

CITY OF CHERRY HILLS VILLAGE



REQUEST FOR PROPOSAL

TO PROVIDE CHIEF OF POLICE RECRUITMENT
SERVICES

11/1/2021

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- Exhibit A Disclosure Statement
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- Exhibit E Professional Services Agreement

I. OVERVIEW AND BACKGROUND

The City of Cherry Hills Village, Colorado, is seeking qualifications for Chief of Police Recruitment Services from competent firms. The selected Consultant will assist the City Manager on the Project that is discussed further in this request for proposals (“RFP”).

Cherry Hills Village (the “City”) is one of the premier communities in the Denver metropolitan area, defined by its semi-rural character and low density residential neighborhoods. The City was established in 1945 as the Town of Cherry Hills Village. It became a home rule city in 1966 with the adoption of its Home Rule Charter. The City serves an area of approximately six and half (6.5) square miles and is comprised of approximately 6,600 residents. The City has seven (7) elected officials that make up City Council to include a mayor and six (6) Councilmembers. The City Council appoints a City Manager to lead the organization.

The City Manager oversees four (4) department directors including Administration and Finance, Community Development, Police and Public Works. However, the City also provides services in the following areas: general government, municipal court, parks and recreation, as well as water and sewer. Currently there are fifty-two (52) full-time employees, one (1) part-time and up to seven (7) seasonal employees per year. Please see exhibit C for the organizational chart.

The Police Department is comprised of twenty-three (23) sworn personnel and five (5) civilian employees. The sworn positions include Chief, Commander, Sergeants and Officers. There are four (4) sergeants and seventeen (17) officers. The civilian positions include Police Support Supervisor, Animal Control, Code Enforcement Officer/Stormwater Technician, Police Technician, and Police Records Clerk. Please see exhibit D for the Police Department organizational chart. The Police Department is accredited through the Colorado Association of Chiefs of Police and the County Sheriffs of Colorado and has an operating budget of \$3,414,172 in 2021.

II. DEFINITIONS

The following terms when used in this RFP, shall have the following meaning:

“Agreement” means the Agreement for Professional Services (non-construction), which will be provided to the successful consultant at a later date.

“Consultant” or “Consultants” means entities responding to this RFP.

“CORA” refers to the Colorado Open Records Act.

“Project” means comprehensive recruitment and selection consulting services of the Chief of Police position for the City of Cherry Hills Village as more specifically described in Section IV of this RFP.

“RFP” means this request for proposals, dated November 1, 2021, the Chief of Police Recruitment Services Project.

“Successful Consultant” means the best fit, qualified and responsible Consultant to whom the City makes an award on the basis of the City’s evaluations as hereinafter provided.

III. INVITATION TO SUBMIT

Date of Request: November 1, 2021

Due Date for Proposals: November 19, 2021

The City will accept electronic proposals for Chief of Police Recruitment Consulting Services until 4:00pm on Friday, November 19, 2021, at kducharme@cherryhillsvillage.com.

Questions pertaining to the specifications of this RPF should be directed to Kathryn Ducharme at (303)783-2734 or kducharme@cherryhillsvillage.com and will be accepted until November 10, 2021. It is the responsibility of the prospective consultant to contact Kathryn Ducharme at (303)783-2734 to verify receipt of questions. The questions and answers will be posted on the City's website by November 12, 2021.

No proposals received after the due date will be considered, and any proposals received after the deadline shall be discarded. Sole responsibility rests with the Consultant to see that its proposal is received on time at the stated location.

Proposals must meet or exceed requirements contained in this RFP. The material shall be complete, organized, easy to follow and cross-referenced to the requirements of the RFP.

The Request for Proposals does not bind the City to accept a submittal when, in the City's sole discretion, the City determines not to do so. All notifications and addendums will be issued through the Rocky Mountain Bid Net website and posted on the City's website. All firms must register through this website in order to receive these notices or actively check the City's website for the addendums. Rocky Mountain Bid Net provides free registration to all consultants at www.rockymountainbidsystem.com. The City will be using a Qualifications Based Selection (QBS) for this Project, with final scope and fees to be negotiated with the most qualified firm.

The RFP will be posted through Rocky Mountain Bid Net and on the Colorado Municipal League website, International Association of Chiefs of Police, and the City's website at www.cherryhillsvillage.com.

TIMELINE:

November 1, 2021	Publish Request for Proposals
November 10, 2021	Deadline for submission of questions and clarifications of the RFP by 9:00am M.S.T.
November 12, 2021	If questions/clarifications are raised, an addendum to answer submitted questions will be issued on Rocky Mountain Bid Net and posted on the City's website.
November 19, 2021	Deadline for submission of Proposals 4:00 PM M.S.T.
December 1, 2021	Interviews of short list Consultants during this week

December 13, 2021

Begin negotiations of final scope of work and fees with selected firm

The City reserves the right to modify this timeline at any time. Should the proposal submission deadlines change, prospective proposers will be notified.

IV. QUALIFICATIONS OF CONSULTANTS

1. Provide the name and home office address of your organization. Describe what type of business entity your organization is (corporation, general partnership, limited liability company, etc.). Indicate what state your business entity was incorporated or formed. Indicate whether the firm is local, regional, national or international.
2. Provide a brief history of your business including year of operation, general business description, number of clients serviced, types of services generally offered, size of firm, and a statement of philosophy of customer service levels provided to clients.
3. Detail qualifications and previous executive search experiences, especially for local governmental entities specific to Chief of Police processes. Describe the experience of the firm in the past thirty-six (36) months in performing similar services.
4. Identify the key personnel of the business who will be assigned to perform services for the City, and who will provide continuing support throughout the term of the Agreement. Provide resumes stating qualifications for key personnel and provide a statement as to the availability, continuity, and accessibility of the individuals who would be assigned to the Project.
5. Provide your recruitment work plan. Describe your proposed strategy to complete the recruitment, including a general statement of the philosophy of the firm. Provide a detailed proposed Project schedule and confirm that your firm can meet the Project schedule. Project schedule should include staff and community stakeholder meetings with Chief of Police candidates.
6. Indicate any additional information for the consideration of your firm's qualifications for conducting this Project.
7. Discuss the general nature and extent of benefits that the City of Cherry Hills Village is reasonably likely to experience as a result of these services.
8. List five (5) current/recent clients (municipal/government/Colorado communities preferred) for whom your firm has provided executive search services for in the last thirty-six (36) months. For each client, the list must specify the type of work performed by your company, the size of the client's organization and the period of time retained as a client. Provide telephone numbers and contact names for references.
9. Complete the attached Disclosure Statement and return with your proposal.
10. Evidence of Consultant's qualification to do business in the State of Colorado may be required.

V. TERMS AND CONDITIONS

Consultants are advised of the following terms and conditions which have been established by the City:

1. The City reserves the right to undertake its own investigation to evaluate a consultant. The City shall have the sole discretion to accept or reject any, or all responses, or to abandon the submittal process. The City may enter into negotiations with any one or more firms and may permit, at its discretion, an amendment or supplement of the firm's response.

2. The City reserves the right to conduct such investigations of and discussions with those who have submitted proposals or other entities as it deems necessary or appropriate to assist in the evaluation of any proposal or to secure maximum clarification and completeness of any proposal.
3. All proposals submitted must be valid for a period of one hundred eighty (180) days after the date of the proposal deadline.
4. The City reserves the right to select the most responsive and responsible proposal that it determines meets the City's needs and desires.
5. The City makes no commitments to any consultants until such time as the City approves the negotiated agreement.
6. The City assumes no responsibility for payment of any expenses incurred by any consultant as part of the RFP process.
7. The City requires the Selected Consultant to procure and maintain policies of insurance, which at a minimum, include the following:
 - (i) Workers' Compensation insurance with minimum limits of Five Hundred Thousand Dollars (\$500,000.00) each accident, Five Hundred Thousand Dollars (\$500,000.00) disease- policy limit, and Five Hundred Thousand Dollars (\$500,000.00) disease- each employee; and
 - (ii) Comprehensive General Liability insurance with minimum combined single limits of One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) aggregate, applicable to all premises and operations, and including coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, independent contractors, products, and completed operations.
 - (iii) Comprehensive Automobile Liability insurance with minimum combined single limits for bodily injury and property damage of not less than One Million Dollars (\$1,000,000.00) each occurrence and One Million Dollars (\$1,000,000.00) aggregate.
 - (iv) **Only the selected firm will be required to submit the required insurance information. This section is informational for the RFP process.**
 - (v) The policies required above, except for the Workers' Compensation insurance, shall be endorsed to include the City, and its officers and employees, as additional insureds. Every policy required above shall be primary insurance, and any insurance carried by the City, its officers, or its employees, shall be excess and not contributory insurance to that provided by the contractor. The additional insured endorsement for the Comprehensive General Liability insurance required above shall not contain any exclusion for bodily injury or property damage arising from completed operations. The contractor shall be solely responsible for any deductible losses under each of the policies required above.
8. The final form of Agreement to be entered into between the City and the successful consultant shall be subject to the final review and approval of the City Attorney and the City Council.
9. Failure to conform to the submittal rules, including failure to respond to each item in the request contents section of this RFP, or to follow the submittal format requested in the RFP, may lead to the rejection of the response. The submittal should contain all information necessary to evaluate the submission.
10. The successful consultant shall not, at any time, permit any individual employed by the City to benefit because of any financial interest in the business of the successful consultant, any affiliate of the successful consultant, or any consultant subcontractor.

11. The selected firm shall be an independent contractor and the City shall be neither liable nor obligated to pay that entity sick leave, vacation pay or any other benefit of employment, nor to pay any social security or other tax which may arise as an incident of employment.
12. The City will expect to enter into a written contract for services with the successful consultant, upon terms negotiated between the parties.
13. Candidates are advised that City contracts are subject to City Council approval, and will contain provisions required by state law, in the reasonable discretion of the City.
14. The City shall not be liable for any costs incurred by the proposer in the preparation, production, or delivery of the proposal, contract negotiations, or for any work performed prior to the effective date of a contract.
15. The City may, at its sole and absolute discretion reject all, or parts of any or all, proposals submitted by prospective Consultants; re-advertise this RFP; postpone or cancel the review and decision making process for this RFP; waive any irregularities or technicalities that are not qualified as a requirement for responsiveness in this RFP or in submittals received in conjunction with this RFP; and/or determine the criteria and process whereby submittals are evaluated and awarded. No damages shall be recoverable by any challenger as a result of these determinations or decisions by the City; provided, however, that in the event a Court of competent jurisdiction determines that the actions of the City were arbitrary, capricious or void, then said challenger may recover only actual, necessary and reasonable preparation costs. No attorney fees or costs associated with the recovery of the preparation costs, including costs for litigation against the City, shall be recoverable by any challenger.
16. All proposals submitted shall become the property of the City and shall be held, controlled, manipulated, and retained by the City in accordance with the City's policies and records retention schedule and applicable law, including the Colorado Open Records Act, C.R.S. § 24-72-401 *et seq.* ("CORA").

VI. COLORADO OPEN RECORDS ACT

The information included in this RFP is for your exclusive use in preparing a proposal. The use of the City's name in any way as a potential customer is strictly prohibited.

The proposer acknowledges the City is subject to CORA and the information in the proposal may be subject to public inspection and disclosure under CORA. The proposers should expect that the proposal may be viewed by the general public and competitors following the deadline for submission. If anything submitted in a proposal is marked "confidential", "proprietary", or otherwise stating an intention to protect the information from disclosure, the City cannot guarantee that such demarcation is sufficient to prevent disclosure by law.

EXHIBIT A

DISCLOSURE STATEMENT

As a condition for consideration Consultant must disclose any conflict of interest with the City of Cherry Hills Village, including, but not limited to, any relationship with any City of Cherry Hills Village elected official or employee. Your response must disclose if a known relationship exists between any principal of your firm and any City of Cherry Hills Village elected official or employee. If, to your knowledge, no relationship exists, this should also be stated in your response. Failure to disclose a conflict may result in disqualification. This form must be completed and returned in order for your proposal to be eligible for consideration.

NO KNOWN RELATIONSHIP EXISTS

RELATIONSHIP EXISTS (Please explain the relationship)

I CERTIFY THAT:

1. I, as an officer of this organization, or per the attached letter of authorization, am duly authorized to certify the information provided herein is accurate and true as of the date; and
2. My organization shall comply with all State and Federal Equal Opportunity and Non-Discrimination requirements and conditions of employment.

Print Name

Title

Signature

EXHIBIT B
CONSULTANT DISTRIBUTION LIST

This RFP will be distributed directly to the following firms electronically. Other firms are not precluded from submitting proposals and may be considered.

Affion Public

P.O. Box 794
Hershey, PA 17033
info@affionpublic.com

GovHRUSA

630 Dundee Road, Suite 225
Northbrook, IL 60062
info@govhrusa.com

Ralph Andersen & Associates

5800 Stanford Ranch Road, Suite 410
Rocklin, CA 95765
info@ralphandersen.com

Government Professional Solutions

510 S Williams Street
Denver, CO 80209
bbauer@governmentpros.com

William Avery & Associates

3 1/2 N Santa Cruz Avenue, Suite A
Los Gatos, CA 95030
jobs@averyassoc.net

Jersey Professional Management

23 North Avenue East
Cranford, NJ 07016
info@jerseyprofessionalmgmt.com

Baker Tilly, LLP

2500 Dallas Parkway, Suite 300
Plano, TX 75093
Chuck.Rohre@bakertilly.com

Koff & Associates

2835 Seventh Street
Berkley, CA 94710
infokoff@KoffAssociates.com

Jack Clancy & Associates

1104 Corporate Way
Sacramento, CA 95831
info@jackclancyassociates.com

KRW Associates

411 Lakewood Circle, b916
Colorado Springs, CO 80910
info@krw-associates.com

CPS Executive Search

241 Lathrop Way
Sacramento, CA 95815
ggorshing@cpsshr.us

Management Partners

2107 North First Street, Suite 470
San Jose, CA 95131
bids@managementpartners.com

McGrath Consulting Group, LLC

P.O. Box 190

Wonder Lake, IL 60097

info@mcgrathconsulting.com

The Mercer Group

5579 B Chamblee Dunwoody Road,

Suite 511

Atlanta, GA 30338

JMercer@mercergroupinc.com

Bob Murray & Associates

1677 Eureka Road, Suite 202

Roseville, CA 95661

apply@bobmurrayassoc.com

Peckham & McKenney

300 Harding Blvd., Suite 106-E

Roseville, CA 95678

bobbi@peckhamandmckenney.com

Prothman Company

371 NE Gilman Blvd., Suite 310

Issaquah, WA 98027

info@prothman.com

Public Administration Associates, LLC

1155 West South Street

Whitewater, WI 53190

Kevin.brunner1013@gmail.com

Public Sector Search & Consulting

6520 Lonetree Blvd., Suite 1040

Rocklin, CA 95765

info@publicsectorsearch.com

Resource Management Associates

17037-A Oak Park Avenue

Tinley Park, IL 60477

rma2500@gmail.com

Roberts Consulting Group

P.O. Box 1127

Rancho Mirage, CA 92270

robertsrcg@msn.com

Slavin Management Consulting

3040 Holcomb Bridge Road, Suite A-1

Norcross, GA 30071

info@slavinmanagmentconsultants.com

Teri Black & Company, LLC

4232 Pascal Place

Palos Verdes Peninsula, CA 90274

info@tbcrecruiting.com

WBCP, Inc

360 Riverside Avenue

P.O. Box 909

Gold Hill, OR 97525

wendi@wbcpinc.com

EXHIBIT C

CITY OF CHERRY HILLS VILLAGE

ORGANIZATIONAL CHART

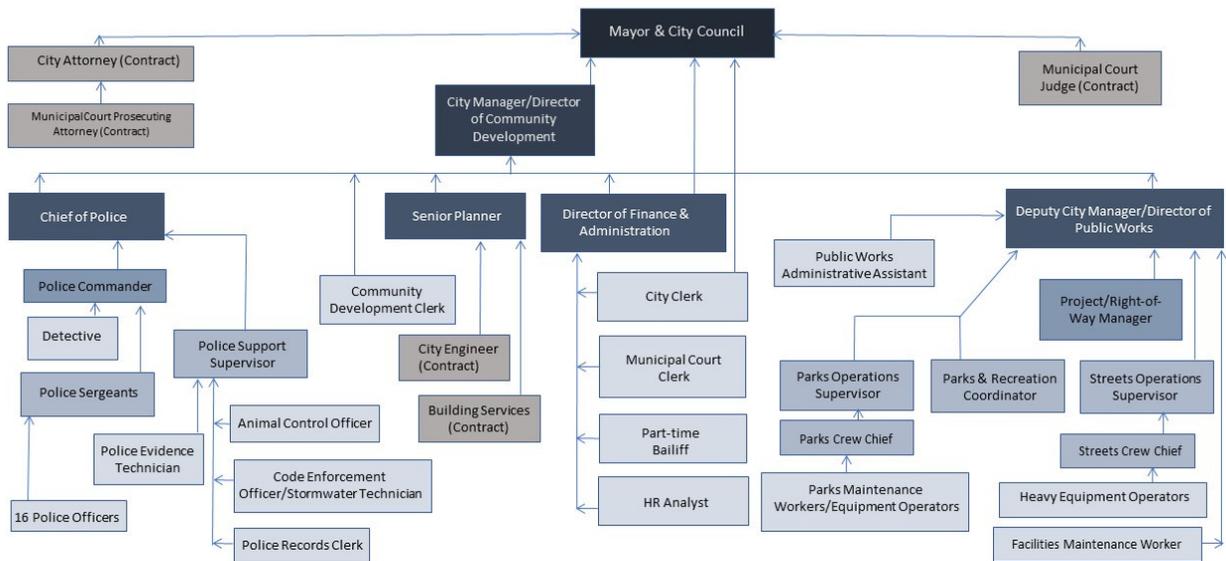


EXHIBIT D
CITY OF CHERRY HILLS VILLAGE
POLICE DEPARTMENT
ORGANIZATIONAL CHART

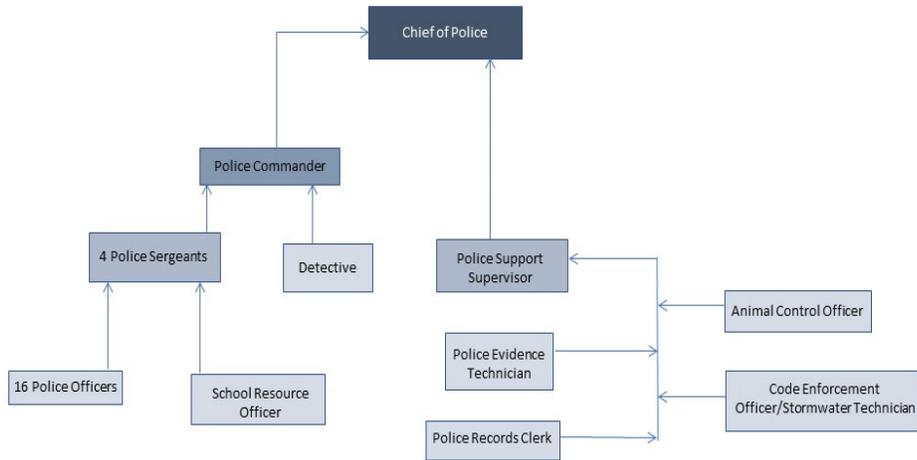


EXHIBIT E
City of Cherry Hills Village, Colorado
AGREEMENT FOR PROFESSIONAL SERVICES

Project/Services Name: _____

THIS AGREEMENT FOR PROFESSIONAL SERVICES (“Agreement”) is made and entered into by and between the City of Cherry Hills Village, a home rule municipality of the State of Colorado, with offices at 2450 E. Quincy Avenue, Cherry Hills Village, Colorado 80113 (the “City”), and _____, a _____ with offices at _____ (“Contractor”) (each individually a “Party” and collectively the “Parties”).

RECITALS

WHEREAS, the City requires certain professional services as more fully described in **Exhibit A**; and

WHEREAS, Contractor represents that it has the requisite expertise and experience to perform the professional services; and

WHEREAS, the City desires to contract with the Contractor subject to the terms of this Agreement.

NOW, THEREFORE, for the consideration hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

I. SCOPE OF SERVICES

A. Services. Contractor shall furnish all labor and materials required for the complete and prompt execution and performance of all duties, obligations, and responsibilities which are described or reasonably implied from the Scope of Services set forth in **Exhibit A**, attached hereto and incorporated herein by this reference (the “Services” or “Scope of Services”). The Parties recognize and acknowledge that, although the City has requested certain general services to be performed or certain work product to be produced, the Contractor has offered to the City the process, procedures, terms, and conditions under which the Contractor plans and proposes to achieve or produce the services and/or work product(s) and the City, through this Agreement, has accepted such process, procedures, terms, and conditions as binding on the Parties.

B. Changes to Services. A change in the Scope of Services shall not be effective unless authorized through a written amendment to this Agreement signed by both Parties. If Contractor proceeds without such written authorization, Contractor shall be deemed to have waived any claim for additional compensation, including a claim based on the theory of unjust enrichment, quantum meruit or implied contract. Except as expressly provided herein or as otherwise provided in writing by the City, no agent, employee, or representative of the City is authorized to modify any term of this Agreement.

Section II.C, nothing in this Section II.C shall prevent, preclude, or limit any claim or action for default or breach of contract resulting from non-performance by a Party.

D. Suspension of Services. The City may suspend the Contractor's performance of the Services at the City's discretion and for any reason by delivery of written notice of suspension to the Contractor which notice shall state a specific date of suspension. Upon Contractor's receipt of such notice of suspension from the City, the Contractor shall immediately cease performance of the Services on the date of suspension except: (1) as may be specifically authorized by the notice of suspension (e.g., to secure the work area from damage due to weather or to complete a specific report or study); or (2) for the submission of an invoice for Services performed prior to the date of suspension in accordance with this Agreement. Contractor shall not re-commence performance of the Services until it receives written notice of re-commencement from the City.

E. Delivery of Notices. Any notice permitted by this Section II and its subsections shall be addressed to the City Representative or the Contractor Representative at the address set forth in Section XII.D of this Agreement or such other address as either Party may notify the other of and shall be deemed given upon delivery if personally delivered, or forty-eight (48) hours after deposited in the United States mail, postage prepaid, registered or certified mail, return receipt requested.

III. REPRESENTATIVES AND SUPERVISION

A. City Representative. The City representative responsible for oversight of this Agreement and the Contractor's performance of Services hereunder shall be the City Manager or his or her designee ("City Representative"). The City Representative shall act as the City's primary point of contact with the Contractor.

B. Contractor Representative. The Contractor representative under this Agreement shall be [insert name and title] ("Contractor Representative"). The Contractor Representative shall act as the Contractor's primary point of contact with the City. The Contractor shall not designate another person to be the Contractor Representative without prior written notice to the City.

C. City Supervision. The Contractor shall provide all Services with little or no daily supervision by City staff or other contractors. Inability or failure of the Contractor to perform with little or no daily supervision which results in the City's need to allocate resources in time or expense for daily supervision shall constitute a material breach of this Agreement and be subject to cure or remedy, including possible termination of the Agreement, as provided in this Agreement.

IV. COMPENSATION

A. Not-to-Exceed Amount. Following execution of this Agreement by the Parties, the Contractor shall be authorized to and shall commence performance of the Services as described in **Exhibit A**, subject to the requirements and limitations on compensation as provided by this Section IV and its subsections. Compensation to be paid hereunder shall not exceed [Written Not to Exceed Amount] (\$ [redacted]) ("Not-to-Exceed Amount") unless a larger amount is agreed to by and between the Parties in accordance with the amendment requirements of this Agreement. Notwithstanding the amount specified in this Section, Contractor shall be paid only for work performed. Contractor shall not be paid until tasks identified in the Scope of Services are performed to the satisfaction of the City. In consideration for the completion of the Scope of Services by Contractor, the City shall pay Contractor as follows:

- If this box is checked, the Contractor shall invoice the City for Services performed and the City shall pay Contractor based on the rates or compensation methodology described in **Exhibit B**. This amount shall include all fees, costs, and expenses incurred by Contractor, and no additional amounts shall be paid by the City for such fees, costs, and expenses. Contractor may request final payment upon completion and the City's acceptance of all work or Services as set forth in **Exhibit A**.
- If this box is checked, the City shall pay the Contractor the Not-to-Exceed Amount in a single lump sum payment on **[insert date here, if applicable]**.

B. Receipts. The City, before making any payment, may require the Contractor to furnish at no additional charge releases or receipts from any or all persons performing work under this Agreement and/or supplying material or services to the Contractor, or any subcontractor if this is deemed necessary to protect the City's interest. The City, however, may in its discretion make payment in part or full to the Contractor without requiring the furnishing of such releases or receipts.

C. Reimbursable Expenses.

1. If this Agreement is for lump-sum compensation, there shall be no reimbursable expenses.
2. If the Agreement is not for lump-sum compensation, the following shall be considered "reimbursable expenses" for purposes of this Agreement and may be billed to the City without administrative mark-up, which must be accounted for by the Contractor, and proof of payment shall be provided by the Contractor with the Contractor's invoices:

- None
- Vehicle Mileage (billed at not more than the prevailing per mile charge permitted by the IRS as a tax-deductible business expense)
- Printing and Photocopying Related to the Services (billed at actual cost)
- Long Distance Telephone Charges Related to the Services
- Postage and Delivery Services
- Lodging and Meals (but only with prior written approval of the City as to dates and maximum amount)

3. Other Expenses. Any fee, cost, charge, or expense incurred by the Contractor not otherwise specifically authorized by this Agreement shall be deemed a non-reimbursable cost that shall be borne by the Contractor and shall not be billed or invoiced to the City and shall not be paid by the City.

D. No Waiver. The City's review, approval or acceptance of, or payment for any services shall not 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.

V. PROFESSIONAL RESPONSIBILITY

A. General. Contractor 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 required by law.

B. Standard of Performance. The work performed by Contractor 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 work in the applicable community. The work and services to be performed by Contractor hereunder shall be done in compliance with applicable laws, ordinances, rules, and regulations.

C. Subcontractors. The Parties recognize and agree that subcontractors may be utilized by the Contractor for the performance of certain Services if and as described more particularly in **Exhibit A**; however, the engagement or use of subcontractors will not relieve or excuse the Contractor from performance of any obligations imposed in accordance with this Agreement and Contractor shall remain solely responsible for ensuring that any subcontractors engaged to perform Services hereunder shall perform such Services in accordance with all terms and conditions of this Agreement.

VI. INDEPENDENT CONTRACTOR

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

B. Liability for Employment-Related Rights and Compensation. The Contractor shall be solely responsible for all compensation, benefits, insurance and employment-related rights of any person providing Services hereunder during the course of or arising or accruing as a result of any employment, whether past or present, with the Contractor, as well as all legal costs including attorney's fees incurred in the defense of any conflict or legal action resulting from such employment or related to the corporate amenities of such employment. The Contractor will comply with all laws, regulations, municipal codes, and ordinances and other requirements and standards applicable to the Contractor's employees, including, without limitation, federal and state laws governing wages and overtime, equal employment, safety and health, employees' citizenship, withholdings, reports and record keeping. Accordingly, the City shall not be called upon to assume any liability for or direct payment of any salaries, wages, contribution to pension funds, insurance premiums or payments, workers' compensation benefits or any other amenities of employment to any of the Contractor's employees or any other liabilities whatsoever, unless otherwise specifically provided herein.

C. Insurance Coverage and Employment Benefits. The City will not include the Contractor as an insured under any policy the City has for itself. The City shall not be obligated to secure nor provide any insurance coverage or employment benefits of any kind or type to or for the Contractor or the Contractor's employees, sub-consultants, subcontractors, agents, or representatives, including but not limited to coverage or benefits related to: local, state, or federal income or other tax contributions, FICA, workers' compensation, unemployment compensation,

medical insurance, life insurance, paid vacations, paid holidays, pension or retirement account contributions, profit sharing, professional liability insurance, or errors and omissions insurance. The following disclosure is provided in accordance with Colorado law:

CONTRACTOR ACKNOWLEDGES THAT NEITHER IT NOR ITS AGENTS OR EMPLOYEES ARE ENTITLED TO UNEMPLOYMENT INSURANCE BENEFITS UNLESS CONTRACTOR OR SOME ENTITY OTHER THAN THE CITY PROVIDES SUCH BENEFITS. CONTRACTOR FURTHER ACKNOWLEDGES THAT NEITHER IT NOR ITS AGENTS OR EMPLOYEES ARE ENTITLED TO WORKERS' COMPENSATION BENEFITS. CONTRACTOR ALSO ACKNOWLEDGES THAT IT IS OBLIGATED TO PAY FEDERAL AND STATE INCOME TAX ON ANY MONEYS EARNED OR PAID PURSUANT TO THIS AGREEMENT.

D. Employee Benefits Claims. To the maximum extent permitted by law, the Contractor waives all claims against the City for any Employee Benefits; the Contractor will defend the City from any claim and will indemnify the City against any liability for any Employee Benefits for the Contractor imposed on the City; and the Contractor will reimburse the City for any award, judgment, or fine against the City based on the position the Contractor was ever the City's employee, and all attorneys' fees and costs the City reasonably incurs defending itself against any such liability.

VII. INSURANCE

A. General. During the term of this Agreement, the Contractor shall obtain and shall continuously maintain, at the Contractor's expense, insurance of the kind and in the minimum amounts specified as follows by checking the appropriate boxes:

- The Contractor shall obtain and maintain the types, forms, and coverage(s) of insurance deemed by the Contractor to be sufficient to meet or exceed the Contractor's minimum statutory and legal obligations arising under this Agreement ("Contractor Insurance"); OR

- The Contractor shall secure and maintain the following ("Required Insurance"):
 - Worker's Compensation Insurance in the minimum amount required by applicable law for all employees and other persons as may be required by law. Such policy of insurance shall be endorsed to include the City as a Certificate Holder.

 - Comprehensive General Liability insurance with minimum combined single limits of _____ Dollars (\$____.) each occurrence and of _____ Dollars (\$____.) aggregate. The policy shall be applicable to all premises and all operations of the Contractor. 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, independent contractors, products, and completed operations. The policy shall

contain a severability of interests provision. Coverage shall be provided on an “occurrence” basis as opposed to a “claims made” basis. Such insurance shall be endorsed to name the City as Certificate Holder and name the City, and its elected officials, officers, employees and agents as additional insured parties.

- Comprehensive Automobile Liability insurance with minimum combined single limits for bodily injury and property damage of not less than _____ Dollars (\$____.__) each occurrence with respect to each of the Contractor’s owned, hired and non-owned vehicles assigned to or used in performance of the Services. The policy shall contain a severability of interests provision. Such insurance coverage must extend to all levels of subcontractors. Such coverage must include all automotive equipment used in the performance of the Services, both on the work site and off the work site, and such coverage shall include non-ownership and hired cars coverage. Such insurance shall be endorsed to name the City as Certificate Holder and name the City, and its elected officials, officers, employees and agents as additional insured parties.

- Professional Liability (errors and omissions) Insurance with a minimum limit of coverage of _____ Dollars (\$____.__) per claim and annual aggregate. Such policy of insurance shall be obtained and maintained for one (1) year following completion of all Services under this Agreement. Such policy of insurance shall be endorsed to include the City as a Certificate Holder.

B. Additional Requirements. Such insurance shall be in addition to any other insurance requirements imposed by law. The coverages afforded under the policies shall not be canceled, terminated or materially changed without at least thirty (30) days prior written notice to the City. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage. Any insurance carried by the City, its officers, its employees, or its contractors shall be excess and not contributory insurance to that provided by Contractor. Contractor shall be solely responsible for any deductible losses under any policy.

C. Insurance Certificates. Contractor shall provide to the City a certificate of insurance as evidence that the required policies are in full force and effect prior to the commencement of the Services. The certificate shall identify this the Project/Services Name as set forth on the first page of this Agreement.

D. Failure to Obtain or Maintain Insurance. The Contractor’s failure to obtain and continuously maintain policies of insurance shall not limit, prevent, preclude, excuse, or modify any liability, claims, demands, or other obligations of the Contractor arising from performance or non-performance of this Agreement. Failure on the part of the Contractor to obtain and continuously maintain policies providing the required coverage, conditions, restrictions, notices, and minimum limits shall constitute a material breach of this 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. All monies so paid by the City, together with an additional five percent (5%) administrative fee, shall be repaid by the Contractor to the City immediately upon demand by the City. At the City's sole discretion, the City may offset the cost of the premiums against any monies due to the Contractor from the City pursuant to this Agreement.

VIII. INDEMNIFICATION

A. Contractor agrees to indemnify and hold harmless the City and its officers, insurers, volunteers, representatives, agents, employees, and assigns from and against all claims, liability, damages, losses, expenses and demands, including attorney fees, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement if such injury, loss, or damage is caused in whole or in part by, the act, omission, error, professional error, mistake, negligence, or other fault of Contractor, any subcontractor of Contractor, or any officer, employee, representative, or agent of Contractor, or which arise out of a worker's compensation claim of any employee of Contractor or of any employee of any subcontractor of Contractor. Contractor's liability under this indemnification provision shall be to the fullest extent of, but shall not exceed, that amount represented by the degree or percentage of negligence or fault attributable to Contractor, any subcontractor of Contractor, or any officer, employee, representative, or agent of Contractor or of any subcontractor of Contractor.

B. If Contractor is providing architectural, engineering, surveying or other design services under this Agreement, the extent of Contractor's obligation to indemnify and hold harmless the City may be determined only after Contractor's liability or fault has been determined by adjudication, alternative dispute resolution or otherwise resolved by mutual agreement between the Parties, as provided by C.R.S. § 13-50.5-102(8)(c).

IX. WORKERS WITHOUT AUTHORIZATION

The Contractor shall not knowingly employ or contract with a worker without authorization to perform work under this Agreement. The Contractor shall not contract with a subcontractor that fails to certify that the subcontractor does not knowingly employ or contract with any workers without authorization. By entering into this Agreement, the Contractor certifies as of the date of this Agreement it does not knowingly employ or contract with a worker without authorization who will perform work under this public contract for services and that the Contractor will participate in the e-verify program in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement. The Contractor is prohibited from using the e-verify program to undertake pre-employment screening of job applicants while this Agreement is being performed. If the Contractor obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with a worker without authorization, the Contractor shall be required to notify the subcontractor and the City within three (3) days that the Contractor has actual knowledge that a subcontractor is employing or contracting with a worker without authorization. The Contractor shall terminate the subcontract if the subcontractor does not stop employing or contracting with the worker without authorization within three (3) days of receiving the notice regarding the Contractor's actual knowledge. The Contractor shall not terminate the subcontract if, during such three days, the subcontractor provides

information to establish that the subcontractor has not knowingly employed or contracted with a worker without authorization. The Contractor is required to comply with any reasonable request made by the Colorado Department of Labor and Employment made in the course of an investigation undertaken to determine compliance with this provision and applicable state law. If the Contractor violates this provision, the City may terminate this Agreement, and the Contractor may be liable for actual and/or consequential damages incurred by the City, notwithstanding any limitation on such damages provided by this Agreement.

X. REMEDIES

A. In addition to any other remedies provided for in this Agreement, and without limiting its remedies available at law, the City may exercise the following remedial actions if the Contractor substantially fails to perform the duties and obligations of this Agreement. Substantial failure to perform the duties and obligations of this Agreement shall mean a significant, insufficient, incorrect, or improper performance, activities, or inactions by the Contractor. The remedial actions include:

1. Suspend the Contractor's performance pending necessary corrective action as specified by the City without the Contractor's entitlement to an adjustment in any charge, fee, rate, price, cost, or schedule; and/or
2. Withhold payment to the Contractor until the necessary services or corrections in performance are satisfactorily completed; and/or
3. Deny payment for those services which have not been satisfactorily performed, and which, due to circumstances caused by the Contractor, cannot be performed, or if performed would be of no value to the City; and/or
4. Terminate this Agreement in accordance with this Agreement.

B. The foregoing remedies are cumulative and the City, in its sole discretion, may exercise any or all of the remedies individually or simultaneously.

XI. RECORDS AND OWNERSHIP

A. Retention and Open Records Act Compliance. All records of the Contractor related to the provision of Services hereunder, including public records as defined in the Colorado Open Records Act ("CORA"), and records produced or maintained in accordance with this Agreement, are to be retained and stored in accordance with the City's records retention and disposal policies. Those records which constitute "public records" under CORA are to be at the City offices or accessible and opened for public inspection in accordance with CORA and City policies. Public records requests for such records shall be processed in accordance with City policies. Contractor agrees to allow access by the City and the public to all documents subject to disclosure under applicable law. Contractor's willful failure or refusal to comply with the provisions of this Section shall result in the immediate termination of this Agreement by the City. For purposes of CORA, the City Clerk is the custodian of all records produced or created as a result of this Agreement. Nothing contained herein shall limit the Contractor's right to defend against disclosure of records alleged to be public.

B. City's Right of Inspection. The City shall have the right to request that the Contractor provide to the City a list of all records of the Contractor related to the provision of Services hereunder

retained by the Contractor in accordance with this subsection and the location and method of storage of such records. Contractor agrees to allow inspection at reasonable times by the City of all documents and records produced or maintained in accordance with this Agreement.

C. Ownership. Any work product, materials, and documents produced by the Contractor pursuant to this Agreement shall become property of the City of Cherry Hills Village upon delivery and shall not be made subject to any copyright by the Contractor unless authorized by the City. Other materials, statistical data derived from other clients and other client projects, software, methodology, and proprietary work used or provided by the Contractor to the City not specifically created and delivered pursuant to the Services outlined in this Agreement shall not be owned by the City and may be protected by a copyright held by the Contractor and the Contractor reserves all rights granted to it by any copyright. The City shall not reproduce, sell, or otherwise make copies of any copyrighted material, subject to the following exceptions: (1) for exclusive use internally by City staff and/or employees; or (2) pursuant to a request under the Colorado Open Records Act, § 24-72-203, C.R.S., to the extent that such statute applies; or (3) pursuant to law, regulation, or court order. The Contractor waives any right to prevent its name from being used in connection with the Services. The Contractor may publicly state that it performs the Services for the City.

D. Return of Records to City. At the City's request, upon expiration or termination of this Agreement, all records of the Contractor related to the provision of Services hereunder, including public records as defined in the CORA, and records produced or maintained in accordance with this Agreement, are to be returned to the City in a reasonable format and with an index as determined and requested by the City.

XII. MISCELLANEOUS

A. Governing Law and 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 Arapahoe County, Colorado.

B. 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.

C. Integration. This Agreement constitutes the entire agreement between the Parties, superseding all prior oral or written communications.

D. Notice. Unless otherwise provided in this Agreement, any notice under this Agreement shall be in writing, and shall be deemed sufficient when directly presented or sent via pre-paid, first class United States Mail, to the party at the address set forth below.

If to the City:

If to Contractor:

City of Cherry Hills Village Attn: City Manager	Contractor's Name Attn: [Contractor Representative]
----------------------------------------------------	---------------------------------------------------------------

2450 E. Quincy Avenue Cherry Hills Village, Colorado 80113	[Contractor's Mailing Address]
With Copy to: Cherry Hills Village City Attorney Michow Cox & McAskin LLP 6530 S. Yosemite Street, Suite 200 Greenwood Village, Colorado 80111	With Copy to:

E. Severability. If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

F. Modification. This Agreement may only be modified upon written agreement signed by the Parties.

G. Assignment. 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.

H. Affirmative Action. The Contractor warrants that it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor warrants that it will take affirmative action to ensure applicants are employed, and employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

I. Governmental Immunity. 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 or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended (“CGIA”), or otherwise available to the City and its officers or employees. Presently, the monetary limitations of the CGIA are set at three hundred eighty-seven thousand dollars (\$387,000) per person and one million ninety-three thousand dollars (\$1,093,000) per occurrence for an injury to two or more persons in any single occurrence where no one person may recover more than the per person limit described above.

J. Rights and Remedies. The rights and remedies of the City under this Agreement are in addition to any other rights and remedies provided by law. The expiration of this Agreement shall in no way limit the City's legal or equitable remedies, or the period in which such remedies may be asserted.

K. Annual Appropriation. Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the City not performed during the current fiscal year is subject to annual appropriation, and thus any obligations of the City hereunder shall extend only to monies currently appropriated and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.

L. Binding Effect. The Parties agree that this Agreement, by its terms, shall be binding upon the successors, heirs, legal representatives, and assigns; provided that this Section XII shall not authorize assignment.

M. No Third-Party Beneficiaries. Nothing contained in this Agreement is intended to or shall create a contractual relationship with, cause of action in favor of, or claim for relief for, any third party, including any agent, sub-consultant or subcontractor of Contractor. Absolutely no third-party beneficiaries are intended by this Agreement. Any third party receiving a benefit from this Agreement is an incidental and unintended beneficiary only.

N. Release of Information. The Contractor shall not, without the prior written approval of the City, release any privileged or confidential information obtained in connection with the Services or this Agreement.

O. Attorneys' Fees. If the Contractor breaches this Agreement, then it shall pay the City's reasonable costs and attorney's fees incurred in the enforcement of the terms, conditions, and obligations of this Agreement.

P. Survival. The provisions of Sections VI (Independent Contractor), VII (Insurance), VIII (Indemnification) and XII (A) (Governing Law and Venue), (J) (Rights and Remedies), (K) (Annual Appropriation), (N) (Release of Information) (O) (Attorneys' Fees), and (Q) Agreement Controls shall survive the expiration or termination of this Agreement. Any additional terms and conditions of the Agreement that require continued performance, compliance, or effect beyond the termination date of the Agreement shall survive such termination date and shall be enforceable in the event of a failure to perform or comply.

Q. Agreement Controls. In the event a conflict exists between this Agreement and any term in any exhibit attached or incorporated into this Agreement, the terms in this Agreement shall supersede the terms in such exhibit.

R. Force Majeure. Neither the Contractor nor the City shall be liable for any delay in, or failure of performance of, any covenant or promise contained in this Agreement, nor shall any delay or failure constitute default or give rise to any liability for damages if, and only to extent that, such delay or failure is caused by "force majeure." As used in this Agreement, "force majeure" means acts of God, acts of the public enemy, acts of terrorism, unusually severe weather, fires, floods, epidemics, quarantines, strikes, labor disputes and freight embargoes, to the extent such events were not the result of, or were not aggravated by, the acts or omissions of the non-performing or delayed party.

S. Protection of Personal Identifying Information. In the event the Services include or require the City to disclose to Contractor any personal identifying information as defined in C.R.S. § 24-73-101, Contractor shall comply with the applicable requirements of C.R.S. §§ 24-73-101, *et seq.*, relating to third-party services providers.

T. Authority. The individuals executing this Agreement represent that they are expressly authorized to enter into this Agreement on behalf of the City of Cherry Hills Village and the Contractor and bind their respective entities.

U. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same document. In addition, the Parties specifically acknowledge and agree that electronic signatures shall be effective for all purposes, in accordance with the provisions of the Uniform Electronic Transactions Act, Title 24, Article 71.3 of the Colorado Revised Statutes.

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SIGNATURE PAGES FOLLOW

THIS AGREEMENT is executed and made effective as provided above.

**CITY OF CHERRY HILLS VILLAGE,
COLORADO:**

By: _____

Printed Name: _____

Title: _____

Date of execution: _____

ATTEST:

Laura Gillespie, City Clerk

APPROVED AS TO FORM (*excluding exhibits*):

Kathie Guckenberger, City Attorney

CONTRACTOR:

By: _____

Printed Name: _____

Title: _____

Date of execution: _____

STATE OF COLORADO)

) ss.

COUNTY OF _____)

The foregoing Agreement for Professional Services was subscribed, sworn to and acknowledged before me this ____ day of _____, 20__, by _____ as _____ of _____, a _____.

My commission expires: _____

(S E A L)

Notary Public

EXHIBIT A

SCOPE OF SERVICES

EXHIBIT B
COMPENSATION