

CITY OF CHERRY HILLS VILLAGE

Request for Proposal

Municipal Judge Services

2450 East Quincy Ave, Cherry Hills Village, CO 80113

9/17/2025



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SECTION 1 SUMMARY OF REQUEST

The City of Cherry Hills Village (“City”) is soliciting for electronic proposals submitted by email to kducharme@cherryhillsvillage.com for one or more municipal judges to provide Municipal Judge services, including a presiding Municipal Judge to supervise and direct the Court's operation and alternate judges. All candidates must be able to perform functions and meet qualifications established in the Municipal Code. The City anticipates entering into a contract for a term determined by and served at the pleasure of City Council.

Questions pertaining to the specifications of this Request for Proposal should be directed to Kathryn Ducharme at (303)783-2734 or kducharme@cherryhillsvillage.com and will be accepted until Wednesday, September 24, 2025. It is the responsibility of the prospective applicant 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 Friday, September 26, 2025.

A copy of the Request for Proposal may be obtained as follows:

1. The City website at <https://www.cherryhillsvillage.com/446/Requests-for-Proposals-and-Bid-Openings>
2. Rocky Mountain E-Purchasing System (RMEPS)

Cherry Hills Village uses the Rocky Mountain E-Purchasing System (RMEPS) at www.RockyMountainBidSystem.com to distribute official copies of the Request for Proposal (RFP) documents for use in preparing Proposals. Proposers will be required to register with the website to download the proposal documents and Addenda. If you experience problems with the RMEPS website, please call 1-800-835-4603 for assistance. There is no charge by RMEPS for this service. Proposers are encouraged to view the Addenda posted on RMEPS prior to submitting a proposal.

The City **does not** accept proposals through RMEPS, the system is only used to communicate the RFP process. Proposals must be submitted via email by the deadline, **Wednesday, October 1, 2025, at 8:00am.**

SECTION 2 BACKGROUND

The City was established in 1945 as the Town of Cherry Hills Village. It became a City in 1966 with the adoption of its Home Rule Charter. The City serves an area of approximately six and one-half (6.5) square miles and is comprised of approximately 6,600 residents. The City has seven (7) elected officials that comprise City Council: a mayor and six (6) Councilmembers.

The City of Cherry Hills Village Municipal Court's powers are established in Section 7.1 of the City of Cherry Hills Village Home Rule Charter. Chapter 2, Article IV of the Cherry Hills Village Municipal Code outlines the framework for the operation of the municipal court and the qualifications and duties required for the municipal judges. The Municipal Court has original jurisdiction to hear and determine all cases arising under the provisions of the City Charter, the Code, or ordinances of the City.

The Code provides that regular sessions of the Municipal Court for trial of cases are fixed by the Municipal Judge, with special sessions as the Judge deems advisable, and the hours of the Municipal Court are set by the Municipal Judge, subject to approval of the City Council.

Historically, court sessions have been held on Wednesday mornings twice per month, typically from 8:00 a.m. to 11:00 a.m. for hearing traffic violations. More involved traffic circumstances, such as traffic accidents and Code Enforcement violations, are typically heard after 11:00 a.m. and could last into the early afternoon for more serious infractions. Most regular Court sessions end around 11:00 a.m. The City employs one full-time position for Municipal Court Clerk and a part-time Bailiff position.

SECTION 3 SCOPE OF WORK

The Presiding Municipal Judge will perform the duties required by and set forth in Section 7.1 of the Home Rule Charter and Chapter 2, Article IV of the Cherry Hills Village Municipal Code. While fulfilling these duties, the Presiding Municipal Judge is expected to:

- Attend all court dates for arraignment and trials, unless other arrangements have been made for coverage. Coordinate with City staff on all operational aspects of the municipal court, including establishing the necessary standards and procedures for the operation of the court.
- Conduct arraignments, trials, hearings, sentencing, and case dispositions. Issue written and/or oral findings and judgements when necessary.
- Manage the courtroom to ensure efficiency, orderliness, and justice.
- Hear and determine all cases arising under the provisions of the City Charter, municipal code, or ordinances of the City in accordance with applicable law.
- Ensure all defendants understand their rights and, if applicable, knowingly waive their rights.
- Explain the law and legal systems to defendants, provided that in no case shall such explanation imply any requirement to provide legal advice.
- Evaluate evidence, testimony and legal pleadings.
- Interpret and apply appropriate ordinances, municipal code provisions, and regulations.
- Impose fines and penalties as prescribed by the municipal code or ordinances. Assess and oversee collection of penalties.
- Order and enforce contempt, failure to appear, abatement of nuisance, and other requirements of the municipal code or City ordinances.
- Maintain qualifications required by the Charter and Code.
- Abide by the City's Code of Ethics, as set forth in Chapter 2, Article IX of the City's Municipal Code.
- Comply with the Colorado Code of Judicial Conduct, as adopted and amended by the Supreme Court of Colorado, during the performance of judicial duties as authorized by law.
- Maintain all required qualifications for the duration of the appointment.
- Provide City Council with annual communication about the Court performance possibly including a self-evaluation.
- Review, evaluate, and advise City Council on possible municipal code updates to modernize the City Code.

Alternate judges are expected to perform all of the functions outlined above except for supervising and directing the court's operations. The City will not instruct municipal judges as to how to conduct court sessions or how to adjudicate the cases that come before them. All judges are strongly encouraged to obtain (if applicable) and maintain membership in the Colorado Municipal Judges Association.

SECTION 4 MINIMUM QUALIFICATIONS

Ideal candidates will meet the following minimum requirements:

1. Attorney licensed to practice law and in good standing in the State of Colorado.
 - a. At least five (5) years of experience as a practicing judge or ten (10) years of experience as a practicing attorney.
 - b. Over the age of thirty (30) years.
 - c. Experience practicing municipal law or presiding on the bench in Municipal Court is strongly preferred.
 - d. Experience presiding over jury trials.
2. Must have a valid Colorado driver's license.
3. Must be a citizen of the United States.
4. Knowledge of Colorado Municipal Court Rules and courtroom procedures, and Model Traffic Code.
5. Demonstrate excellent character, integrity, reputation, judgment, experience and efficiency, and judicial temperament.
6. Possess superior public speaking, written and oral communication skills.
7. Ability to determine compliance with applicable laws and ordinances.
8. Ability to meet the time requirements of the City.

SECTION 5 SELECTION PROCESS

The City's selection committee will perform an initial screening and may interview multiple candidates. Finalist(s) will be selected for interviews with the selection committee consisting of two (2) City Council representatives and executive staff.

There will be no extensions in the opening dates granted on an individual basis. If the City determines in its sole discretion that the response time it has provided is inadequate for the preparation of complete proposals, or if amendments issued have materially changed the proposal requirements, the City may extend the opening or response dates to all potential candidates.

All candidates agree that their proposals are a firm offer to provide the services requested to the City. Once submitted, all offers must remain valid for one hundred eighty (180) days from submission deadline date for proposals. No offer may be withdrawn after the opening date for a period of one hundred eighty (180) days.

Finalist(s) must submit to a criminal background check to determine any adverse information which may affect the proposer's minimum qualifications.

SECTION 6 ANTICIPATED RFP SCHEDULE

Anticipated schedule of the process, subject to changes as needed:

1. Run ad/post on City's website and RMEPS	September 17, 2025
2. Deadline to submit questions to the City for clarification on the RFP or of the RFP process	September 24, 2025
3. Answers to questions submitted by the deadline will be posted on the City's website and RMEPS	September 26, 2025
4. Proposal submission deadline (Complete proposals must be received no later than 8:00am)	October 1, 2025
5. Internal review of proposals	October 1- October 3, 2025
6. Interviews (if deemed necessary)	October 7-15, 2025
7. City Council appointment of Municipal Judge	At the latest by October 21, 2025 (City Council meeting)
8. City anticipates the Judge to sit on the bench soon after selection.	

SECTION 7 INSTRUCTIONS & SUBMITTAL CONTENTS

Candidates must submit a written proposal and résumé no later than 8:00am on October 1, 2025, addressed to:

City of Cherry Hills Village, Attention: Kathryn Ducharme, HR Manager at
kducharme@cherryhillsvillage.com.

Candidates responding to this RFP must submit their proposals in the overall format as outlined in this solicitation and at minimum should include:

1. Résumé outlining experience, skills, membership in any judicial associations, and any relevant training.
2. Provide a list of work-related references who can speak to your experience, skills and abilities.
3. If you have provided Municipal Court Judge services to local Colorado municipalities in recent past, please list those references as well.
4. Proposers must complete the Disclosure Statement, attached as **Exhibit A** to this RFP, and return with your proposal.
5. Cost proposal includes details on billing structure and rates (i.e., hourly, monthly retainer, any additional costs for additional services, etc.)

The City will accept electronic proposals until 8:00am on Wednesday, October 1, 2025, at
kducharme@cherryhillsvillage.com.

SECTION 8 TERMS & CONDITIONS

When preparing a proposal for submission to the City in response to the RFP, candidates should be aware of the following terms and conditions:

1. The City reserves the right to: reject any and all proposals, to consider alternatives, to waive or decline to waive any informalities and irregularities, to abandon the RFP process at any time, to extend the deadline for the receipt of proposals, negotiate with one or more proposers desired modifications of changes in the proposed work, and to re-solicit proposals.
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 best meets the City's needs and desires.
5. The successful contractor will be required to enter into a professional services agreement, subject to City Council approval and appointment. The terms of the agreement shall be in substantially the form attached to this RFP as **Exhibit C**, and will be negotiated between the parties. 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. The City makes no commitments to any candidates until such time as the City approves the negotiated agreement.
6. The City assumes no responsibility for payment of any expenses incurred by any applicant as part of the RFP process.
7. Because the agreement which will be entered into between the City and successful candidates may be a multi-year agreement, it will contain a standard provision making the City's financial obligations under the agreement subject to annual appropriation by the City Council. If funds are not appropriated for any fiscal year, the City will have the right to terminate the agreement without penalty; however, the agreement will obligate the City to pay for all services rendered by the successful candidate up to the time of termination.
8. The City promises to obtain insurance coverage and continue in place, which includes the Presiding Municipal Judge and other judges while performing duties within the scope of the agreement (Exhibit C). Notwithstanding that municipal judges act as and are compensated as independent contractors, pursuant to Section 7.1(b) of the City's Home Rule Charter and Section 2-3-10(a) of the Cherry Hills Village Municipal Code, they will be covered by the City's insurance for claims arising out of injuries sustained from an act or omission occurring during the performance of their duties, except for willful and wanton acts.
9. Finalist(s) must submit to a criminal background check to determine any adverse information which may affect the proposer's minimum qualifications.
10. Section 2-4-50 of the Municipal Code states that before entering upon the duties of the office, the Municipal Judge shall take, subscribe and file with the City Council an oath or affirmation that they will support the Constitution of the United States, the Constitution and laws of the State and the City Charter and ordinances of the City, and will faithfully perform the duties of the office. This will apply to all selected and appointed candidates.

11. 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.
12. 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").

SECTION 9 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 Colorado Open Records Act (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, proposer 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 – EXAMPLE OF 2025 COURT SCHEDULE

Below is the Municipal Court schedule for 2025. This is an example of the regularly scheduled Court sessions which does not include trials.

Cherry Hills Village 2025 Municipal Court Schedule

Wednesday, January 15, 2025

Wednesday, January 29, 2025

Wednesday, February 5, 2025

Wednesday, February 26, 2025

Wednesday, March 12, 2025

Wednesday, March 26, 2025

Wednesday, April 9, 2025

Wednesday, April 23, 2025

Wednesday, May 7, 2025

Wednesday, May 21, 2025

Wednesday, June 11, 2025

Wednesday, June 25, 2025

Wednesday, July 9, 2025

Wednesday, August 13, 2025

Wednesday, August 27, 2025

Wednesday, September 10, 2025

Wednesday, September 24, 2025

Wednesday, October 8, 2025

Wednesday, October 22, 2025

Wednesday, November 5, 2025

Wednesday, November 19, 2025

Wednesday, December 3, 2025

Wednesday, December 17, 2025

EXHIBIT C – FORM OF PROFESSIONAL SERVICES AGREEMENT

**CITY OF CHERRY HILLS VILLAGE
PROFESSIONAL SERVICES AGREEMENT
(Presiding Municipal Judge)**

THIS AGREEMENT ("Agreement") is made this _____ day of _____, 202____, by and between _____ (the "Presiding Municipal Judge") and the **CITY OF CHERRY HILLS VILLAGE, COLORADO**, a home rule municipal corporation of the State of Colorado (the "City"), each of which are referred to individually as a "Party" and collectively as the "Parties."

RECITALS AND REPRESENTATIONS

WHEREAS, the City is authorized by Section 7.1(b) of the Home Rule Charter ("Charter") and Section 2-4-40 of the Cherry Hills Village Municipal Code ("Code") to appoint a Presiding Municipal Judge to preside over the Municipal Court; and

WHEREAS, pursuant to Section 7.1(b) of the Charter, the Municipal Court shall be presided over and its functions exercised by one or more municipal judges, appointed by the Council for a term to be at the pleasure of the Council, with the municipal judges receiving compensation in an amount to be fixed by the City Council from time to time; and

WHEREAS, _____ has held ____ self out to be qualified to serve as a municipal judge for the City in compliance with Section 2-4-40(b) of the Code, and City Council desires to appoint ____ to the position of Presiding Municipal Judge; and

WHEREAS, the Presiding Municipal Judge desires to accept the appointment under the following terms and conditions.

NOW, THEREFORE, in consideration of the mutual promise and covenants set forth below, the City and the Presiding Municipal Judge agree as follows:

1. **APPOINTMENT.** Pursuant to Resolution __, Series 202____ adopted by the City Council contemporaneously with the approval of this Agreement, _____ is appointed to serve as the Presiding Municipal Judge for the City's Municipal Court effective _____, 202____. The City may appoint, at the City's expense, other judges as the City determines to be in its best interest.
2. **TERM.** The term of this Agreement will commence on _____, 202____ and will terminate on _____, 202____ ("Term"), provided, however, that the Presiding Municipal Judge shall serve at the pleasure of City Council. The Presiding Municipal Judge may resign from such position upon ____ days' advance written notice to the Mayor and City Manager.
3. **DUTIES.** The Presiding Municipal Judge promises to perform the duties required by and set forth in Section 7.1 of the Charter and Chapter 2, Article IV of the Cherry Hills Village Municipal Code ("Code"). While fulfilling these duties, the Presiding Municipal Judge is expected to:
 - Attend all court dates for arraignment and trials, unless other arrangements have been made for coverage. Coordinate with City staff on all operational aspects of the municipal court, including establishing the necessary standards and procedures for the operation of the court.

- Conduct arraignments, trials, hearings, sentencings, and case dispositions. Issue written and/or oral findings and judgments when necessary.
- Manage the courtroom to ensure efficiency, orderliness, and justice.
- Ensure that all defendants understand their rights and, if applicable, knowingly waive their rights.
- Explain the law and legal systems to defendants, provided that in no case shall such explanation imply any requirement to provide legal advice.
- Evaluate evidence, testimony, and legal pleadings.
- Interpret and apply appropriate ordinances, municipal code provisions, and regulations.
- Impose fines and penalties as prescribed by the municipal code or ordinances. Assess and oversee collection of penalties.
- Order and enforce contempt, failure to appear, abatement of nuisance, and other requirements of the municipal code or City ordinances.
- Maintain qualifications required by the Charter and Code.

The City will not instruct the Presiding Municipal Judge as to how to conduct court sessions or how to adjudicate the cases that come before ____.

The Presiding Municipal Judge agrees at all times during the term of this Agreement to comply with the Colorado Municipal Court Rules, the Constitutions and applicable laws of the United States and the State of Colorado, and the ordinances, resolutions and regulations of the City.

4. **INDEPENDENT CONTRACTOR.** The Presiding Municipal Judge shall perform municipal judge services (the "Services") as an independent contractor and shall not be deemed by virtue of this Agreement to have entered into any partnership, joint venture, employer/employee, or other relationship with the City. This Agreement does not require the Presiding Municipal Judge to work exclusively for the City, and nothing contained herein shall be construed to limit the right of the Presiding Municipal Judge to engage in other employment or independent contractor positions, whether in the legal field or otherwise, provided that such employment or position does not create a conflict of interest with the performance of the Presiding Municipal Judge's duties to the City. This Agreement shall not be interpreted as the City dictating or directing the Presiding Municipal Judge's performance or the time of performance beyond a range of mutually agreeable court sessions but shall be interpreted as the Presiding Municipal Judge's offer and City acceptance of terms and conditions for performance of the Services. Notwithstanding the foregoing, if the City wishes to expand or change the current court sessions, it will coordinate the new schedule with the Presiding Municipal Judge's availability; however, the City will make the final decision concerning the dates and times of the Municipal Court sessions.

The Presiding Municipal Judge's business operations shall not be combined with the City by virtue of this Agreement, and the City will not provide any training to the Presiding Municipal Judge beyond that minimal level required for the performance of the Services. The Parties acknowledge and agree that the Presiding Municipal Judge may require some assistance or direction from the City in order for the Services to meet the City's contractual expectations.

5. **LIABILITY FOR EMPLOYMENT-RELATED RIGHTS AND COMPENSATION.** 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 the Presiding Municipal Judge or any other liabilities whatsoever, unless otherwise specifically provided herein. Except as provided in Chapter 2, Article IV of the City's Municipal Code, the City shall not be obligated to secure, and shall not provide, any insurance coverage or employment benefits of any kind or type to or for the Presiding Municipal Judge including but not limited to coverage or benefits related to: local, state, or federal income or other tax contributions; insurance contributions (e.g., FICA); workers' compensation, disability, injury, or health; professional liability insurance, or errors and omissions insurance. The following disclosure is provided in accordance with Colorado law:

PRESIDING MUNICIPAL JUDGE ACKNOWLEDGES THAT PRESIDING MUNICIPAL JUDGE IS NOT ENTITLED TO UNEMPLOYMENT INSURANCE BENEFITS FROM THE CITY. PRESIDING MUNICIPAL JUDGE FURTHER ACKNOWLEDGES THAT PRESIDING MUNICIPAL JUDGE IS NOT ENTITLED TO WORKERS' COMPENSATION BENEFITS. PRESIDING MUNICIPAL JUDGE ALSO ACKNOWLEDGES THAT PRESIDING MUNICIPAL JUDGE IS OBLIGATED TO PAY FEDERAL AND STATE INCOME TAX ON ANY MONEYS EARNED OR PAID PURSUANT TO THIS AGREEMENT.

6. **ADMINISTRATIVE SUPPORT.** The City, through the legislative appropriation of funds for the operation of the municipal court, shall at all times provide suitable facilities for the conduct of the public sessions of the municipal court, as well as the administrative functions of the office of the clerk of the municipal court. The City shall have the exclusive right to designate the courtroom facilities and the location of the office of the municipal court staff. Notwithstanding the foregoing, the Parties acknowledge and agree that, except as set forth in this Agreement and Section 7.1 of the Charter, the Presiding Municipal Judge will be responsible for ensuring he/she has access to all professional equipment and resources necessary to perform the duties and functions set forth herein, including but not limited to legal research systems, databases, and materials.
7. **LIMITED PURPOSE.** This Agreement shall in no manner limit or restrict the powers, duties and prerogatives of the Presiding Municipal Judge under applicable statutes or the other ordinances or regulations of the City. If such conflict arises, the offending provision or provisions of this Agreement shall be null and void, and entirely severable from the other provisions of this Agreement.
8. **COMPENSATION.** The Presiding Municipal Judge shall be paid at the rate of _____ Dollars (\$_____.00) per month commencing on _____. The Judge shall submit an invoice for the judicial services to the City's Director of Finance and Administration within thirty (30) days following the end of a calendar month in which judicial services are rendered, and the City shall pay all compensation due and owed at regular intervals consistent with the City's normal accounts payable practices. The fixed monthly rate set forth herein shall be effective for the term of this Agreement, without modification unless agreed by parties in writing.
9. **REIMBURSABLE EXPENSES AND COSTS.** The Presiding Municipal Judge is not entitled to reimbursement for vehicle mileage expenses or any other personal expenses or costs associated with performing the duties associated with this Agreement.
10. **CODE OF JUDICIAL CONDUCT.** The Presiding Municipal Judge promises to comply with the Colorado Code of Judicial Conduct, as adopted and amended by the Supreme

Court of Colorado, during the performance of judicial duties as authorized by law. The Office of Attorney Regulation Counsel will determine any grievance or complaint.

11. **CITY CODE OF ETHICS.** The Presiding Municipal Judge promises to abide by the City's Code of Ethics, as set forth in Chapter 2, Article IX of the City's Municipal Code, as may be amended from time to time.
12. **APPOINTMENT SUBJECT TO PROVISIONS OF MUNICIPAL CHARTER AND CODE.** The Presiding Municipal Judge will, during the performance of his/her duties, be bound by this Agreement and the provisions of the Home Rule Charter and Municipal Code of the City of Cherry Hills Village, as may be amended from time to time.
13. **CRIMINAL JUSTICE INFORMATION ("CJI") SECURITY ADDENDUM.** The Municipal Judge acknowledges that, at times, ____ will need to view Criminal Justice Information ("CJI"). CJI shall only be accessed on computers provided to the Municipal Judge by the City. The CJIS Security Addendum, attached hereto as **Exhibit A**, is hereby incorporated herein by this reference. The Municipal Judge will execute the attached copy of the CJIS Security Addendum upon executing this Agreement.

Under this Section, the Municipal Judge may only access CJI on City computers. Therefore, only City computers are subject to the attached CJIS Security Addendum.
14. **ANNUAL APPROPRIATIONS.** 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.
15. **ENTIRE AGREEMENT.** This Agreement and any City Charter provision, ordinance, or state statute governing the conduct and terms of the appointment of the Presiding Municipal Judge constitutes the entire agreement between the Parties.
16. **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:

City of Cherry Hills Village Attn: City Manager 2450 E. Quincy Avenue Cherry Hills Village, Colorado 80113	
With Copy to: Cherry Hills Village City Attorney Michow Guckenberger McAskin LLP 5299 DTC Boulevard, Suite 300 Greenwood Village, CO 80111	With Copy to:

If to Presiding Municipal Judge:

17. **SEVERABILITY.** If any provision, or any portion thereof, contained in this Agreement is held unconstitutional, invalid, or unenforceable, the remainder of this Agreement shall be deemed severable, shall not be affected, and shall remain in full force and effect.

18. **AMENDMENTS.** The terms and conditions of this Agreement may be modified only by written amendment executed by the Presiding Municipal Judge and the City.
19. **GOVERNING LAW AND VENUE.** This Agreement must be governed by and interpreted according to the law of the State of Colorado. Venue for any action arising under this Agreement must be in the appropriate court for Arapahoe County, Colorado.
20. **NO WAIVER.** A waiver by any party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either party.
21. **NO WAIVER OF GOVERNMENTAL IMMUNITY.** Nothing in this Agreement shall be construed to waive, limit, or modify any judicial or governmental immunity that may be available by law to the City, its officials, employees, contractors, or agents, or any other person acting on behalf of the City and, in particular, governmental immunity afforded or available pursuant to the Colorado Governmental Immunity Act, Title 24, Article 10, Part 1 of the Colorado Revised Statutes.
22. **PARAGRAPH CAPTIONS.** The captions of the paragraphs are set forth only for the convenience and reference of the parties and are not intended in any way to define, limit, or describe the scope or intent of this Agreement.
23. **PROTECTION OF PERSONAL IDENTIFYING INFORMATION.** If the Services include or require the City to disclose to the Presiding Municipal Judge any personal identifying information as defined in C.R.S. § 24-73-101, Presiding Municipal Judge shall comply with the applicable requirements of C.R.S. §§ 24-73-101, *et seq.*, relating to third-party service providers.
24. **RELEASE OF INFORMATION.** The Presiding Municipal Judge shall not, without the prior written approval of the City, release any privileged or confidential information obtained in connection with the Services.
25. **ASSIGNMENT.** Neither this Agreement nor any of the rights or obligations of the Presiding Municipal Judge hereto shall be assigned, delegated, or subcontracted without the prior written consent of the City.
26. **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 the Presiding Municipal Judge. 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.
27. **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 Presiding Municipal Judge and bind the respective parties.
28. **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.

29. **FORCE MAJEURE.** Neither the Presiding Municipal Judge 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.

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Signature page follows

SAMPLE

IN WITNESS WHEREOF, the City has caused this Agreement to be signed and executed on its behalf by the Mayor and the Presiding Municipal Judge has signed and executed this Agreement as of the day and year first written above.

CITY OF CHERRY HILLS VILLAGE

Kathleen Brown, Mayor

ATTEST:

APPROVED AS TO FORM:

Laura Gillespie, City Clerk

Kathie B. Guckenberger, City Attorney

PRESIDING MUNICIPAL JUDGE

[Printed Name]

STATE OF COLORADO

COUNTY OF ARAPAHOE

)
ss.

The foregoing Presiding Municipal Judge Professional Services Agreement was subscribed, sworn to and acknowledged before me this _____ day of _____, _____, by _____.

My commission expires: _____

(S E A L)

Notary Public

EXHIBIT A

FEDERAL BUREAU OF INVESTIGATION CRIMINAL JUSTICE INFORMATION SERVICE
SECURITY ADDENDUM

SAMPLE

**FEDERAL BUREAU OF INVESTIGATION
CRIMINAL JUSTICE INFORMATION SERVICES
SECURITY ADDENDUM**

**Legal Authority for and Purpose and Genesis of the
Security Addendum**

Traditionally, law enforcement and other criminal justice agencies have been responsible for the confidentiality of their information. Accordingly, until mid-1999, the Code of Federal Regulations Title 28, Part 20, subpart C, and the National Crime Information Center (NCIC) policy paper approved December 6, 1982, required that the management and exchange of criminal justice information be performed by a criminal justice agency or, in certain circumstances, by a noncriminal justice agency under the management control of a criminal justice agency.

In light of the increasing desire of governmental agencies to contract with private entities to perform administration of criminal justice functions, the FBI sought and obtained approval from the United States Department of Justice (DOJ) to permit such privatization of traditional law enforcement functions under certain controlled circumstances. In the Federal Register of May 10, 1999, the FBI published a Notice of Proposed Rulemaking, announcing as follows:

1. Access to CHRI [Criminal History Record Information] and Related Information, Subject to Appropriate Controls, by a Private Contractor Pursuant to a Specific Agreement with an Authorized Governmental Agency To Perform an Administration of Criminal Justice Function (Privatization). Section 534 of title 28 of the United States Code authorizes the Attorney General to exchange identification, criminal identification, crime, and other records for the official use of authorized officials of the federal government, the states, cities, and penal and other institutions. This statute also provides, however, that such exchanges are subject to cancellation if dissemination is made outside the receiving departments or related agencies. Agencies authorized access to CHRI traditionally have been hesitant to disclose that information, even in furtherance of authorized criminal justice functions, to anyone other than actual agency employees lest such disclosure be viewed as unauthorized. In recent years, however, governmental agencies seeking greater efficiency and economy have become increasingly interested in obtaining support services for the administration of criminal justice from the private sector. With the concurrence of the FBI's Criminal Justice Information Services (CJIS) Advisory Policy Board, the DOJ has concluded that disclosures to private persons and entities providing support services for criminal justice agencies may, when subject to appropriate controls, properly be viewed as permissible disclosures for purposes of compliance with 28 U.S.C. 534.

We are therefore proposing to revise 28 CFR 20.33(a)(7) to provide express authority for such arrangements. The proposed authority is similar to the authority that already exists in 28 CFR 20.21(b)(3) for state and local CHRI systems. Provision of CHRI under this authority would only be permitted pursuant to a specific agreement with an authorized governmental agency for the purpose of providing services for the administration of criminal justice. The agreement would be required to incorporate a security addendum approved by the Director of the FBI (acting for the Attorney General). The security

addendum would specifically authorize access to CHRI, limit the use of the information to the specific purposes for which it is being provided, ensure the security and confidentiality of the information consistent with applicable laws and regulations, provide for sanctions, and contain such other provisions as the Director of the FBI (acting for the Attorney General) may require. The security addendum, buttressed by ongoing audit programs of both the FBI and the sponsoring governmental agency, will provide an appropriate balance between the benefits of privatization, protection of individual privacy interests, and preservation of the security of the FBI's CHRI systems.

The FBI will develop a security addendum to be made available to interested governmental agencies. We anticipate that the security addendum will include physical and personnel security constraints historically required by NCIC security practices and other programmatic requirements, together with personal integrity and electronic security provisions comparable to those in NCIC User Agreements between the FBI and criminal justice agencies, and in existing Management Control Agreements between criminal justice agencies and noncriminal justice governmental entities. The security addendum will make clear that access to CHRI will be limited to those officers and employees of the private contractor or its subcontractor who require the information to properly perform services for the sponsoring governmental agency, and that the service provider may not access, modify, use, or disseminate such information for inconsistent or unauthorized purposes.

Consistent with such intent, Title 28 of the Code of Federal Regulations (C.F.R.) was amended to read:

§ 20.33 Dissemination of criminal history record information.

- a) Criminal history record information contained in the Interstate Identification Index (III) System and the Fingerprint Identification Records System (FIRS) may be made available:
 - 1) To criminal justice agencies for criminal justice purposes, which purposes include the screening of employees or applicants for employment hired by criminal justice agencies.
 - 2) To noncriminal justice governmental agencies performing criminal justice dispatching functions or data processing/information services for criminal justice agencies; and
 - 3) To private contractors pursuant to a specific agreement with an agency identified in paragraphs (a)(1) or (a)(6) of this section and for the purpose of providing services for the administration of criminal justice pursuant to that agreement. The agreement must incorporate a security addendum approved by the Attorney General of the United States, which shall specifically authorize access to criminal history record information, limit the use of the information to the purposes for which it is provided, ensure the security and confidentiality of the information consistent with these regulations, provide for sanctions, and contain such other provisions as the Attorney General may require. The power

and authority of the Attorney General hereunder shall be exercised by the FBI Director (or the Director's designee).

This Security Addendum, appended to and incorporated by reference in a government-private sector contract entered into for such purpose, is intended to insure that the benefits of privatization are not attained with any accompanying degradation in the security of the national system of criminal records accessed by the contracting private party. This Security Addendum addresses both concerns for personal integrity and electronic security which have been addressed in previously executed user agreements and management control agreements.

A government agency may privatize functions traditionally performed by criminal justice agencies (or noncriminal justice agencies acting under a management control agreement), subject to the terms of this Security Addendum. If privatized, access by a private contractor's personnel to NCIC data and other CJIS information is restricted to only that necessary to perform the privatized tasks consistent with the government agency's function and the focus of the contract. If privatized the contractor may not access, modify, use or disseminate such data in any manner not expressly authorized by the government agency in consultation with the FBI.

FEDERAL BUREAU OF INVESTIGATION
CRIMINAL JUSTICE INFORMATION SERVICES
SECURITY ADDENDUM

The goal of this document is to augment the CJIS Security Policy to ensure adequate security is provided for criminal justice systems while (1) under the control or management of a private entity or (2) connectivity to FBI CJIS Systems has been provided to a private entity (contractor). Adequate security is defined in Office of Management and Budget Circular A-130 as “security commensurate with the risk and magnitude of harm resulting from the loss, misuse, or unauthorized access to or modification of information.”

The intent of this Security Addendum is to require that the Contractor maintain a security program consistent with federal and state laws, regulations, and standards (including the CJIS Security Policy in effect when the contract is executed), as well as with policies and standards established by the Criminal Justice Information Services (CJIS) Advisory Policy Board (APB).

This Security Addendum identifies the duties and responsibilities with respect to the installation and maintenance of adequate internal controls within the contractual relationship so that the security and integrity of the FBI's information resources are not compromised. The security program shall include consideration of personnel security, site security, system security, and data security, and technical security.

The provisions of this Security Addendum apply to all personnel, systems, networks and support facilities supporting and/or acting on behalf of the government agency.

1.00 Definitions

1.01 Contracting Government Agency (CGA) - the government agency, whether a Criminal Justice Agency or a Noncriminal Justice Agency, which enters into an agreement with a private contractor subject to this Security Addendum.

1.02 Contractor - a private business, organization or individual which has entered into an agreement for the administration of criminal justice with a Criminal Justice Agency or a Noncriminal Justice Agency.

2.00 Responsibilities of the Contracting Government Agency.

2.01 The CGA will ensure that each Contractor employee receives a copy of the Security Addendum and the CJIS Security Policy and executes an acknowledgment of such receipt and the contents of the Security Addendum. The signed acknowledgments shall remain in the possession of the CGA and available for audit purposes. The acknowledgement may be signed by hand or via digital signature (see glossary for definition of digital signature).

3.00 Responsibilities of the Contractor.

3.01 The Contractor will maintain a security program consistent with federal and state laws, regulations, and standards (including the CJIS Security Policy in effect when the contract is executed and all subsequent versions), as well as with policies and standards established by the Criminal Justice Information Services (CJIS) Advisory Policy Board (APB).

4.00 Security Violations.

4.01 The CGA must report security violations to the CJIS Systems Officer (CSO) and the Director, FBI, along with indications of actions taken by the CGA and Contractor.

4.02 Security violations can justify termination of the appended agreement.

4.03 Upon notification, the FBI reserves the right to:

- a. Investigate or decline to investigate any report of unauthorized use;
- b. Suspend or terminate access and services, including telecommunications links. The FBI will provide the CSO with timely written notice of the suspension. Access and services will be reinstated only after satisfactory assurances have been provided to the FBI by the CGA and Contractor. Upon termination, the Contractor's records containing CHRI must be deleted or returned to the CGA.

5.00 Audit

5.01 The FBI is authorized to perform a final audit of the Contractor's systems after termination of the Security Addendum.

6.00 Scope and Authority

6.01 This Security Addendum does not confer, grant, or authorize any rights, privileges, or obligations on any persons other than the Contractor, CGA, CJA (where applicable), CSA, and FBI.

6.02 The following documents are incorporated by reference and made part of this agreement: (1) the Security Addendum; (2) the NCIC 2000 Operating Manual; (3) the CJIS Security Policy; and (4) Title 28, Code of Federal Regulations, Part 20. The parties are also subject to applicable federal and state laws and regulations.

6.03 The terms set forth in this document do not constitute the sole understanding by and between the parties hereto; rather they augment the provisions of the CJIS Security Policy to provide a minimum basis for the security of the system and contained information and it is understood that there may be terms and conditions of the appended Agreement which impose more stringent requirements upon the Contractor.

6.04 This Security Addendum may only be modified by the FBI, and may not be modified by the parties to the appended Agreement without the consent of the FBI.

6.05 All notices and correspondence shall be forwarded by First Class mail to:

Information Security Officer

Criminal Justice Information Services Division, FBI

1000 Custer Hollow Road

Clarksburg, West Virginia 26306

FEDERAL BUREAU OF INVESTIGATION
CRIMINAL JUSTICE INFORMATION SERVICES
SECURITY ADDENDUM

CERTIFICATION

I hereby certify that I am familiar with the contents of (1) the Security Addendum, including its legal authority and purpose; (2) the NCIC Operating Manual; (3) the CJIS Security Policy; and (4) Title 28, Code of Federal Regulations, Part 20, and agree to be bound by their provisions.

I recognize that criminal history record information and related data, by its very nature, is sensitive and has potential for great harm if misused. I acknowledge that access to criminal history record information and related data is therefore limited to the purpose(s) for which a government agency has entered into the contract incorporating this Security Addendum. I understand that misuse of the system by, among other things: accessing it without authorization; accessing it by exceeding authorization; accessing it for an improper purpose; using, disseminating or re-disseminating information received as a result of this contract for a purpose other than that envisioned by the contract, may subject me to administrative and criminal penalties. I understand that accessing the system for an appropriate purpose and then using, disseminating or re-disseminating the information received for another purpose other than execution of the contract also constitutes misuse. I further understand that the occurrence of misuse does not depend upon whether or not I receive additional compensation for such authorized activity. Such exposure for misuse includes, but is not limited to, suspension or loss of employment and prosecution for state and federal crimes.

Printed Name/Signature of Contractor Employee

Date

Printed Name/Signature of Contractor Representative

Date

Organization and Title of Contractor Representative