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**REQUEST FOR PROPOSAL
RFP 10229 ARC APPAREL SERVICES
RFP DUE: 3:00 PM MT (Mountain Time), November 20th, 2025**

The City of Fort Collins is requesting proposals from qualified Service Providers to provide both Arc Rated Flame Retardant (AR FR) and Non-Flame Retardant apparel for City personnel.

As part of the City's commitment to sustainability, proposals must be submitted online through the Rocky Mountain E-Purchasing System (RMEPS) at <http://www.bidnetdirect.com/colorado/city-of-fort-collins>. *Note: please ensure adequate time to submit proposals through RMEPS. Proposals not submitted by the designated Opening Date and Time will not be accepted by RMEPS.*

All questions should be submitted, in writing via email, to Almoutaz Badawi, Buyer II at abadawi@fcgov.com, no later than 3:00 PM MT on November 7th, 2025. Please format your e-mail to include: RFP 10229 Apparel Services in the subject line. Questions received after this deadline may not be answered. Responses to all questions submitted before the deadline will be addressed in an addendum and posted on the on the Rocky Mountain E-Purchasing System webpage. A copy of the RFP may be obtained at <http://www.bidnetdirect.com/colorado/city-of-fort-collins>.

Prohibition of Unlawful Discrimination: The City of Fort Collins, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

The City strictly prohibits unlawful discrimination based on an individual's gender (regardless of gender identity or gender expression), race, color, religion, creed, national origin, ancestry, age 40 years or older, marital status, disability, sexual orientation, genetic information, or other characteristics protected by law. For the purpose of this policy "sexual orientation" means a person's actual or perceived orientation toward heterosexuality, homosexuality, and bisexuality. The City also strictly prohibits unlawful harassment in the workplace, including sexual harassment. Further, the City strictly prohibits unlawful retaliation against a person who engages in protected activity. Protected activity includes an employee complaining that he or she has been discriminated against in violation of the above policy or participating in an employment discrimination proceeding.

The City requires its Service Providers to comply with the City's policy for equal employment opportunity and to prohibit unlawful discrimination, harassment and retaliation. This requirement applies to all third-party Service Providers and their subcontractors/subconsultants at every tier.

Public Viewing Copy: The City is a governmental entity subject to the Colorado Open Records Act, C.R.S. §§ 24-72-200.1 et seq. ("CORA"). Any proposals submitted hereunder are subject to public disclosure by the City pursuant to CORA and City ordinances. Service Providers may

submit one (1) additional complete proposal clearly marked "FOR PUBLIC VIEWING." In this version of the proposal, Service Providers may redact text and/or data that it deems confidential or proprietary pursuant to CORA. All pricing will be considered public records subject to disclosure under CORA and as such pricing cannot be redacted from the "FOR PUBLIC VIEWING" version of the proposal. Failure to provide a public viewing copy will be considered a waiver of any claim of confidentiality under CORA without regard to how the applicant's proposal or certain pages of the proposal are marked confidential, proprietary, or similar. Such statement does not necessarily exempt such documentation from public disclosure if required by CORA, by order of a court of appropriate jurisdiction, or other applicable law. Generally, under CORA, trade secrets, confidential commercial and financial data information may not be disclosed by the City. Proposals may not be marked "Confidential" or 'Proprietary' in their entirety. By responding to this RFP, Service Providers hereby waives any and all claims for damages against the City for the City's good faith compliance with CORA. **All provisions of any contract resulting from this request for proposal will be public information.**

Service Providers Registration: The City requires new Service Providers receiving awards from the City to submit IRS form W-9 and requires all Service Providers to accept Direct Deposit (Electronic) payment. If needed, the W-9 form and the Service Provider Direct Deposit Authorization Form can be found on the City's Purchasing website at www.fcgov.com/purchasing under Service Provider Reference Documents. **Please do not submit these documents with your proposal**, however, if you take exception to participating in Direct Deposit (Electronic) payments please clearly note such in your proposal as an exception. The City may waive the requirement to participate in Direct Deposit (Electronic) payments at its sole discretion.

Sales Prohibited/Conflict of Interest: No officer, employee, or member of City Council, shall have a financial interest in the sale to the City of any real or personal property, equipment, material, supplies or services where such officer or employee exercises directly or indirectly any decision-making authority concerning such sale or any supervisory authority over the services to be rendered. This rule also applies to subcontracts with the City. Soliciting or accepting any gift, gratuity favor, entertainment, kickback or any items of monetary value from any person who has or is seeking to do business with the City of Fort Collins is prohibited.

Collusive or Sham Proposals: Any proposal deemed to be collusive or a sham proposal will be rejected and reported to authorities as such. Your authorized signature of this proposal assures that such proposal is genuine and is not a collusive or sham proposal. The City of Fort Collins reserves the right to reject any and all proposals and to waive any irregularities or informalities.

Utilization of Award by Other Agencies: The City of Fort Collins reserves the right to allow other state and local governmental agencies, political subdivisions, and/or school districts to utilize the resulting award under all terms and conditions specified and upon agreement by all parties. Usage by any other entity shall not have a negative impact on the City of Fort Collins in the current term or in any future terms.

The selected Service Providers shall be required to sign the City's Agreement prior to commencing services (see sample attached to this document).

Sincerely,



Gerry Paul
Purchasing Director

I. BACKGROUND & OBJECTIVE

A. Objective

The City of Fort Collins is requesting proposals from qualified Service Providers to provide both Arc Rated Flame Retardant (AR FR) apparel and Non-Flame Retardant high-quality workwear for City personnel. Apparel should include high-visibility (HI-VIZ) clothing, breathable garments suitable for active fieldwork, and weather-resistant gear designed to protect employees working in inclement conditions. The selected Service Provider(s) will be expected to provide durable, safe, embroidered, and functional clothing that supports the daily needs of City personnel while meeting applicable safety and performance standards.

B. Background

The National Fire Protection Association has recently stipulated in code NFPA 70E-2009 130.3.B that Arc Rated clothing and other Personal Protective Equipment (PPE) must be worn when employees are working with the Arc Flash Protection Boundary. The Occupational Safety and Health Administration (OSHA) has defined the maximum use limit for such clothing to be 11.1 calorie. The City estimates that about 90-100 Light & Power employees will need to be supplied with AR FR apparel annually. Water Field Operations staff work year-round in a wide range of environmental conditions, requiring dependable workwear that enhances visibility, comfort, and protection. The City is seeking apparel that ensures operator safety in high-traffic and construction areas, provides breathability and moisture control for physical tasks, and withstands challenging weather such as rain, snow, wind, and extreme temperatures. Approximately 60–80 Water Operators will need to be supplied with this apparel annually. This comes out to approximately 1600 articles of clothing.

II. SCOPE OF PROPOSAL

A. Apparel Specifications

AR FR apparel must comply with OSHA regulations for FR clothing. Apparel specifications, including preferred brand, apparel descriptions, size requirements and styles are referenced and incorporated herein and will accompany the RFP on a separate Excel file entitled “Attachment A - Pricing Schedule”. Although the City will consider alternate brands, the proposed apparel must be equivalent to the type and styles of apparel annotated in Pricing Schedule. The sizing listed in Attachment A is not meant to be all inclusive; the Service Provider(s) shall comply with additional sizing requirements if requested by the City.

The Non-FR apparel must meet the needs of City personnel by providing high-quality workwear that is breathable, durable, and suitable for year-round field conditions. Clothing must come from top brands known for safety, comfort, and performance, and must include options that are weather-resistant for inclement conditions. Service Provider(s) shall offer a wide range of sizing options to ensure all male and female employees are properly fitted and equipped with apparel that supports both safety and functionality in the field.

B. Ordering Process

1. For each contract term, the City will submit a Blanket Purchase Order in early January for the calendar year which will facilitate payment for the items ordered from the Service Provider(s) within that same calendar year. The awarded Service Provider(s) should reference this Purchase Order number on each invoice submitted to invoices@fcgov.com for that calendar year to facilitate prompt payment of all invoices.
2. Service Provider(s) will be available to provide apparel fitting/measuring of City personnel at City facility(s) for no additional cost as reasonably requested by the City. It is the responsibility of the City employee to try on apparel in order to ascertain proper sizing if needed. It will be the City employee's responsibility to log onto their personal clothing account to order clothing needed for their specified position. Attachment B, incorporated herein, is "Sample Clothing Action Form". NOTE: This form may be modified at the City's discretion.
3. For larger orders (10-12 parcels), Service Provider(s) will deliver in bulk to the City. Orders must be packaged separately by employee and labeled with the employee's name and their respective division, for example; "Light & Power" or "Water Field Operations" (unless another division is noted on the CLOTHING ACTION Form). All pricing should include FOB destination in the price.
4. The City reserves the right to initiate single retail purchases on an as-needed basis and the Service Provider(s) will use the same Percent Markup provided on the Pricing Schedule. Percent Markup will remain unchanged for the Agreement.
5. For single retail purchases, the City of Fort Collins Procurement Card will be used. Presentation of the City Procurement Card at checkout will be sufficient to qualify the purchase for City contract pricing. All purchases under this Agreement are exempt from sales tax.
6. Online ordering is the preferred option for the City and Service Provider(s) will set up individual City/Employee accounts.
7. The Service Provider(s) will provide the City Representatives, Jay Wolfe, Andrew Gingerich and Gina Shubin, with an order confirmation within twenty four (24) business hours for every order placed, which will include the estimated delivery date(s).
8. If the Service Provider(s) are notified of a backorder from the manufacturer, the Service Provider(s) will notify the City Representatives within twenty four (24) business hours. To mitigate delays in communicating backordered items to the City, the Service Provider(s) are responsible for ensuring the manufacturer communicates estimated delivery dates to the Service Provider(s) in a timely manner.

C. Logos

Service Provider(s) pricing will include logo, silkscreen, and embroidery services on all apparel. At the City's discretion, the City will source City logo silkscreen or embroidery

services via a third- party provider after purchase of the article from the Service Provider(s), at the City's expense.

D. Delivery

Unless stated otherwise by the City, shipping on all orders is to be F.O.B. destination to the City of Fort Collins Utilities Service Center Warehouse, 700 Wood Street, Fort Collins, Colorado 80521.

The Service Provider(s) must arrange for all orders to be delivered within six (6) weeks After of Receipt of Order (ARO). Service Provider(s) are to guarantee that oversize garments are delivered in the same time frame as regular-size garments. That is within six (6) weeks ARO.

E. Pricing

Pricing changes will only be permitted at the time of Agreement renewal. Service Provider(s) will give a minimum of thirty (30) days written notice to the City prior to the date of renewal of any cost increase by the manufacturers. Service Provider's Percent Markup will remain unchanged for the duration of the Agreement.

F. Returns

In the event the manufacturer sizing is inconsistent and/or incorrectly labeled, Service Provider(s) will allow the City to return these items for credit with no restocking or shipping charge. In such event, Service Provider(s) will promptly order the correct replacement(s).

The City agrees to pay freight to return non-logo item(s) when the City ordered in error.

G. Sustainability/TBL

Service Provider(s) will ensure that all apparel supplied to the City is manufactured using Sweatshop- Free Labor.

H. Anticipated Schedule

The following represents the City's target schedule for the RFP. The City reserves the right to amend the target schedule at any time.

- RFP issuance: October 24th, 2025
- Question deadline: 3:00 PM MT on November 7th, 2025
- Final Addendum Issued: November 14th, 2025
- Proposal due date: 3:00 PM MT on November 20th, 2025

I. Interviews

In addition to submitting a written proposal, the top-rated Service Providers may be interviewed by the RFP assessment team and asked to participate in remote oral presentation to provide an overview of the company, approach to the project and to address questions. The evaluation criteria for the oral interviews will be the same as the criteria for the written evaluations and is included in Section IV.

J. Award

The initial term of the Agreement will be for one (1) year and may be extended for additional one (1) year periods not to exceed four (4) additional one year periods. In subsequent years, rates shall be escalated no more than three percent (3%) per year.

K. Subcontractors/Subconsultants

Service Provider(s) will be responsible for identifying any subcontractors and/or subconsultants in their proposal. Please note that the City will contract solely with the awarded Service Provider(s); therefore, subcontractors and/or subconsultants will be the responsibility of the Service Provider.

L. Current standards

All work and/or materials must meet current standards in force by recognized technical and professional societies, trade and materials supply associations, institutes and organizations, bureaus and testing laboratories, and national, federal, state, county, and local laws, codes and ordinances.

M. Fees, Licenses, Permits

The successful Service Provider shall be responsible for obtaining any necessary licenses, fees or permits without additional expense to the City. All vehicles and equipment shall be properly licensed and insured, carry the appropriate permits and be placarded as required by law.

N. Laws and Regulations

The Service Provider agrees to comply fully with all applicable local, State of Colorado and Federal laws and regulations and municipal ordinances to include American Disabilities Act (ADA).

O. Invoicing and Payment

Invoices should be emailed monthly to invoices@fcgov.com with a copy to the City Invoices should be emailed monthly to invoices@fcgov.com with a copy to the Project Manager. The cost of the work completed shall be paid to the Vendor each month following the submittal of a correct invoice by the Vendor indicating at a minimum the project name, Purchase Order number, employee name, item description, and item quantity. Payments will be made using the prices listed on the agreed-to Price Schedule.

In the event a service is requested which is not listed on the Price Schedule, the Vendor and the City will negotiate an appropriate unit price for the service prior to the Vendor initiating such work. The City pays invoices on Net 30 terms.

III. PROPOSAL SUBMITTAL

Please limit the total length of your proposal to a maximum of thirty (30) 8 ½ x 11" pages (excluding cover pages, table of contents, dividers and Authorization form). Font shall be a minimum of 10 Arial and margins are limited to no less than .5" for sides and top/bottom. Extended page sizes, such as 11" x 17", count as a single page and may be used for detailed pricing. Links to other files or websites shall not be permitted. Proposals that do not conform to these requirements may be rejected.

Service Providers are required to provide detailed written responses to the following items in the order outlined below. The responses shall be considered technical offers of what Service Providers propose to provide and shall be incorporated in the contract award as deemed appropriate by the City. A proposal that does not include all the information required may be deemed non-responsive and subject to rejection.

Responses must include all the items in the order listed below. It is suggested that the Service Providers include each of the City's questions with their response.

The City of Fort Collins shall not reimburse any firm for costs incurred in the preparation and presentation of their proposal.

A. Cover Letter / Executive Summary

The Executive Summary should highlight the content of the proposal and features of the program offered, including a general description of the program and any unique aspects or benefits provided by your firm.

Indicate your availability to participate in the interviews on the proposed dates as stated in the Schedule section.

Q. Service Provider Information

1. Describe the Service Provider's business and background
2. Number of years in the business
3. Details about ownership
4. An overview of services offered and qualifications
5. Size of the firm
6. Location(s) of offices. If multiple, please identify which will be the primary for our account.

7. Primary contact information for the company including contact name(s) and title(s), mailing address(s), phone number(s), and email address(s).

R. Scope of Proposal

1. Provide a detailed narrative of the services proposed if awarded the contract per the scope above. The narrative should include any options that may be beneficial for the City to consider.
2. Provide documentation that demonstrates the proposed brand of FR clothing is Arc Rated.
3. Briefly describe the approach to execute the scope of work to include the methods and assumptions used, and any exceptions and/or risks.
4. Describe the methods and timeline of communication your firm will use with the City's project manager and other parties.
5. Provide documentation or website links that assure the proposed apparel is manufactured using Sweatshop-Free Labor.
6. Identify what portion of work, if any, may be subcontracted or outsourced to subconsultants. Include all applicable information herein requested for each subconsultant.

S. Firm Capability and Assigned Personnel

Provide relevant information regarding previous experience related to this or similar projects, to include the following:

1. Provide an Organization Chart/Proposed Project Team: An organization chart containing the names of all key personnel and subconsultants with titles and their specific task assignment for this Agreement shall be provided in this section.
2. A list of qualifications for your firm and qualifications and experience of the specific staff members proposed to perform the services described above.
3. References. Provide a minimum of three (3) similar projects with public agencies (not to include the City of Fort Collins) in the last 5 years that have involved the staff and subcontractors/subconsultants proposed to work on this project. Include the owner's name, title of project, beginning price, ending price, contact name, email and phone number, subconsultants on the team and a brief description of the work and any change orders. The Service Provider authorizes the City to verify any and all information contained herein and hereby releases all those concerned providing information as a reference from any liability in connection with any information provided.
4. Provide any information that distinguishes Service Provider from its competition and any additional information applicable to this RFP that might be valuable in assessing Service Provider's proposal.

T. Cost and Work Hours

In your response to this proposal, please provide the following:

1. Complete and submit Attachment A.
2. Schedule of Rates: Markup percentage by garment or manufacturer. This fee schedule will be firm for at least one (1) year from the date of the Agreement. The fee schedule will be used as a basis for determining fees should additional services be necessary. A fee schedule for subconsultants/subcontractors, if used, shall be included. Rates shall be escalated no more than three percent (3%) per year.

U. Sustainability/TBL Methodology

In concise terms (no more than two pages), please describe your organization's commitment to sustainability and supporting values.

Each element of the TBL sustainability criteria will receive equal consideration in determining the final Sustainability/TBL score.

1. Address how your firm strives to incorporate all three aspects (social, environmental, and economic) of Triple Bottom Line (TBL) sustainable practices into the workplace. Provide examples along with any metrics used to measure success within your firm.
2. Also provide examples of how your firm has incorporated all three aspects of TBL sustainable practices in previous similar projects on which your firm has been the prime Service Provider.

Some examples are provided below:

- a. Environmental – Experience delivering projects / programs focused on environmental health priorities in the areas of climate resiliency, water quality and watershed protection, regulatory performance, management systems, air quality, renewable energy, sustainable building and design, construction materials management, and solid waste reduction.
- b. Economic – Experience working and delivering projects with an emphasis on strategic financial planning, job creation, business development, asset management, various project delivery methods, value engineering, regional partnerships, transparency, stakeholder engagement, strategic investments, aging infrastructure, repurposing of existing facilities, and competing financial priorities.
- c. Social - Experience working and delivering projects, programs, and/or initiatives that support Equity, Diversity, and Inclusion throughout your firm's workplace, including leadership, and supply chain. Examples of this may be demonstration of working within cultural and language gaps, development of diversity programs, diverse project teams, equitable opportunity Service Provider supply chain, and how your firm has applied an equity lens to processes such as recruitment, hiring, purchasing, career pathways, salaries, and staff engagement.

V. Sample Agreement

Included with this request for proposals is a sample Agreement that the City intends to use for obtaining the services of the Service Provider. The Service Provider is required to review this Agreement and indicate any objections to the terms of the contract. If revisions to the contractual terms are requested, provide suggested revisions.

W. Acknowledgement

The Acknowledgement form is attached as Section V. Complete the attached form indicating the Service Provider hereby acknowledges receipt of the City of Fort Collins Request for Proposal and acknowledges that the Service Provider has read and agrees to be fully bound by all of the terms, conditions and other provisions set forth in the RFP.

IV. REVIEW AND ASSESSMENT CRITERIA

A. Proposal and Interview Criteria

Service Providers will be evaluated on the following criteria. This set of criteria will be the basis for review and assessment of the written proposals and optional interview session. At the discretion of the City, interviews of the top-rated Service Providers may be conducted.

The rating scale shall be from 1 to 10, a rating of 1 doesn't meet minimum requirements, a rating of 5 means the category fulfills the minimum requirements, and 10 exceeds minimum requirements in that category.

CRITERIA NUMBER	CRITERIA	WEIGHTING FACTOR
1	SCOPE OF PROPOSAL	45%
2	FIRM CAPABILITY & ASSIGNED PERSONNEL	30%
3	COST AND WORK HOURS	20%
4	SUSTAINABILITY/TBL METHODOLOGY	5%

V. ACKNOWLEDGEMENT

Service Provider hereby acknowledges receipt of the City of Fort Collins Request for Proposal and acknowledges that it has read and agrees to be fully bound by all of the terms, conditions and other provisions set forth in the RFP 10229 ARC Apparel Services Agreement except as otherwise noted. Additionally, Service Provider hereby makes the following representations to City:

- a. All of the statements and representations made in this proposal are true to the best of the Service Provider's knowledge and belief.
- b. Service Provider commits that it is able to meet the terms provided in this proposal.
- c. This proposal is a firm and binding offer, for a period of 90 days from the date hereof.
- d. Service Provider further agrees that the method of award is acceptable.
- e. Service Provider also agrees to complete the proposed Agreement with the City of Fort Collins within 10 days of notice of award. If contract is not completed and signed within 10 days, City reserves the right to cancel and award to the next highest rated firm.
- f. Service Provider acknowledges receipt of ____ addenda.
- g. Service Provider acknowledges no conflict of interest.
- h. The City is a governmental entity subject to the Colorado Open Records Act, C.R.S. §§ 24-72-200.1 et seq. ("CORA"). Any proposals submitted hereunder are subject to public disclosure by the City pursuant to CORA and City ordinances. Professionals may submit one (1) additional complete proposal clearly marked "FOR PUBLIC VIEWING." In this version of the proposal, Professionals may redact text and/or data that it deems confidential or proprietary pursuant to CORA. All pricing will be considered public records subject to disclosure under CORA and as such pricing cannot be redacted from the "FOR PUBLIC VIEWING" version of the proposal. Failure to provide a public viewing copy will be considered a waiver of any claim of confidentiality under CORA without regard to how the applicant's proposal or certain pages of the proposal are marked confidential, proprietary, or similar. Such statement does not necessarily exempt such documentation from public disclosure if required by CORA, by order of a court of appropriate jurisdiction, or other applicable law. Generally, under CORA, trade secrets, confidential commercial information and financial data information may not be disclosed by the City. Proposals may not be marked "Confidential" or 'Proprietary' in their entirety. By responding to this RFP, Professionals hereby waives any and all claims for damages against the City for the City's good faith compliance with CORA. **All provisions and pricing of any contract resulting from this request for proposal will be public information.**

Legal Firm Name: _____

Physical Address: _____

Remit to Address: _____

Phone: _____

Name of Authorized Agent of Firm: _____

Signature of Authorized Agent: _____

Email of Authorized Agent: _____

Primary Contact for Project: _____

Title: _____ Email Address: _____

Phone: _____ Cell Phone: _____

NOTE: ACKNOWLEDGMENT IS TO BE SIGNED & RETURNED WITH YOUR PROPOSAL.

Attachment A

Pricing Schedule

RFP 10229 ARC Apparel Services

INSTRUCTIONS:

Please enter the Manufacturer Cost in column H, your Percent Markup in column I, Final Delivered Cost in column J, and Order Lead Time in column K for each item listed below.

If you provide embroidery in-house, please enter the cost per character in column L.

If you are proposing different FR clothing brands, please note that information in the Product Description and Style# cells and highlight with red text.

Please keep original formatting intact as much as possible.

Product Description	Sizes	Color (s)	Manufacturer Cost	Percent Markup (%)	Final Delivered Cost	Order Lead time	Embroidery Cost (if provided)
PANTS, FR							
Carhartt Relaxed Fit Jean	26 - 60	Denim					
Carhartt Canvas Cargo Pant	26 - 60	Brown, Grey, Green					
Wrangler 20X Vintage Boot Jean	24 - 60	Denim					
Ariat Lowrise Boot Cut M4 Jean	26 - 60	Denim					
SHIRTS, FR							
Bulwark IQ Long Sleeve T-shirt	XS-5XL	Navy Blue, Grey, Black, Plaid					
Bulwark IQ Long Sleeve Henley	XS-5XL	Navy Blue, Grey, Black, Plaid					
	TALLS						
Carhartt Force Long Sleeve T-Shirt	XS - 5XL	Navy Blue, Grey, Black, Plaid					
	TALLS						
Carhartt Force Long Sleeve Henley	XS - 5XL	Navy Blue, Grey, Black, Plaid					
	TALLS						
Ariat Dual Hazard Quarter Zip FR shirt	XS - 5XL	Navy Blue, Grey, Black, Plaid					
NSA Hi-Vis Long Sleeve T-shirt with Pocket	XS - 5XL	Hi-Vis					
DriFire Hi-Vis StrongKnit Long Sleeve Shirt	XS - 5XL	Hi-Vis					
Big Bill Hi-Vis Long Sleeve T-Shirt	XS - 5XL	Hi-Vis					
Ariat Air Crew Long Sleeve Shirt	XS - 5XL	Navy Blue, Grey, Black, Plaid					
Bulwark Industrial Button Front Work Shirt	XS - 5XL	Navy Blue, Grey, Black, Plaid					
Carhartt FR Force Lightweight Long Sleeve Shirt	XS - 5XL	Navy Blue, Grey, Black, Plaid					
	TALLS						
DriFire Hi-Vis Button Down Work Shirt	XS-6XL	Navy Blue, Grey, Black, Plaid					
	TALLS						
SHIRTS Non-FR							
CarharttForce Color Enhanced Short-Sleeve T-Shirt	S-4XL	Navy Blue, Grey, Black, Plaid					
ML Kishigo Hi-Vis Long Sleeve Shirt	S-4XL	Hi-Vis					
Port Authority Essential T-Shirt	S-4XL	Hi-Vis					
ML Kishigo Hi-Vis Full Zip Hooded Sweatshirt	S-4XL	Hi-Vis					
High-Visibility Zip-Front Hooded Sweatshirt	S-4XL	Hi-Vis					

Attachment B

Sample Clothing Action Form

Employee Name: _____

Daytime Phone: _____ **Email Address:** _____

~Catalog (check one):

☐

FR Clothing

☐

Non-FR Clothing

LOC / FC Dept (check one):

☐

Electric Field Services

☐

L&P Operations Services

☐

Water Field Operations

☐

UT Customer Connections

☐

UT Elec Sys Design & IT Div

☐

UT Electric Systems Eng
Div

☐

UT Standards Eng Div

☐

Connexion:

☐

Other: _____

Initial Balance: _____

Yearly Amount: _____

Email Completed Form to: Cheryl - chwagner@fcgov.com

VI. SAMPLE AGREEMENT (FOR REFERENCE ONLY – DO NOT SIGN)

SERVICES AGREEMENT

This Services Agreement (Agreement) made and entered into the day and year set forth in the Agreement Period section below by and between the CITY OF FORT COLLINS, COLORADO, a Colorado Municipal Corporation, (City) and _____, a(n) [enter state] [business type], (Service Provider).

WITNESSETH:

In consideration of the mutual covenants and obligations herein expressed, it is agreed by and between the parties hereto as follows:

1. Scope of Services. The Service Provider agrees to provide Services in accordance with the Scope of Services (Services) attached hereto as Exhibit A, consisting of [# of Pages] and incorporated herein. Irrespective of references to named third parties in this Agreement and its Exhibits, the Service Provider shall be solely responsible for performance of all duties hereunder.
2. Changes. The City may, at any time during the term of the Agreement, make changes to the Agreement. Such changes shall be agreed upon in writing by the parties.
3. Agreement Period. This Agreement shall commence _____, 20(Year) (the Effective Date) and shall continue in full force and effect until _____, 20(Year), unless sooner terminated as herein provided. In addition, at the option of the City, the Agreement may be extended for additional one-year periods not to exceed four (4) additional one-year period(s). Renewals and pricing changes shall be negotiated by and agreed to by both parties only at the time of renewal. Written notice of renewal shall be provided to the Service Provider no later than thirty (30) days prior to Agreement end.
4. Early Termination by City. Notwithstanding the time periods contained herein, the City may terminate this Agreement at any time without cause or penalty by providing at least ten (10) calendar days written notice of termination to the Service Provider.

In the event of early termination by the City, the Service Provider shall be paid for Services rendered to the date of termination, subject only to the satisfactory performance of the Service Provider's obligations under this Agreement. Service Provider shall submit a final invoice within ten (10) calendar days of the effective date of termination. Payment shall be the Service Provider's sole right and remedy for such termination.

5. Notices. All notices provided under this Agreement shall be effective immediately when emailed or three (3) business days from the date of the notice when mailed to the following addresses:

Service Provider:

City:

Copy to:

Attn:

City of Fort Collins

City of Fort Collins

Attn:

Attn: Purchasing Dept.

PO Box 580

PO Box 580

Fort Collins, CO 80522

Fort Collins, CO 80522

Email Address

Email Address

purchasing@fcgov.com

All notices under this Agreement shall be written.

6. Compensation. In consideration of the Services to be performed pursuant to this Agreement, the City agrees to pay the Service Provider in accordance with Exhibit B, consisting of [# of Pages], attached and incorporated herein. Monthly partial payments based upon the Service Provider's billings and itemized statements are permissible. The amounts of all such partial payments shall be based upon the Service Provider's City-verified progress in completing the Services to be performed pursuant hereto and upon the City's approval of the Service Provider 's actual reimbursable expenses. Final payment shall be made following acceptance by the City of the Services.

Invoices shall be emailed to invoices@fcgov.com with a copy to the City Project Manager. The cost of the Services completed shall be paid to the Service Provider following the submittal of a correct itemized invoice by the Service Provider. The City is exempt from sales and use tax. The City's Certificate of Exemption license number is 09804502. A copy of the license is available upon written request.

The City pays undisputed invoices on Net 30 days from the date of the invoice submittal to the City or, for disputed invoices, Net 30 days from the date of City Project Manager's approval.

7. Design and Service Standards. The Service Provider warrants and shall be responsible for the professional quality, technical accuracy, accessibility requirements under ADA and Public Accommodations and Technology Accessibility sections below, timely completion and the coordination of all Services rendered by the Service Provider, and the Project Instruments as defined in the Project Instruments and License section below. The Service Provider shall, without additional compensation, promptly remedy and correct any errors, omissions, or other deficiencies from such standards.
8. Indemnification. The Service Provider shall indemnify, defend, and hold harmless the City and its officers and employees, to the maximum extent permitted under Colorado law, against and from any and all actions, suits, claims, demands, or liability of any character whatsoever claimed by the Service Provider or third parties against the City arising out of or related to this Agreement (including but not limited to contract, tort, intellectual property, accessibility, or otherwise). This obligation extends to reimbursement of the City's defense costs and reasonable attorney's fees.

9. Insurance. The Service Provider shall maintain insurance in accordance with Exhibit C

consisting of one (1) page, attached and incorporated herein.

10. Appropriation. To the extent this Agreement or any provision in it. requires payment of any nature in fiscal years subsequent to the current fiscal year and constitutes a multiple fiscal year debt or financial obligation of the City, it shall be subject to annual appropriation by Fort Collins City Council as required in Article V, Section 8(b) of the City Charter, City Code Section 8-186, and Article X, Section 20 of the Colorado Constitution. The City shall have no obligation to continue this Agreement in any fiscal year for which there are no pledged cash reserves or supporting appropriations pledged irrevocably for purposes of payment obligations herein. Non-appropriation by the City shall not be construed as a breach of this Agreement.
11. Project Instruments and License.
 - a. Upon execution of this Agreement, the Service Provider grants to the City an irrevocable, unlimited and royalty free license to use any and all sketches, drawings, as-builts, specifications, designs, blueprints, data files, calculations, studies, analysis, renderings, models, plans, reports, and other deliverables (Project Instruments), in any form whatsoever and in any medium expressed, for purposes of constructing, using, maintaining, altering and adding to the project, provided that the City substantially performs its obligations under the Agreement. The license granted hereunder permits the City and third parties reasonably authorized by the City to reproduce applicable portions of the Project Instruments for use in performing the Services or construction for the project. In addition, the license granted hereunder shall permit the City and third parties reasonably authorized by the City to reproduce and use the Project Instruments for similar projects, provided however, in such event the Service Provider shall not be held responsible for the design to the extent the City deviates from the Project Instruments. This license shall survive termination of the Agreement by default or otherwise.
 - b. Upon payment of each invoice, associated Project Instruments rendered by the Service Provider shall become the City's property. The Service Provider shall provide the City with the Project Instruments in electronic format in a mutually agreed upon file type.
12. City Project Manager. The City will designate, before commencement of the Services, the City Project Manager who will make, within the scope of their authority, all necessary and proper decisions with reference to the Services provided under this Agreement. All requests for contract interpretations, change order, and other clarification or instruction shall be directed to the City Project Manager.

The initial City Project Manager for this Agreement is [Enter Name] and can be reached at [\[Enter Email\]](#) or [Enter Phone]. The City Project Manager is subject to change by the City.
13. Project Status Report. Project status reports may be required by Exhibit A – Scope of Services and shall be submitted to the City Project Manager. Failure to provide any required status report may result in the suspension of the processing of any invoice.

14. Independent Contractor. The Services to be performed by the Service Provider are those of an independent contractor and not of an employee of the City. The City shall not be responsible for withholding or remitting any portion of Service Provider's compensation hereunder or any other amounts on behalf of Service Provider for the payment of FICA, Workmen's Compensation, unemployment insurance, other taxes or benefits or for any other purpose.
15. Personal Services. It is understood that the City enters into the Agreement based on the special abilities of the Service Provider and that this Agreement shall be considered as an Agreement for personal services. Accordingly, the Service Provider shall neither assign any responsibilities nor delegate any duties arising under the Agreement without the prior written consent of the City.
16. Subcontractors/Subconsultants. Service Provider may not subcontract any of the Services without the prior written consent of the City, which shall not be unreasonably withheld. If any of the Services are subcontracted hereunder (with the consent of the City), then the following provisions shall apply:
- a. the subcontractor must be a reputable, qualified firm with an established record of successful performance in its respective trade performing identical or substantially similar work;
 - b. the subcontractor will be required to comply with all applicable terms of this Agreement;
 - c. the subcontract will not create any contractual relationship between any such subcontractor and the City, nor will it obligate the City to pay or see to the payment of any subcontractor; and
 - d. the work of the subcontractor will be subject to inspection by the City to the same extent as the work of the Service Provider.
- The Service Provider shall require all subcontractor/subconsultants performing Service(s) hereunder to maintain insurance coverage naming the City as an additional insured under this Agreement in accordance with Exhibit C. The Service Provider shall maintain a copy of each subcontractor's/subconsultant's certificate evidencing the required insurance. Upon request, the Service Provider shall provide the City with a copy of the certificate(s) within two (2) business days.
- The Service Provider shall be responsible for any liability directly or indirectly arising out of the Services performed under this Agreement by a subcontractor/subconsultant, which liability is not covered by the subcontractor/subconsultant's insurance.
17. Acceptance Not Waiver. The City's approval of Project Instruments furnished hereunder shall not in any way relieve the Service Provider of responsibility for the quality or technical accuracy of the Services. The City's approval or acceptance of, or payment for any of the Services shall not be construed to operate as a waiver of any rights or benefits provided to the City under this Agreement.

18. Warranty.

- a. Service Provider warrants that all Services performed hereunder shall be performed with the highest degree of competence and care in accordance with accepted standards for Services of a similar nature.
- b. Unless otherwise provided in the Agreement, all materials and equipment incorporated into any Services shall be new and, where not specified, of the most suitable grade of their respective kinds for their intended use, and all Services must be of a quality acceptable to City.
- c. Service Provider warrants all equipment, materials, labor and other Services, provided under this Agreement, except City -furnished materials, equipment and labor, against defects and nonconformances in design, materials and Service quality for the original manufacturer's warranty term. Upon receipt of written notice from the City of any such defect or nonconformances, the affected item or part thereof shall be redesigned, repaired or replaced by Service Provider in a manner and at a time acceptable to City.

19. Default. Each and every term and condition hereof shall be deemed to be a material element of this Agreement. In the event either party should fail or refuse to perform according to the terms of this Agreement, that party may be declared in default upon notice.

20. Remedies. In the event a party has been declared in default, that defaulting party shall be allowed a period of ten (10) calendar days from the date of notice within which to cure said default. In the event the default remains uncorrected, the party declaring default may elect to:

- a. terminate the Agreement and seek damages;
- b. treat the Agreement as continuing and require specific performance; or
- c. avail themselves of any other remedy at law or equity.

In the event of a dispute between the parties regarding this Agreement, each party shall bear its own attorney fees and costs, except as provided for in the Indemnification and Technology Accessibility sections.

21. Entire Agreement; Binding Effect; Authority to Execute. This Agreement, along with all Exhibits and other documents incorporated herein, shall constitute the entire Agreement of the parties regarding this transaction and the matter recited herein. This Agreement supersedes any prior Agreements, promises, or understandings as to the matter recited herein. The Agreement shall be binding upon said parties, their officers, employees, agents and assigns and shall inure to the benefit of the respective survivors, heirs, personal representatives, successors and assigns of said parties. Covenants or representations not contained in this Agreement shall not be binding on the parties. In the event of a conflict between terms of the Agreement and any exhibit or attachment, the terms of the Agreement shall prevail. Each person executing this Agreement affirms that they have the necessary authority to sign on behalf of their respective party and to bind such party to the terms of this Agreement.

22. Law/Severability. The laws of the State of Colorado and the City of Fort Collins Charter and Municipal Code shall govern the construction, interpretation, execution, and enforcement of this Agreement —without regard to choice of law or conflict of law principles. The Parties further agree that Larimer County District Court is the proper venue for all disputes. If the City subsequently agrees in writing that the matter may be heard in federal court, venue will be in U.S. District Court for the District of Colorado. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, that holding shall not invalidate or render unenforceable any other provision of this Agreement.
23. Use by Other Agencies. The City reserves the right to allow other state and local governmental agencies, political subdivisions, and/or school districts (collectively Agency) to use the City's award determination to the Service Provider. Use by any other Agency shall not have a negative impact on the City in the current term or in any future terms. Nothing herein shall be deemed to authorize or empower the Agency to act as an agent for the City in connection with the exercise of any rights hereunder, and neither party shall have any right or authority to assume or create any obligation or responsibility on behalf of the other. The other Agency shall be solely responsible for any debts, liabilities, damages, claims or expenses incurred in connection with any Agreement established between them and the Service Provider. The City's concurrence hereunder is subject to the Service Provider's commitment that this authorization shall not have a negative impact on the Services to be completed for the City.
24. Prohibition Against Unlawful Discrimination. The Service Provider acknowledges that the City, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. § 2000d to 2000d-4); C.R.S. § 24-34-401, and any associated State or Federal laws and regulations strictly prohibits unlawful discrimination based on an individual's gender (regardless of gender identity or gender expression), race, color, religion, creed, national origin, ancestry, age 40 years or older, marital status, disability, sexual orientation, genetic information, or other characteristics protected by law. Pursuant to City policy "sexual orientation" means a person's actual or perceived orientation toward heterosexuality, homosexuality, and bisexuality. The City also strictly prohibits unlawful harassment in the workplace, including sexual harassment. Further, the City strictly prohibits unlawful retaliation against a person who engages in protected activity. Protected activity includes an employee complaining that he or she has been discriminated against in violation of the above policy or participating in an employment discrimination proceeding.
- The Service Provider shall comply with the City's policy for equal employment opportunity and to prohibit unlawful discrimination, harassment and retaliation. This requirement applies to all third-party vendors and their subcontractors at every tier.
25. ADA and Public Accommodations. In performing the Services required hereunder, the Service Provider agrees to meet all requirements of the Americans with Disabilities Act of 1990, C.R.S. § 24-85-101, and all applicable rules and regulations (ADA), and all applicable Colorado public accommodation laws, which are imposed directly on the Service Provider or which would be imposed on the City as a public entity.

26. Technology Accessibility. The Service Provider represents that the Project Instruments hereunder, shall fully comply with all applicable provisions of C.R.S. § 24-85-101, and the Accessibility Standards for Individuals with a Disability, as established by the State of Colorado Governor's Office of Information Technology (OIT) pursuant to C.R.S. § 24-85-103 (2.5), including all updates and amendments to those standards as provided by the OIT. The Service Provider shall also comply with all State of Colorado technology standards related to technology accessibility and with Level AA of the most current version of the Web Content Accessibility Guidelines (WCAG), incorporated in the State of Colorado technology standards.

To confirm that the Project Instruments meet these standards, the Service Provider may be required to demonstrate compliance. The Service Provider shall indemnify, save, and hold harmless the City against any and all costs, expenses, claims, damages, liability, court awards and other amounts (including attorneys' fees and related costs) incurred by the City in relation to the Service Provider's failure to comply with C.R.S. § 24-85-101, or the Accessibility Standards for Individuals with a Disability as established by OIT pursuant to C.R.S. § 24-85-103 (2.5).

The City may require the Service Provider's compliance to the State's Accessibility Standards to be determined by a third party selected by the City to attest to the Project Instruments and software compliance with C.R.S. § 24-85-101, and the Accessibility Standards for Individuals with a Disability as established by OIT pursuant to C.R.S. § 24-85-103 (2.5).

27. Data Privacy. Service Provider will comply with all applicable data privacy regulations and laws, specifically including Colorado's Privacy Act, C.R.S. § 6-1-1301 (the Privacy Act). Service Provider shall ensure that each person processing any personal data connected to the Services is subject to a duty of confidentiality with respect to the data. If applicable, Service Provider shall require that any subcontractors meet the obligations of Service Provider with respect to any personal data connected to this Agreement. The Parties agree that upon termination of the Services that Service Provider shall, at the City's choice, delete or return all personal data to the City unless retention of the personal data is required by law. Service Provider shall make available to the City all information necessary to demonstrate compliance with the obligations of the Privacy Act. Service Provider shall allow for, and contribute to, reasonable audits and inspections by the City or the City's designated auditor.
28. Governmental Immunity Act. No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the notices, requirements, immunities, rights, benefits, protections, limitations of liability, and other provisions of the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, and under any other applicable law.
29. Colorado Open Records Act. Service Provider acknowledges that the City is a governmental entity subject to the Colorado Open Records Act, C.R.S. § 24-72-200, *et seq.* (CORA), and documents in the City's possession may be considered public records subject to disclosure under the CORA. The parties agree that this Agreement and all incorporated Exhibits,

unless specifically marked as Confidential, are considered public records under the CORA.

30. Delay. Time is of the essence. Subject to Force Majeure, if the Service Provider is temporarily delayed in whole or in part from performing its obligations, then the Service Provider shall provide written notice to the City within two (2) business days defining the nature of the delay. Provision of written notice under this Section shall not operate as a waiver of any rights or benefits provided to the City under this Agreement.
31. Force Majeure. No Party hereto shall be considered in default in the performance of an obligation hereunder to the extent that performance of such obligation is delayed, hindered, or prevented by force majeure. Force majeure shall be any cause beyond the control of the party that could not reasonably have been foreseen and guarded against. Force majeure includes, but is not limited to, acts of God, fires, riots, pandemics, incendiarism, interference by civil or military authorities, compliance with regulations or orders of military authorities, and acts of war (declared or undeclared), provided such cause could not have been reasonably foreseen and guarded against by the affected party. Force majeure shall not include increases in labor, commodity, utility, material, supply, fuel, or energy costs, or compliance with regulations or orders of civil authorities. To the extent that the performance is actually prevented, the Service Provider must provide notice to the City of such condition within ten (10) calendar days from the onset of such condition.
32. Special Provisions. Special provisions or conditions relating to the Services to be performed pursuant to this Agreement are set forth in Exhibit D - Confidentiality, consisting of four (4) pages, incorporated herein.
33. Order of Precedence. In the event of a conflict or inconsistency within this Agreement, the conflict or inconsistency shall be resolved by giving preference to the documents in the following order of priority:
- a. The body of this Agreement (and any written amendment),
 - b. Exhibits to this Agreement, and
 - c. The Purchase Order document.
34. Prohibited Terms. Nothing in any Exhibit or other attachment shall be construed as a waiver of any provision above. Any terms included in any Exhibit or other attachment that requires the City to indemnify or hold Service Provider harmless; requires the City to agree to binding arbitration; limits Service Provider's liability; or that conflicts with statute, City Charter or City Code in any way, shall be void.

[Signature Page Follows]

THE CITY OF FORT COLLINS, COLORADO

By: _____
Gerry Paul, Purchasing Director

Date: _____

ATTEST:

APPROVED AS TO FORM:

SERVICE PROVIDER

By: _____

Printed: _____

Title: _____

Date: _____

**EXHIBIT A
SCOPE OF SERVICES**

SAMPLE

EXHIBIT B COMPENSATION

The following pricing shall remain fixed for the initial term of this Agreement. Any applicable price adjustments may only be negotiated and agreed to in writing at the time of renewal.

EXHIBIT C INSURANCE REQUIREMENTS

The Service Provider will provide, from insurance companies acceptable to the City, the insurance coverage designated hereinafter and pay all costs. Before commencing work under this bid, the Service Provider shall furnish the City with certificates of insurance showing the type, amount, class of operations covered, effective dates and date of expiration of policies.

In case of the breach of any provision of the Insurance Requirements, the City, at its option, may take out and maintain, at the expense of the Service Provider, insurance as the City may deem proper and may deduct the cost of such insurance from any monies which may be due or become due the Service Provider under this Agreement.

Insurance certificates should show the certificate holder as follows:

City of Fort Collins
Purchasing Division
PO Box 580
Fort Collins, CO 80522

The City, its officers, agents and employees shall be named as additional insureds on the Service Provider's general liability and automobile liability insurance policies by marking the appropriate box or adding a statement to this effect on the certificate, for any claims arising out of work performed under this Agreement.

Insurance coverages shall be as follows:

- A. Workers' Compensation & Employer's Liability. The Service Provider shall maintain Worker's Compensation and Employer's Liability insurance during the life of this Agreement for all of the Service Provider's employees engaged in work performed under this Agreement. Workers' Compensation & Employer's Liability insurance shall conform with statutory limits of \$100,000 per accident, \$500,000 disease aggregate, and \$100,000 disease each employee, or as required by Colorado law.
- B. General Liability. The Service Provider shall maintain during the life of this Agreement General Liability insurance as will provide coverage for damage claims of personal injury, including accidental death, as well as for claims for property damage, which may arise directly or indirectly from the performance of work under this Agreement. Coverage for property damage shall be on a (broad form) basis. The amount of insurance for General Liability shall not be less than \$1,000,000 combined single limits for bodily injury and property damage.
- C. Automobile Liability. The Service Provider shall maintain during the life of this Agreement Automobile Liability insurance as will provide coverage for damage claims of personal injury, including accidental death, as well as for claims for property damage, which may arise directly or indirectly from the performance of work under this Agreement. Coverage for property damage shall be on a (broad form) basis. The amount of insurance for Automobile Liability shall not be less than \$1,000,000 combined single limits for bodily injury and property damage.

EXHIBIT D CONFIDENTIALITY

IN CONNECTION WITH THE SERVICES to be provided by Service Provider under this Agreement, the parties agree to comply with reasonable policies and procedures with regard to the exchange and handling of confidential information and other sensitive materials between the parties, as set forth below.

1. Definitions.

For purposes of this Agreement, the party who owns the referenced information and is disclosing same shall be referenced as the "Disclosing Party." The party receiving the Disclosing Party's information shall be referenced as the "Receiving Party."

2. Confidential Information.

Confidential Information controlled by this Agreement refers to information that is not public and/or is proprietary, including but not limited to location information, network security system, business plans, formulae, processes, intellectual property, trade secrets, designs, photographs, plans, drawings, schematics, methods, specifications, samples, reports, mechanical and electronic design drawings, customer lists, financial information, studies, findings, inventions, ideas, City customer identifiable information (including account, address, billing, consumption, contact, and other customer data), utility metering data, service billing records, customer equipment information.

To the extent practical, Confidential Information shall be marked "Confidential" or "Proprietary." Nevertheless, Service Provider shall treat as Confidential Information all customer identifiable information in any form, whether or not bearing a mark of confidentiality or otherwise requested by the City, including but not limited to the non-exclusive list of Confidential Information above. In the case of disclosure in non-documentary form of non-customer identifiable information, made orally or by visual inspection, the Disclosing Party shall have the right, or, if requested by the Receiving Party, the obligation to confirm in writing the fact and general nature of each disclosure within a reasonable time after it is made in order that it is treated as Confidential Information. Any information disclosed to the other party before the execution of this Agreement and related to the services for which Service Provider has been engaged shall be considered in the same manner and be subject to the same treatment as the information disclosed after the execution of this Agreement with regard to protecting it as Confidential Information.

3. Use of Confidential Information.

Receiving Party hereby agrees that it shall use the Confidential Information solely for the purpose of performing its obligations under this Agreement and not in any way detrimental to Disclosing Party. Receiving Party agrees to use the same degree of care Receiving Party uses with respect to its own proprietary or confidential information, which in any event shall result in a reasonable standard of care to prevent unauthorized use or disclosure of the Confidential Information. Except as otherwise provided herein, Receiving Party shall keep confidential and not disclose the Confidential Information. The City and Service Provider shall cause each of their directors, officers, employees, agents, representatives, and subcontractors to become familiar with, and abide by, the terms of this Exhibit, which shall survive this Agreement as an on-going obligation of the Parties.

Service Provider shall not use such information to obtain any economic or other benefit for itself, or any third party, other than in the performance of obligations under this Agreement.

4. Exclusions from Definition.

The term "Confidential Information" as used herein does not include any data or information which is already known to the Receiving Party or which before being divulged by the Disclosing Party: (a) was generally known to the public through no wrongful act of the Receiving Party; (b) has been rightfully

received by the Receiving Party from a third party without restriction on disclosure and without, to the

knowledge of the Receiving Party, a breach of an obligation of confidentiality; (c) has been approved for release by a written authorization by the other party hereto; or (d) has been disclosed pursuant to a requirement of a governmental agency or by operation of law, subject to Paragraph 5 below.

5. Required Disclosure.

Notwithstanding Paragraph 4(d) above, if the Receiving Party receives a request (by interrogatories, requests for information or documents, subpoena, civil investigative demand or similar process, or by federal, state, or local law, including without limitation, the Colorado Open Records Act) to disclose any Confidential Information, the Parties agree the Receiving Party will provide the Disclosing Party with immediate notice of such request, so the Disclosing Party may seek an appropriate protective order before disclosure or waive the Receiving Party's compliance with this Exhibit.

The Receiving Party shall furnish a copy of this Exhibit with any disclosure.

Notwithstanding this Paragraph 5, Receiving Party shall not disclose Confidential Information to any person, directly or indirectly, nor use it in any way, except as required by law or authorized in writing by Disclosing Party.

6. Red Flags Rules.

If applicable, Service Provider must implement reasonable policies and procedures to detect, prevent and mitigate the risk of identity theft in compliance with the Identity Theft Red Flags Rules found at 16 Code of Federal Regulations part 681. Further, Service Provider must take appropriate steps to mitigate identity theft if it occurs with any of the City's covered information and must notify the City in writing within twenty-four (24) hours of discovery of any breaches of security or Red Flags to the City.

7. Data Protection and Data Security.

Service Provider shall have in place information security safeguards designed to conform to or exceed industry best practices regarding the protection of the confidentiality, integrity and availability of Confidential Information and shall have written Agreements requiring any subcontractor to meet those standards. These information security safeguards (the "Information Security Program") shall be materially consistent with, or more stringent than, the safeguards described in this Exhibit.

(a) Service Provider's information security safeguards shall address the following elements:

- Data Storage, Backups and Disposal
- Logical Access Control (e.g., Role-Based)
- Information Classification and Handling
- Secure Data Transfer (SFTP and Data Transfer Specification)
- Secure Web Communications
- Network and Security Monitoring
- Application Development Security
- Application Security Controls and Procedures (User Authentication, Security Controls, and Security Procedures, Policies and Logging)
- Incident Response
- Vulnerability Assessments

- Hosted Services
- Personnel Security

- (b) Subcontractors. Service Provider may use subcontractors, though such activity shall not release or absolve Service Provider from the obligation to satisfy all conditions of this Agreement, including the data security measures described in this Exhibit, and to require a substantially similar level of data security, appropriate to the types of services provided and Confidential Information received, for any subcontractor Service Provider may use. Accordingly, any release of data, confidential information, or failure to protect information under this Agreement by a subcontractor or affiliated party shall be attributed to Service Provider and may be considered to be a material breach of this Agreement.
8. Information Storage. Confidential Information is not to be stored on any local workstation, laptop, or media such as CD/DVD, USB drives, external hard drives or other similar portable devices unless the Service Provider can ensure security for the Confidential Information so stored. Workstations or laptops to be used in the Services will be required to have personal firewalls on each, as well as have current, active anti-virus definitions.
9. Continuing Obligation. The Agreement not to disclose Confidential Information as set forth in this Exhibit shall apply during the term of the Services and or Agreement and at any time thereafter unless specifically authorized by the City in writing.
10. Termination Remedy. If Service Provider breaches any of the terms of this Exhibit, in the City's sole discretion, the City may immediately terminate this Agreement and withdraw Service Provider's right to access Confidential Information.
11. Return of Information. Notwithstanding any other provision of this Agreement to provide Project Instruments and work product, all material, i.e., various physical forms of media in which Confidential Information is stored, including but not limited to writings, drawings, tapes, diskettes, prototypes or products, shall remain the sole property of the Disclosing Party and, upon request, shall be promptly returned, together with all copies thereof to the Disclosing Party. Upon return of such materials, all digital and electronic data shall also be deleted in a non-restorable way by which it is no longer available to the Receiving Party. Upon Disclosing Party's request, written verification of the deletion (including date of deletion) is to be provided to the Disclosing Party within ten (10) days after completion of engagement, whether it be via termination, completion or otherwise.

Injunctive Relief. Service Provider Receiving Party acknowledges that the Disclosing Party may, based upon the representations made in this Agreement, disclose security information that is critical to the continued success of the Discloser's business. Accordingly, Receiving Party agrees that the Disclosing Party does not have an adequate remedy at law for breach of this Agreement and therefore, the Disclosing Party shall be entitled, as a non-exclusive remedy, and in addition to an action for damages, to seek and obtain an injunction or decree of specific performance or any other remedy, from a court of competent jurisdiction to enjoin or remedy any violation of this Agreement.