



## **Request for Proposals for Body Worn Cameras and Digital Evidence Storage**

**City of Commerce City, Colorado  
Police Department**

**Date: January 27, 2016**

### **I. REQUEST FOR PROPOSALS**

The City of Commerce City ("City") seeks proposals for the provision of a body worn camera system and digital evidence services ("Services") for the Commerce City Police Department ("CCPD") as set forth in this Request for Proposals ("RFP"). CCPD desires a system that will integrate body-worn cameras, management software, cloud storage solutions for body-worn video and other evidentiary digital media/files and supporting equipment along with a warranty and upgrade plan.

The City anticipates delivery and installation of all system requirements and a "go live" date of June 30, 2016. The anticipated term is for a three (3) year period, subject to annual appropriation, with the option for renewal for two (2) potential annual renewals at the same rates.

**Questions regarding RFP requirements must be received by Dennis Moon, Police Commander in writing at [dmoon@c3gov.com](mailto:dmoon@c3gov.com) by 5:00 p.m. (MT) on Wednesday, February 17, 2016.** Oral and late questions will not receive responses.

**Proposals containing the information required by this RFP, in the format described below, must be received no later than 4:00 p.m. (MT) on Wednesday, February 24, 2016. Proposals shall be submitted in a sealed envelope and plainly marked "Proposal for Body-worn Cameras and Digital Evidence Storage" on the outside of the sealed envelope. A digital copy of the proposal must be included.** Proposals must be submitted to:

Dennis Moon, Police Commander  
City of Commerce City  
7887 E. 60 Ave.  
Commerce City, CO 80022

It is the sole responsibility of each Respondent to ensure its Proposal is received by the City by the date and time stated in this RFP. Late Proposals will not be accepted.

### **II. REQUESTED EQUIPMENT & SERVICES**

The contractor shall furnish all cameras and related equipment and shall perform all Services described in this section, and all obligations set forth in the draft contract (Attachment A), subject to negotiation of final terms. The contractor shall provide reliable cameras and systems that meet or exceed the requirements of set forth in this RFP.

## EQUIPMENT REQUIREMENTS:

1. Point of View:
  - a. Cameras must capture and record digital video and audio from an officer's point of view or perspective when the officer is away from the vehicle. The on-officer wearable video and audio recording devices should be light-weight.
2. Ease of Operation:
  - a. Cameras and System should be user friendly that can be activated easily during times of stressful events, preferably automatically triggered. Assignment, usage and upload capabilities should be seamless for the officers causing minimal impact or time out of their shift.
3. Cameras should be configured to be worn on an officer's outermost piece of uniform. The Camera should be able to be worn and transferred easily between multiple viewing/mounting locations on the body, e.g. body, shoulder, lapel, head-mounted, duty-belt, etc.
4. Environmentally Durable:
  - a. CCPD prefers the Cameras be waterproof. They should be able to operate in temperatures ranging from -5° F to 120° F and dust and dirt resistant. Lens scratch resistant and cameras should meet a six-foot (6') drop test requirement. The Cameras should be light-weight and durable.
5. Tactical Operations:
  - a. Cameras should be able to be made tactically secure, lights/audible alerts to be dimmed/or muted in tactical operations.
6. Camera Specifications:
  - a. CCPD prefers that Camera possess a minimum 80 degree field of view.
  - b. CCPD prefers that video image be in full color, capable of HD resolution.
  - c. CCPD prefers that Camera have low light capability of  $\leq .1$  lux.
  - d. CCPD prefers there be a minimum thirty-two (32) GB internal/integrated memory and storage media not be removable.
  - e. CCPD prefers configurable A/V settings, minimum video resolution of AVG 640 x 480.
  - f. CCPD prefers the Camera have a standby battery life of twelve (12) hours without recharging or additional batteries.
  - g. CCPD prefers a minimum 12-16 hours of record time.
  - h. CCPD prefers Camera Recharge in less than four (4) hours.
  - i. CCPD prefers charging capabilities via a docking station.
  - j. CCPD prefers video/audio files be tagged with date, time and GPS coordinates, and/or by event.
  - k. CCPD prefers pre-record ability.
  - l. CCPD prefers ability to review video in the patrol vehicle via camera LCD, smartphone or laptop.
  - m. CCPD prefers officers have the ability of a camera bank to checkout /hot swap camera's and software, which will be able to assign that camera to officers.
  - n. Over the term of the final Agreement, CCPD shall receive the most current model camera available, as approved by CCPD.
7. Centralized Docking Stations:
  - a. CCPD prefers to have a centralized docking station that allow for video upload

and recharging of device for multiple devices at the Civic Center and substation so all devices can be kept centrally.

8. Security:
  - a. Camera does not have the capability of editing or deleting original video footage or file.
9. CCPD requires the ability to audit views, upload, and alteration of video before and after upload.

#### SYSTEM REQUIREMENTS:

1. Storage System (“System”), software and/or hardware must be Windows 7 or newer compatible.
2. CCPD prefers the System use either scalable internal server storage backend or a scalable external web-based data storage system with the capability of organizing/managing incidents.
3. CCPD requires the ability to search by name, date, event, device, case/incident number, category; as well as categorized, add case numbers, notes, etc. to each file.
4. The System must be compliant with Criminal Justice Information Services (CJIS) requirements.
5. The System should allow the officer to view and tag prior to uploading to server.
6. The System should employ latest protocols for security of digital evidence with 99.9% access times.
7. CCPD prefers the System to be able to share Digital Evidence efficiently and securely with other Law Enforcement Agencies (LEA), District Attorney’s Office, or Public Defender, etc.
8. The System’s video must be of evidentiary quality for court and to be tactically useful for investigative purposes.
9. Create a fully secure Digital Evidence Management System for Body Worn Cameras video, crime scene photos, audio interviews, 3rd party video, smartphone video/audio, etc.
10. CCPD prefers cameras that will dock and upload via docking station.
11. If CCPD elects for Cloud Storage, all video will remain the property of CCPD and retrievable at CCPD’s discretion with transfer fees via contract.
12. The System should be accessible throughout CCPD.
13. Securely store all video and recordings to which only CCPD authorized users have access and others approved by CCPD according to the latest security protocol.
14. Upload of video to the System should require minimal User interaction (e.g. dock, plug-in device or wireless and files are uploaded).
15. CCPD prefers the System have defined Roles and Permissions on all systems; Configurable by CCPD administration. Allows officers access to view their footage and administrator’s access to view and restrict footage as necessary.
16. CCPD prefers the Storage to allow unlimited, free downloads of CCPD’s digital evidence and have Unlimited downloading on licensed storage applications.
17. System software must recognize a device and associate the device with the officers assigned to the device. Metrics on officer uploads, downloads, GB of data, etc. must be tracked and available to CCPD.
18. An audit trail will be generated for every incident and track all user activity. Provide

Litigation support (documentation and testimony in court if needed) to support transport/chain of custody, and storage system. Audit logs should include documentation of date, time, user, and console where ingestion, view, share, download, etc. occurred for all incidents.

19. Must be able to add metadata information to digital evidence files.
20. The System should have the ability to set variable and enforce retention rules per the State of Colorado and Commerce City retention schedules. In addition, allow administrators to delete/purge files based on the retention rules and regulations.
21. The System should provide management solutions to video evidence copying, sharing and redaction.
22. The system should provide robust redaction capabilities for video as well as still photos. Please describe your product's redaction capabilities in detail or attach detailed documentation.
23. The system must keep the original file intact while providing editing and redaction processes.
24. The System should include full and rich report generation capabilities. The ability to run ad hoc reports on various parameters will be essential.
25. The System should allow users single sign-on using the CCPD's existing Microsoft Active Directory Services.

#### DEPLOYMENT OPTIONS AND GENERAL OPERATING PROCEDURES:

1. Two potential deployment options are being considered. Option 1, each officer would be assigned their own camera. Option 2, devices would be shared between officers. Proposals may offer one or both options.
2. CCPD would consider upload options from the vehicle or via Civic Center centrally located shared docking solution. Please provide bandwidth requirements for uploads.
3. Charging options should be presented for both in-car and in office options.
4. The issuing of camera devices must be seamless and simple. CCPD prefers a device that would self-assign the officer based on the logged in user once the device is paired with the in-car computer or evidence management software component identified for officer use.
5. Officers will dock the camera for download and charging for a maximum of four (4) hours. In a situation where devices are not assigned to each officer, cameras used during the previous shift which were docked for downloading and charging will be checked out to the on-coming shift/cycle allowing for hot-swapping of devices between shifts. In car charging options should also be available.
6. When the device is deactivated or the video is being uploaded to the Digital Evidence Management System, CCPD requires the option to make specific metadata fields mandatory to ensure proper classification and retention criteria are set to enable better data collection and improve the ability to search/retrieve stored video.
7. Officers will download the video to the centralized digital evidence management system via the methodology prescribed by the solution. It is desired to have a centralized docking station for multiple devices at the Civic Center and police substation so all devices can be maintained at those locations. CCPD would consider options for the Officers to upload their video from vehicle, or other remote sites.
8. Permissions to video in the system should be role based as well as assignment based.

Viewing of video across zones is only allowed for specific ranks or assignments such as Internal Affairs or Homicide. Security must be granular enough to effectively manage access to video based on user permissions.

9. Automatic retention periods are set based on the classification of the video. Officers should be able to review video scheduled for deletion based on automatic retention schedules and notifications to the officers. Video should be automatically purged based on business rules defined.
10. As with any evidence, the system must effectively audit the full lifecycle of video loaded, viewed, deleted, redacted, and shared from the system.

### **III. REQUIRED QUALIFICATIONS**

1. Proposals will be considered only from companies that are regularly engaged in the business of providing the equipment, system and services described in this RFP.
2. Respondents should have a minimum of three (3) years of experience with body worn digital camera systems in the U.S. market.
3. Respondents should have previous experience working with federal/state/county and/or city law enforcement agencies.
4. Respondents should have completed a minimum of two (2) implementations consisting of a minimum of sixty (60) or more body worn cameras incorporating similar technology proposed herein for CCPD. Additionally, the digital evidence management system proposed by the Proposer should be in operation in at least three (3) venues.
5. Respondents and their employees, agents and subcontractors must be able to successfully undergo and pass security background checks, if awarded the contract, for admittance to certain CCPD and government facilities if applicable.

### **IV. PROPOSAL REQUIREMENTS**

Respondents shall submit Proposals that clearly demonstrate their ability to provide the Services. The Proposal should be a complete and detailed approach to providing all Services and any Additional Services that the Respondent proposes. Only one Proposal should be submitted. The entire Proposal (excluding cover letter, addenda, and fee proposal) may not exceed fifty (50) pages. The Proposal should be submitted on 8.5 x 11 paper. Proposal must be typewritten or computer-generated. The font type size may not be smaller than eleven (11) point and margins cannot be less than one inch (1”).

Proposals shall include the following information in the order listed below to facilitate fair and equal evaluation of Proposals.

- A. COVER LETTER.** Briefly introduce the Respondent, explain the Respondent’s interest in providing the Services, and articulate why the Respondent is qualified to provide the Services. Include the name, address, email address and phone number of the person who will serve as the Respondent’s principle contact with City staff. Identify individual(s) who will be working on the project.

**B. METHOD.** Explain in detail how Respondent would deliver the equipment, systems, and services requested by this RFP. Include references to each item set forth in the section entitled “Requested Equipment & Services.” Provide documentation detailing the capabilities, suggested modules, and technical requirements for your recommended system configuration for CCPD.

Provide responses to the following questions, if applicable, or references to where responses may be located in the Proposal:

1. Provide a description of all systems, modules, add-ons, and/or enhancements that are necessary to fully utilize the software’s *maximum* capabilities.
  - a. Provide information regarding your ability to interface or integrate your product with other software products and systems. For example: Records Management Systems, Computer Aided Dispatch, and Evidence Management Systems (currently iLeads RMS and EvidenceOnQ).
  - b. Describe the equipment, components, hardware, and/or other software that must be available to utilize the product to its maximum.
  - c. Describe the database program/platform that is required.
  - d. Describe how the software and hardware are licensed and provide copies of any licensing agreements necessary to operate the system.
  - e. Describe any and all additional software that must be purchased and/or operated by the city in order to support the system.
  - f. Describe the safeguards that are provided in the software to secure and protect sensitive data from intrusion from outside sources.
2. Provide a technical description of the system. Include any hardware or software requirements, deployment diagrams, network diagrams, a general description of the installation process, etc.
3. What is the version number of the application and how long has it been in production?
4. What encryption/security methods are you using?
5. What is the average bandwidth requirement per user? What are the peak bandwidth requirements per users?
6. What ports does your application use? Please list by function if appropriate.
7. Outline the skills required to maintain your solution.
8. Outline the system requirements for each component of the proposed solution. Include client platform requirements, browser support, server platforms and recommended hard disk requirements for acceptable performance.
9. Are there any firewall modifications that you require for the application?
10. Is your system fully scalable? Does it allow for an increase in the number of users and volumes of data without requiring replacement of primary system components? Please describe how your system will scale to meet the growing information needs of CCPD.

11. Our current MS standard is MS server 2012R2; MS SQL 2012R2; MS .NET 4.2. If your solution is on premise or relies on the MS environment, does it support these standards?
  12. Do you support your product in a virtual environment, specifically VMware 5.1 and higher?
  13. Is your product's client supported on Windows operating systems, including Windows 7 Professional 32 and 64 bit? Please list the supported versions.
  14. Does your system support Active Directory integration? If so, describe the method of integration and standards supported.
  15. Is your product Web Based?
  16. What operating systems/platforms are supported by your mobile access? For example: Apple or Android Operating systems, Web Browsers, etcetera.
  17. Describe the transfer process and security of the video from the camera to digital storage?
  18. What audit and chain of custody capabilities exist for determining who accessed, viewed or altered a video?
  19. Describe the features, functions, and capabilities of the camera.
  20. Describe the features, functions, and capabilities of the digital evidence Storage.
  21. Does the digital evidence management system have the capabilities to integrate with Computer Aided Dispatch and Report Management System?
  22. What vendors/systems can currently be integrated?
  23. Is the software included or available to easily allow for redaction and editing of video? If so, describe the capabilities and any additional cost of the redaction and editing feature.
  24. Do you offer an in car camera system that integrates with the body worn camera? If so, describe the features, functions and capabilities of the unit.
  25. If cameras are shared with multiple officers, how is the officer assigned to the body worn camera.
  26. What differentiates your product from others in the market?
  27. Describe warranty and upgrade plan.
- C. SCHEDULE.** Provide a schedule detailing the Respondent will provide all required equipment and systems, if selected, to allow the cameras and system to be operational by June 30, 2016.
- D. CONTRACT REQUIREMENTS.** Indicate any proposed revisions to Attachment A. Attach a copy of any applicable agreement or contract terms, including any proposed maintenance and support agreement.
- E. TESTING.** Explain how Respondent will satisfy the testing requirements set forth in this RFP, if selected for testing.

- F. QUALIFICATIONS.** Explain how Respondent meets the required qualifications established by this RFP and provide information on recent, relevant or similar contracts, information on key personnel, and membership in any relevant professional organizations. Respondent should demonstrate relevant experience in providing services similar to the Services. Any proposed subcontractors must be identified. Full resumes can be included in an appendix.
- G. PAST PERFORMANCE.** Provide two (2) client references within the past two (2) years, including contact name, firm or agency, phone number, email and brief summary of services provided. The City is especially interested in references that can attest to the Respondent's ability and performance in similar work with similar organizations and similar scope of services.
- H. ADDITIONAL SERVICES.** Provide information on any Additional Services related to the Services proposed by Respondent.
- I. ADDITIONAL INFORMATION.** The Respondent may list any additional information or data not requested as part of this RFP that Respondent believes should be considered in the evaluation of the Proposal provided the entire Proposal is no more than the identified page limit.
- J. FEE PROPOSAL.** A fee proposal **IN A SEPARATE SEALED ENVELOPE** consisting of:
- a. The itemized and total cost, including all required equipment, software, storage, and incidental fees, to equip 45 to 60 officers with body worn cameras;
  - b. Annual ongoing costs for system, storage, warranty, and replacements.
  - c. The proposed rate for any Additional Services proposed.

Proposals must identify all costs of performing the Services (including without limitation, delivery, mileage, equipment, supplies, permits, licenses, overhead, profit, etc.).

## **V. SELECTION**

The City will use a qualitative-based selection process using the following criteria:

- Respondent qualifications and responsibility
- Past experience, representative work, and references
- Proposed method and approach to fulfill the City's needs
- Price

The City may select one or more Respondents for a testing period and/or interview. Selected Respondents will provide, at no cost to the City, at least 5 body worn cameras and all necessary equipment for upload for up to a thirty (30) day testing period and provide assistance with storing video and transfer of all stored data to a permanent storage location.



The City may contact references provided with the Proposal. The City reserves the right to request clarification or additional information from Respondents and to consider independently obtained information.

The City will select the Respondent determined to be the best value by the City in its sole discretion. The City will enter into negotiations with the selected Respondent regarding fees and scope. If an agreement cannot be reached with the chosen Respondent, the City may initiate negotiations with another Respondent. This process may continue until an agreement is reached with a Respondent. If the chosen Respondent does not execute a contract within a specified deadline, the City reserves the right to award the contract to another Respondent.

The City reserves the right to negotiate further with one or more Respondent. Selection of any Respondent and execution of a contract is dependent on approval in accordance with applicable City laws and policies and the City's receipt of any required Certificates of Insurance and applicable endorsements. The City anticipates that approval of the City Council will be required. The City's decisions are final and without recourse to any Respondent.

## **VI. MISCELLANEOUS**

The issuance of this RFP and the receipt and evaluation of Proposals do not obligate the City to select a Respondent, to enter into any agreement, or to pay any costs incurred in responding to this RFP, interviewing, testing, or negotiating an agreement. No Proposal shall constitute business terms of any eventual agreement except as expressly agreed by the City. The City reserves the right to modify this RFP or the selection process, to cancel this RFP, to reject or accept any Proposal, and to waive any informalities or irregularities in any Proposal, without liability, at any time.

All Proposals (except for any sample equipment) shall become the property of the City, will not be returned, and will become a public record. Respondents may request parts of their Proposals to remain confidential by indicating such in the Proposals and on the appropriate proprietary or financial pages. **The City will keep confidential only documents protected from disclosure under the Colorado Open Records Act (the "Act").** An entire Proposal shall not be marked or identified as confidential. **By submitting a Proposal, each Respondent agrees to hold the City harmless from any claims arising from the release of confidential information not clearly designated as such by the Respondent or from the release of documents not protected from disclosure under the Act.**

Respondents are cautioned not to undertake any activities or actions to promote or advertise their submittals, other than discussions with City staff as described in this RFP. After the release of this RFP, Respondents are not permitted to make any direct or indirect contact with members of the Selection Committee, the City Council or media on the subject of this RFP, except in the course of City-sponsored presentations. Violation of these rules is grounds for disqualification of the Respondent.

## AGREEMENT FOR SERVICES

THIS AGREEMENT FOR SERVICES (the “Agreement”) is made and entered into effective this \_\_\_\_ day of \_\_\_\_\_, 2015 (the “Effective Date”), by and between the CITY OF COMMERCE CITY, a Colorado home rule municipality whose address is 7887 East 60th Avenue, Commerce City, Colorado (the “City”), and **CONTRACTOR LEGAL NAME**, a **home state** **Select Entity Type** whose principal business address is **Contractor principal business address** (“Contractor”).

WHEREAS, the City desires to retain the services of Contractor, and Contractor desires to provide services to the City.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, the sufficiency of which is hereby acknowledged, the parties agree as follows:

### I. SERVICES.

A. Services. At the City’s direction, Contractor will provide **type of services** services as set forth in Exhibit A, attached and incorporated by reference (the “Services”). The City reserves the right to omit any of the Services identified in Exhibit A upon written notice to Contractor.

B. Controlling Terms. The terms of this Agreement will control if the terms of any exhibit, attachment, or invoice conflict with this Agreement.

#### C. Deliverables.

1. Electronic format. Contractor will provide all reports, surveys, maps, plans, drawings or photographs, or any other materials that lend themselves to production in electronic format (“Deliverables”) to the City in both hard copy and electronic formats acceptable to the City, unless otherwise directed by the City in writing. Contractor’s failure to do so will constitute a material breach of this Agreement. Contractor will consult with the City to determine acceptable electronic formats before beginning the Services. All Deliverables and other tangible materials produced by Contractor pursuant to this Agreement will at all times be considered the property of the City.

2. Spatial Data. Deliverables including spatial data (GIS/AutoCad) will include geospatial datasets (those generated from GPS, survey data, or other derived geospatial data like orthography) in Environmental Systems Research Institute, Inc.’s (“ESRI”) file/personal geodatabase or shapefile format, including a coordinate system projection information or file. Point features will be generated as point shapefiles, linear features will be generated as line shapefiles, and area features will be generated as polygon shapefiles. Any geospatial dataset derived from new or existing geospatial data will be in file/personal geodatabase or shapefile format, along with an explanation of the method used to generate the derived geospatial data. Spatial Coordinate or Survey System will be documented and used, along with a coordinate system projection file for said data. Contractor will provide complete metadata (who, what, when, where, how) for all provided spatial data and related information.

3. Digital images. Contractor will provide non-copyrighted, high resolution, illustrative, digital images of project site plans, elevations, renderings, photos, and other Deliverables, as directed by the City, suitable for reproduction of and dissemination in marketing materials and at City Council hearings and public presentations. Contractor will affirm that the images do not violate copyright laws and will indemnify and hold harmless the City from liability for any expense, cost, loss or damage resulting from any claim of copyright infringement arising from the City’s use of the images. All images provided will become the property of the City.

D. Contractor Representations. Contractor warrants and represents that it has the requisite authority, capacity, experience and expertise to perform the Services in compliance with the provisions of this Agreement and all applicable laws. Contractor acknowledges that the City is relying on Contractor's expertise, skill, and knowledge, and that the Contractor's obligations and liabilities will not be diminished by reason of any approval or review by the City.

E. Warranties. Contractor warrants that all work performed under this Agreement will be free from defects in workmanship, equipment, and materials. Upon acceptance of the work, Contractor will transfer the benefit of any applicable manufacturer's warranty to the City.

F. Prosecution of the Services. Contractor will perform all work in a professional and workmanlike manner and will furnish all labor, materials, tools, supplies, machinery, utilities, and other equipment that may be necessary for the completion of the Services. Contractor will monitor, supervise, and otherwise control and be solely responsible for all persons or entities performing work on its behalf.

G. Correction of Errors. Contractor will correct any errors or omissions in its work and any work deemed unsatisfactory or unacceptable by the City promptly and for no additional compensation.

H. Subcontractors. Contractor will not engage subcontractors to perform any part of the Services, other than for the provision of goods, materials or supplies, without the City's express written consent.

I. Licenses & Permits. Contractor and each subcontractor will be responsible to obtain all required licenses and permits, including a City Contractor's license, if required. Contractor will pay any and all license and permit fees.

J. Rate of Progress. Contractor will complete all Services to the City's satisfaction within **identify timeframe (not contract term) if applicable, or delete sentence**. Contractor's rate of progress is a material term of this Agreement. At the City's request, Contractor will provide a progress schedule for the performance of any Services subject to the City's approval.

K. Monitoring and Evaluation. The City reserves the right to monitor and evaluate the progress and performance of Contractor to ensure that the terms of this Agreement are being satisfactorily met in accordance with the City's and other applicable monitoring and evaluating criteria and standards. Contractor will cooperate with the City relating to such monitoring and evaluation.

L. Drugs, Alcohol and Workplace Violence; Compliance with Applicable Law. Contractor and its employees and agents, while performing the Services or while on City property for any reason during the Term, will adhere to the City's policies applicable to City employees regarding drugs, alcohol and workplace violence. Policies will be made available to Contractor upon request. Contractor will comply with all applicable federal, state and local laws, ordinances and regulations.

M. Non-Exclusivity. The City may engage the services of other persons for the provision of Services that could be performed under this Agreement. Contractor acknowledges that it is not entitled to perform any work except as assigned under this Agreement and is not guaranteed any amount of work.

## II. COMPENSATION.

A. Amount. As compensation for performance of the Services and any other obligations under this Agreement, the City will pay Contractor for work actually performed, in accordance with the rates set forth in Exhibit A, a sum not to exceed **\$Numerical Dollars & Cents (if applicable; otherwise, modify accordingly)**. The compensation established by this Agreement includes all of Contractor's

costs and expenses to fully perform the Services and other obligations of this Agreement. The City will not consider or be obligated to pay or reimburse Contractor any other charges or fees and Contractor will not be entitled to any additional compensation or reimbursement.

B. Changed Conditions. Contractor specifically waives any claim for additional compensation for any changed condition arising out of any one or more of the following, unless such changed condition is caused in whole or in part by acts or omissions within the City's control: (1) a physical condition of the site of an unusual nature; (2) any condition differing materially from those ordinarily encountered and generally recognized as inherent in work or services of the character and at the location provided for in this Agreement; or (3) any force majeure.

C. Invoices. Contractor will submit invoices on a monthly basis, in a format approved by the City, and provide verification documentation as requested by the City. Invoices will be submitted to the City not more frequently than monthly. Invoices will identify the specific Services performed for which payment is requested, including a description of the Services, the applicable rates, any costs for which Contractor seeks reimbursement, and the total amount that Contractor claims is due.

D. Payment. The City will make payment to Contractor within thirty (30) days after receipt and approval of invoices submitted by Contractor. The City's obligation to make payment is contingent upon the Contractor's: (a) submission of a complete and accurate invoice; and (b) satisfactory performance of the Services and conditions of this Agreement. The City may withhold payment of any disputed amounts, and no interest will accrue on any amount withheld pending the resolution of the dispute.

E. IRS Form W-9. If not on file with the City, Contractor will provide to the City a current, completed Internal Revenue Service Form W-9 with or before Contractor's first invoice. Failure to submit a W-9 may result in delay or cancellation of payment under this Agreement.

F. Appropriation. This Agreement will neither constitute nor be deemed a multiple fiscal-year debt or financial obligation of the City based on the City's ability to terminate this Agreement. Contractor acknowledges that the City has made no promise to continue to budget funds beyond the current fiscal year and that the City has and will pledge adequate cash reserves on a fiscal-year by fiscal-year basis.

### III. TERM AND TERMINATION.

A. Term. The term of this Agreement will be from the Effective Date until [Click here to enter a date](#) ("Term"), unless the Term is extended in by validly executed written amendment.

B. Termination.

1. Generally. The City may terminate this Agreement without cause if the City determines that such termination is in the City's best interest. The City will effect such termination by giving written notice of termination to Contractor, specifying the effective date of termination, at least fourteen (14) calendar days prior to the effective date of termination.

2. For Cause. If, through any cause, Contractor fails to fulfill its obligations under this Agreement in a timely and proper manner, violates any provision of this Agreement or violates any applicable law ("Breach"), the City may terminate this Agreement for cause immediately upon written notice of termination to Contractor. Contractor will not be relieved of liability to the City for any damages sustained by the City by virtue of any Breach, and the City may withhold payment to Contractor for the purposes of setoff until such time as the exact amount of damages due to the City from Contractor is determined. If Contractor challenges a termination for cause by the City and

prevails, the termination for cause will be deemed to be a termination for convenience and will be effective fourteen (14) days from the date that the original written notice of termination for cause was given to Contractor and no further notice will be required.

3. Effect of Termination. The City will be liable to pay Contractor for Services performed as of the effective date of termination, but will not be liable to Contractor for anticipated profits. Unless otherwise instructed in writing, Contractor will immediately discontinue performance of the Services upon receipt of a notice of termination.

#### C. Contractor's Remedies for Breach.

1. Contractor may terminate this Agreement for non-payment of sums due under this Agreement except where non-payment is pursuant to the City's rights under this Agreement. Contractor will first provide the City written notice of Contractor's intent to terminate and allow the City ten (10) days within which to make payment.

2. Pending resolution of any material breach by the City, Contractor may, in addition to any other remedies provided by law, discontinue performance of the Services without being in breach of this Agreement.

### IV. INDEMNITY.

Contractor will be liable and responsible for any and all damages to persons or property caused by or arising out of the negligent or willful actions or omissions in the performance of the Services by Contractor, its employees, agents, or other persons acting under Contractor's direction or control. Contractor will indemnify and hold harmless the City, its elected and appointed officials and its employees, agents and representatives (the "Indemnified Parties"), from any and all liability, claims, demands, actions, damages, losses, judgments, costs or expenses, including, but not limited to, attorney fees, which may be made or brought or which may result against any of the Indemnified Parties as a result or on account of the negligent, grossly negligent, willful and wanton, or intentional actions or omissions of Contractor and/or its employees, agents or representatives or other persons acting under Contractor's direction or control. Contractor will include the provisions of this Section in any such subcontracts engaged to perform any part of the Services. The provisions set forth in this Section will survive the completion of the Services and the satisfaction, expiration or termination of this Agreement.

### V. INSURANCE.

A. Required Policies. Contractor will procure and keep in force the following insurance subject to the conditions below, for the duration of this Agreement:

1. Commercial General Liability Insurance. Comprehensive general liability insurance insuring against any liability for personal injury, bodily injury or death arising out of the performance of the Services with at least **One Million Dollars (\$1,000,000)** each occurrence.

2. Products and Completed Operations Insurance. Products and completed operations insurance insuring against any liability for bodily injury or property damage caused by the completed Services, with a combined single limit of at least **One Million Dollars (\$1,000,000).**

3. Comprehensive Automobile Liability Insurance. Comprehensive automobile liability insurance insuring against any liability for personal injury, bodily injury or death arising out of the use of motor vehicles and covering operations on or off the site of all motor vehicles controlled by

Contractor that are used in connection with performance of the Services, whether the motor vehicles are owned, non-owned or hired, with a combined single limit of at least **One Million Dollars (\$1,000,000)**.

4. Professional Liability Insurance. If Contractor is an architect, engineer, surveyor, appraiser, physician, attorney, accountant or other licensed professional, or if it is customary in the trade or business in which Contractor is engaged, or if the City otherwise deems it necessary, errors and omissions professional liability insurance insuring Contractor against any professional liability with a limit of at least **One Million Dollars (\$1,000,000.00)** per claim and annual aggregate.

5. Other Insurance. Workers' compensation insurance (unless Contractor provides a completed Declaration of Independent Contractor Status Form) and other insurance required by applicable law.

The limits of any insurance required by this Agreement will not limit Contractor's liability.

B. Terms of Insurance.

1. Additional Insured. Except for the professional liability policy, if applicable, and workers' compensation policy, **all required insurance policies shall name the City as an additional insured** and will provide that the City, although named as an additional insured, will nevertheless be entitled to recovery under said policies for any loss occasioned to the City or its officers, employees or agents by reason of the negligence of Contractor or its officers, employees, agents, subcontractors or business invitees. The insurance policies will be for the mutual and joint benefit and protection of Contractor and the City. **Such policies will be written as primary policies not contributing to and not in excess of coverages the City may carry.**

2. Qualification; Deductible. Insurance required by this Section will be with companies qualified to do business in the State of Colorado and may provide for deductible amounts as Contractor deems reasonable for the Services, but in no event greater than **Ten Thousand Dollars (\$10,000.00)**, and Contractor will be responsible for the payment of any such deductible.

3. Cancellation. No such policies will be cancelable or subject to reduction in coverage limits or other modification unless previously approved by the City in writing.

4. Coverage Type. Contractor will identify whether the type of coverage is "occurrence" or "claims made." If the type of coverage is "claims made," which at renewal Contractor changes to "occurrence," Contractor will carry a twelve (12) month tail. Contractor will not do or permit to be done anything that will invalidate the policies.

5. No "Pollution Exclusion". The insurance required by this Agreement will cover any and all damages, claims or suits arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of pollutants, and will not exclude from coverage any liability or expense arising out of or related to any form of pollution, whether intentional or otherwise. If necessary, Contractor will secure and maintain either a rider or a separate policy insuring against liability for pollution related damages, claims or suits, as described in subsection ii(a), with at least **Two Million Dollars (\$2,000,000)** each occurrence, subject to approval by the City, which approval will not be unreasonably withheld.

6. Evidence of Coverage. Before commencing work under this Agreement, Contractor will provide certificates of insurance policies and all necessary endorsements evidencing insurance coverage required by this Agreement. The City will not be obligated under this Agreement until



Contractor provides acceptable such certificates of insurance and endorsements. If the Term extends beyond the period of coverage for any required insurance, Contractor will, at least ten (10) days before the expiration of any such insurance coverage, provide the City with new certificates of insurance and endorsements evidencing either new or continuing coverage.

C. Subcontracts. Contractor will include the insurance requirements of this Agreement in all subcontracts. Contractor will be responsible if any subcontractor fails to procure and maintain insurance meeting the requirements of this Agreement.

## **VI. SALES AND USE TAX.**

Unless specifically exempt, all materials provided and equipment used in the performance of Services within the City are subject to City Sales & Use Tax, including services performed on behalf of the City.

A. Contractor Responsible for Tax. Contractor is subject to the tax on all purchases, fabrication, manufacture or other production of tangible personal property used, stored, or consumed in performance of the Services.

B. Specific Industry Standard. The Specific Industry Standard for Construction and Contractors (Regulation 20-S.I.15) can be provided upon request by contacting the City's Finance Department, Sales Tax Division, at 303-289-3628, and is available on the City's website at <http://www.c3gov.com/DocumentView.aspx?DID=115>.

C. Equipment. Prior to or on the date Contractor locates equipment within the City to fulfill this Agreement, Contractor will file a declaration describing each anticipated piece of equipment the purchase price of which was two thousand five hundred dollars (\$2,500) or greater, stating the dates on which Contractor anticipates the equipment to be located within and removed from the boundaries of the City and stating the actual or anticipated purchase price of each such anticipated piece of equipment along with any other information deemed necessary by the City. When such declared equipment is located within the City for a period of thirty (30) days or less, Contractor may include sales and use tax calculated on one-twelfth (1/12) of the purchase price of such equipment in the contract amount, in compliance with Section 20-5-T of the Commerce City Sales & Use Tax Code. If Contractor fails to declare the equipment to the City prior to or on the date Contractor locates the equipment within the City, none of the sales and use tax due on the equipment will be allowed as a contract expense.

## **VII. COMPLIANCE WITH C.R.S. § 8-17.5-102; VERIFICATION OF LAWFUL PRESENCE.**

A. Certification. Contractor hereby certifies that, as of the date of this Agreement, it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement and that Contractor will participate in the E-verify Program or Department Program as defined in C.R.S. § 8-17.5-101 in order to confirm the eligibility of all employees who are newly hired to perform work under this Agreement.

B. Pre-Employment Screening. Contractor is prohibited from using either the E-verify Program or Department Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

C. Contractor Obligations. Contractor will not knowingly employ or contract with an illegal alien to perform work under this Agreement or contract with a subcontractor that fails to certify to Contractor that the subcontractor will not knowingly employ or contract with an illegal alien to perform work under this

Agreement. If Contractor obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, Contractor will:

1. Notify the subcontractor and the City within three (3) days that Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

2. Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required pursuant to this subparagraph d the subcontractor does not stop employing or contracting with the illegal alien; provided, however, that Contractor will not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

D. Compliance with Investigation. Contractor will comply with any reasonable request by the Colorado Department of Labor and Employment (the “Department”) made in the course of an investigation undertaken by the Department pursuant to Article 17.5 of Title 8, C.R.S.

E. Violation. If Contractor violates this Section, the City may terminate this Agreement for breach of contract and Contractor will be liable for actual and consequential damages to the City.

F. Verification of Lawful Presence (C.R.S. § 24-76.5-103).

1. If Contractor is a natural person, including a sole proprietor with or without employees (*i.e.*, not a corporation, limited liability company, partnership or similar entity), and is 18 years of age or older, Contractor must: (a) complete the affidavit attached to this Agreement as **Exhibit B**; and (b) Attach a photocopy of the front and back of a valid form of identification noted on Exhibit B.

2. If Contractor executes the affidavit stating that he/she is an alien lawfully present in the United States, the City will verify his/her lawful presence through the federal systematic alien verification or entitlement program, known as the “SAVE Program,” operated by the U.S. Department of Homeland Security (“DHS”) or a successor program designated by DHS. If the City determines through the verification process that Contractor is an alien not lawfully present in the United States, the City will terminate this Agreement without further obligation to Contractor.

## VIII. NOTICES.

Except for routine communications, written notices required under this Agreement and all other correspondence between the parties will be directed to the following and will be deemed received when hand-delivered or three (3) days after being sent by certified mail, return receipt requested:

If to the City:

City Contact/Title  
Select Department  
City of Commerce City  
Address  
Commerce City, CO 80022

If to Contractor:

Contractor Contact/Title  
Contractor Name  
Contractor Address  
Contractor City, ST ZIP

The parties may agree to delivery of notices via electronic mail.

## IX. GENERAL PROVISIONS.



A. Independent Contractor. The relationship between Contractor and the City will be as independent contractors, and neither the City nor Contractor will be deemed or constitute an employee, servant, agent, partner or joint venturer of the other. **Contractor is obligated to pay federal and state income tax on any money earned pursuant to this Agreement, and neither Contractor nor Contractor's employees, agents or representatives are entitled to workers' compensation benefits, unemployment compensation benefits, sick and annual leave benefits, medical insurance, life insurance, or pension or retirement benefits from the City.**

B. No Assignment. Contractor will not assign or transfer any rights, interests, or obligations under this Agreement without the City's prior written consent.

C. Governing Law; Jurisdiction and Venue; Recovery of Costs. This Agreement will be governed by the laws of the State of Colorado without regard to its conflicts of laws provisions. For all claims arising out of or related to this Agreement, Contractor consents to the exclusive jurisdiction of and venue in the state courts in the County of Adams, State of Colorado. Contractor waives any exception to jurisdiction because of residence, including any right of removal based on diversity of citizenship. The prevailing party in any litigation to resolve a dispute between the parties arising from this Agreement will be entitled to recover court costs and reasonable attorney fees from the non-prevailing party.

D. Governmental Immunity. No term or condition of this Agreement will be construed or interpreted as an express or implied waiver of any of the immunities, rights, benefits, protections, or other provisions of the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101, *et seq.*

E. Time of the Essence. Contractor acknowledges that time is of the essence in the performance of this Agreement. Contractor's failure to complete any of the Services during the Term, or as may be more specifically set forth in an exhibit, notice to proceed, change order, or any approved progress schedule, will be deemed a breach of this Agreement.

F. No Third-Party Beneficiaries. Enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement will be strictly reserved to the parties. Any person other than the City and Contractor will be deemed to be only an incidental beneficiary under this Agreement.

G. No Waiver. The waiver of any breach of a term of this Agreement, including the failure to insist on strict compliance or to enforce any right or remedy, will not be construed or deemed as a waiver of any subsequent breach of such term; any right to insist on strict compliance with any term; or any right to enforce any right or remedy with respect to that breach or any other prior, contemporaneous, or subsequent breach.

H. Rules of Construction. Neither party will be deemed to have drafted this Agreement. This Agreement has been reviewed by all parties and will be construed and interpreted according to the ordinary meaning of the words used so as to fairly accomplish the purposes and intentions of all parties. No term of this Agreement will be construed or resolved in favor of or against the City or Contractor on the basis of which party drafted the uncertain or ambiguous language. Where appropriate, the singular includes the plural and neutral words and words of any gender will include the neutral and other gender. Paragraph headings used in this Agreement are for convenience of reference and will in no way control or affect the meaning or interpretation of any provision of this Agreement.

I. Severability. A holding by a court of competent jurisdiction that any term of this Agreement is invalid or unenforceable will not invalidate or render unenforceable any other term of this Agreement.

J. Acknowledgement of Open Records Act. Contractor acknowledges that the City is a public entity subject to the Colorado Open Records Act, C.R.S. § 24-72-201, *et seq.*, and this Agreement and any related documents are subject to public disclosure.

K. Authority. The parties represent and warrant that they have taken all actions necessary to legally authorize the undersigned signatories to execute this Agreement for the parties and to bind the parties to its terms. The signatories represent and warrant that each has legal authority to execute this Agreement for the party he or she represents and to bind that party to its terms.

L. Counterparts. This Agreement may be executed in any number of counterparts, each deemed to be an original, and, taken together will constitute one and the same instrument.

M. Entire Agreement; Modification; Binding Effect. This Agreement contains the entire agreement of the parties relating to the subject matter of this Agreement and, except as expressly provided, may not be modified or amended except by validly executed written agreement of the parties. All prior and contemporaneous agreements and understandings, whether oral or written, are superseded by this Agreement and are without effect to vary or alter any terms or conditions of this Agreement. This Agreement will be binding upon, and will inure to the benefit of, the parties and their respective heirs, personal representatives, successors and assigns.

**[Remainder of this page intentionally left blank – signature page(s) follow(s).]**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

**CITY OF COMMERCE CITY**

Name, Title Based on Amount  
Select Department

ATTEST:

APPROVED AS TO FORM:

Laura J. Bauer, MMC, City Clerk

Select City Attorney

Recommended for approval:

Name, Title  
Select Department

**CONTRACTOR NAME**

**Name, Title**  
[must be notarized]

STATE OF COLORADO )  
 ) ss.  
COUNTY OF \_\_\_\_\_)

The foregoing Agreement was acknowledged before more this \_\_\_\_\_, 2015,  
by \_\_\_\_\_ (Name), \_\_\_\_\_ (Title),  
of \_\_\_\_\_.

Witness my hand and official seal.

My commission expires:\_\_\_\_\_.

---

Notary Public

**EXHIBIT A**

Identify title of Exhibit A

**EXHIBIT B**

**[USE THIS FORM ONLY IF CONTRACTOR IS AN INDIVIDUAL/SOLE PROPRIETOR WITHOUT EMPLOYEES AND DELETE THIS INSTRUCTION!! IF CONTRACTOR IS A PARTNERSHIP, LLC, CORPORATION OR INDIVIDUAL/SOLE PROPRIETOR WITH EMPLOYEES, DELETE THIS EXHIBIT ENTIRELY]**

**AFFIDAVIT PURSUANT TO C.R.S. § 24-76.5-103**

I, \_\_\_\_\_, swear or affirm under penalty of perjury under the laws of the State of Colorado that (check one):

\_\_\_ I am a United States citizen, or

\_\_\_ I am a Permanent Resident of the United States, or

\_\_\_ I am lawfully present in the United States pursuant to Federal law.

I understand that this sworn statement is required by law because I have applied for a public benefit. I understand that Colorado state law requires me to provide proof that I am lawfully present in the United States prior to receipt of this public benefit. I further acknowledge that making a false, fictitious or fraudulent statement or representation in this sworn affidavit is punishable under the criminal laws of Colorado as perjury in the second degree under Colorado Revised Statute § 18-8-503, and it will constitute a separate criminal offense each time a public benefit is fraudulently received.

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

**INTERNAL USE ONLY**

Valid forms of identification:

---current Colorado driver's license, minor driver's license, probationary driver's license, commercial driver's license, restricted driver's license, or instruction permit

---current Colorado identification card

---U.S. military card or dependent identification card

---U.S. Coast Guard merchant mariner card

---Native American tribal document



7887 East 60<sup>th</sup> Avenue

Commerce City, Colorado 80022

Phone (303) 289-3627

## EQUIPMENT DECLARATION

Company: \_\_\_\_\_

Date: \_\_\_\_\_

Address: \_\_\_\_\_

State and Zip: \_\_\_\_\_

**Note:** Construction equipment that was not otherwise subjected to the Commerce City sales or use tax, and which is located within the boundaries of the City of Commerce City for a period of thirty (30) consecutive days or less, will be subjected to the use tax of Commerce City on a prorated basis if the equipment is declared in advance. **If the equipment is not declared in advance or is located within the City for over thirty (30) consecutive days, the amount of tax due will be calculated on 100% of the original purchase price.**

The tax on Declared Equipment will be calculated using the following method: **The original purchase price of the equipment will be multiplied by a fraction, the numerator of which is one (1) and the denominator which is twelve (12); and the result will be multiplied by four and one-half percent (4.5%) to determine the amount of Use Tax payable to the City.** Example: thirty (30) days or less =  $\frac{1}{12} \times$  purchase price of the equipment  $\times$  4.5%.

In order for a taxpayer to qualify for this exemption, the taxpayer must comply with the procedures described in Section 29-2-109(4) of the Colorado Revised Statutes by completing this form and remitting the tax due to the Finance Department of the City of Commerce City. **If the taxpayer does not file this form the exemption herein provided for will be deemed waived by the taxpayer.**

**A separate declaration form must be used for each individual piece of equipment.**

**Construction Equipment Declared:**

Description of Equipment and/or VIN number: \_\_\_\_\_

Purchase price of above equipment and date purchased: \_\_\_\_\_

Date equipment will enter the City: \_\_\_\_\_

Date equipment will be removed from the City: \_\_\_\_\_