the City of drawings, designs, specifications, reports and incidental services or materials furnished hereunder shall not in any way relieve Consultant of responsibility for technical adequacy of the services. Neither the City's review, approval or acceptance of, nor payment for, any of the services shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and Consultant shall be and remain liable in accordance with applicable performance of any of the services furnished under this Agreement.

E. The rights and remedies of the City provided for under this Agreement are in addition to any other rights and remedies provided by law.

VIII. COMPLIANCE WITH LAW

The services to be performed by Consultant hereunder shall be done in compliance with applicable laws, ordinances, rules and regulations.

IX. INDEMNIFICATION

A. **INDEMNIFICATION – GENERAL:** The City cannot and by this Agreement does not agree to indemnify, hold harmless, exonerate or assume the defense of the Consultant or any other person or entity whatsoever, for any purpose whatsoever. Provided that the claims, demands, suits, actions or proceedings of any kind are not the result of professional negligence, the Consultant shall defend, indemnify and hold harmless the City, its mayor and City council, officials, officers, directors, agents and employees from any and all claims, demands, suits, actions or proceedings of any kind or nature whatsoever, including worker's compensation claims, in any way resulting from or arising from the services rendered by Consultant, its employees, agents or sub-consultants, or others for whom the Consultant is legally liable, under this Agreement; provided, however, that the Consultant need not indemnify or save harmless the City, its mayor and City council, its officers, agents and employees from damages to the extent caused by the negligence of the City's mayor and City council, officials, officers, directors, agents and employees.

B. **INDEMNIFICATION FOR PROFESSIONAL NEGLIGENCE:** The Consultant shall indemnify and hold harmless the City, its mayor and City council, and any of its officials, officers, directors, and employees from and against damages, liability, losses, costs and expenses, including reasonable attorney's fees, but only to the extent caused by the negligent or intentional acts, errors or omissions of the Consultant, its employees, sub-consultants, or others for whom the Consultant is legally liable, in the performance of professional services under this Agreement. The Consultant is not obligated under this subparagraph IX.B. to indemnify the City for the negligent acts of the City, its mayor or City council, or any of its officials, officers, directors, agents and employees.

C. **INDEMNIFICATION – COSTS:** Consultant agrees, to the extent provided in Paragraph A., above, to investigate, handle, respond to, and to provide defense for and defend against any such liability, claims or demands at the sole expense of Consultant or, at the option of the City, agrees to pay the City or reimburse the City for the defense costs incurred by the City in connection with any such liability, claims or demands. Consultant also agrees, to the extent provided in Paragraph A. above, to bear all other costs and expenses related thereto, including court costs and attorney fees, whether or not any such liability, claims or demands alleged are groundless, false or fraudulent. If it is determined by the final judgment of a court of any competent jurisdiction that such injury, loss or damage was caused in whole or in part by the act, omission or other fault of the City, its mayor and City council, officials, officers, directors, agents and employees, the City shall reimburse Consultant for the portion of the judgment attributable to such act, omission or other fault of the City, its mayor and City council, officials, officers, directors, agents and employees.

X. INSURANCE

A. Consultant agrees to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands and other obligations assumed by Consultant, pursuant to Section IX, Indemnification, above. Such insurance shall be in addition to any other insurance requirements imposed by this Agreement or by law. Consultant shall not be relieved of any liability, claims, demands or other obligations assumed pursuant to Section IX, Indemnification, above, by reason of its failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations or types.

B. Consultant shall procure and maintain, and shall cause any sub-consultant of Consultant to procure and maintain, the minimum insurance coverage's listed below. Such coverage's shall be procured and maintained with forms and insurers acceptable to the City. All coverage's shall be continuously maintained to cover all liability, claims, demands and other obligations assumed by Consultant, pursuant to Section IX, Indemnification, above. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

1. Worker's compensation insurance to cover obligations imposed by applicable laws for any employee engaged in the performance of services under this Agreement, and Employer's Liability insurance with minimum limits of Five Hundred Thousand Dollars (\$500,000) each claim, Five Hundred Thousand Dollars (\$500,000) disease - policy limit, and Five Hundred Thousand Dollars (\$500,000) disease - each employee.
2. Commercial general liability insurance with minimum combined single limits of One Million Dollars (\$1,000,000) each occurrence and Two Million Dollars (\$2,000,000) general aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, products and completed operations. The policy shall contain a severability of interests provision.
3. Professional liability insurance with minimum limits of One Million Dollars (\$1,000,000) each claim and Two Million Dollars (\$2,000,000) annual aggregate, and Consultant shall maintain such coverage for at least three (3) years from the termination of this Agreement.
4. The policy required by Paragraph 2, above shall be endorsed to include the City and the City's officers, employees and consultants as additional insured's. Every policy required above shall be primary insurance, with the exception of Professional Liability and Worker's Compensation, and any insurance carried by the City, its officers, its employees or its consultants shall be excess and not contributory

insurance to that provided by Consultant. No additional insured endorsement to the policy required by Paragraph 1, above shall contain any exclusion for bodily injury or property damage arising from completed operations. Consultant shall be solely responsible for any deductible losses under any policy required above.

5. The certificate of insurance provided for the City shall be completed by Consultant's insurance agent as evidence that policies providing the required coverage's, conditions and minimum limits are in full force and effect, and shall be reviewed and approved by the City prior to commencement of the Agreement. No other form of certificate shall be used. The certificate shall identify this Agreement and shall provide that the coverage's afforded under the policies shall not be cancelled or terminated until at least thirty (30) days' prior written notice has been given to the City. The completed certificate of insurance shall be sent to:

City of Evans
1100 37th Street
Evans, Colorado 80620-2036
Attn: Risk Manager

6. Failure on the part of Consultant to procure or maintain policies providing the required coverage's, conditions and minimum limits shall constitute a material breach of agreement upon which the City may immediately terminate this Agreement or, at its discretion, the City may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the City shall be repaid by Consultant to the City upon demand, or the City may offset the cost of the premiums against any monies due to Consultant from the City.
7. The City reserves the right to request and receive a certified copy of any policy and any endorsement thereto.
8. The parties hereto understand and agree that the City, its officers and its employees are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations (presently Three Hundred Fifty Thousand Dollars (\$350,000) per person and Nine Hundred Ninety Thousand Dollars (\$990,000) per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, Colo. Rev. Stat. §24-10-101, et seq., as from time to time amended, or otherwise available to the City, its officers or its employees.

XI. NONASSIGNABILITY

Neither this Agreement nor any of the rights or obligations of the parties hereto shall be assigned by either party without the written consent of the other.

XII. TERMINATION

This Agreement shall terminate at such time as the services in Section I are completed and the requirements of this Agreement are satisfied, or upon the City's providing Consultant with seven (7) days' advance written notice, whichever occurs first. In the event the Agreement is terminated by the City's issuance of said written notice of intent to terminate, the City shall pay Consultant for all services previously authorized and completed prior to the date of termination. If, however, Consultant has substantially or materially breached the standards and terms of this Agreement, the City shall have any remedy or right of set-off available at law and equity. If the Agreement is terminated for any reason other than cause prior to completion of the Project, any use of documents by the City thereafter shall be at the

City's sole risk, unless otherwise consented to by Consultant.

XIII. CONFLICT OF INTEREST

The Consultant shall disclose any personal or private interest related to property or business within the City. Upon disclosure of any such personal or private interest, the City shall determine if the interest constitutes a conflict of interest. If the City determines that a conflict of interest exists, the City may treat such conflict of interest as a default and terminate this Agreement.

XIV. VENUE

This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in the County of Weld, State of Colorado.

XV. INDEPENDENT CONTRACTOR

A. Consultant is an independent contractor. Notwithstanding any provision appearing in this Agreement, all personnel assigned by Consultant to perform services under the terms of this Agreement shall be, and remain at all times, employees or agents of Consultant for all purposes. Consultant shall make no representation that it is the employee of the City for any purposes.

B. **Disclosure: Consultant is not entitled to workers' compensation benefits and Consultant is obligated to pay federal and state income tax on any moneys earned pursuant to this Agreement for Professional Services by Independent Contractor.**

XVI. NO WAIVER

Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by the City shall not constitute a waiver of any of the other terms or obligations of this Agreement.

XVII. ENTIRE AGREEMENT

This Agreement and the attached Exhibit A is the entire Agreement between Consultant and the City, superseding all prior oral or written communications. None of the provisions of this Agreement may be amended, modified or changed, except as specified herein.

XVIII. NOTICE

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

The City: City of Evans
Attn: Aden Hogan, City Manager
1100 37th Street
Evans, Colorado 80620-2036

Consultant:

XIX. EFFECTIVE DATE AND EXECUTION

This Agreement shall become effective following execution by both Consultant and City. This Agreement may be executed in counterparts, including by facsimile or electronically, each of which shall be considered an original, but all of which together shall constitute one instrument.

CITY OF EVANS, COLORADO

By: _____

Aden Hogan, City Manager

THE FOREGOING instrument was subscribed and sworn to before me this ___ day of _____, 2014 by Aden Hogan. Witness my hand and official seal.

Notary Public

SEAL

My Commission Expires: _____

CONSULTANT

By: _____

Title: _____

THE FOREGOING instrument was subscribed and sworn to before me this ___ day of _____, 2014 by _____. Witness my hand and official seal.

Notary Public

SEAL

My Commission Expires: _____