



DEPARTMENT OF TRANSPORTATION

(719) 687-8812

FAX (719) 686-5454

Teller County

308 WEAVERVILLE ROAD, BUILDING A

P.O. Box 805 - DIVIDE, CO 80814

REQUEST FOR BID

DESCRIPTION: 2012 Dust Suppressant

PROJECT #: 02-0150-3230-000-2012-01

OPENING DATE: March 8, 2012

CLOSING DATE: April 5, 2012

Teller County Public Works will be receiving sealed bids at 308 Weaverville Road, Bldg A, Divide, CO 80814 up until April 5, 2012 at 11:00 a.m., at which time the sealed bids will be publicly opened and read aloud considering 2012 Dust Suppressant for the Teller County Public Works.

Please bid DELIVERED PRICES on the following Goods or Services. No bid is contingent on the purchase of all items listed. The right is reserved to reject any and all bids or parts thereof. Prices and terms shall remain in effect from April 5, 2012 through December 31, 2012.

Respondent must submit 3 bound copies of proposal. The 3 bound copies constitute the submittal. Each submittal must be sealed to provide confidentiality of the information prior to the submission date and time. The submittal shall be firmly wrapped, securely sealed, and addressed to the Teller County Public Works, clearly marked "PROPOSAL FOR 2012 Dust Suppressant OWNER will not be responsible for premature opening of proposals not properly labeled.

Responses shall be addressed as follows:

Proposal For 2012 Dust Suppressant
Teller County Public Works
308 Weaverville Road, Bldg. A,
P.O. Box 805
Divide, CO 80814
Attn: Brad Shaw

All questions regarding this bid should be directed to Brad Shaw, Operations Supervisor, at (719)687-8812.

GENERAL INSTRUCTIONS

The terms Bidder, Contractor, Vendor, and Supplier are used interchangeably in this RFB and mean the person or entity submitting the bid.

Bidder shall not stipulate in his bid any conditions not contained in the specifications, unless specifically requested in the special instructions. Any bids that fail to comply with the literal letter of these instructions and the specifications may be rejected forthwith.

Proposal content and minimum submittal requirements are detailed in Appendix A.

The person signing the bid shall initial all corrections or erasures made on the bid.

Any charges for freight, delivery, containers, packaging, etc., will be included in the bid price.

Contract(s) may be negotiated with the Bidder(s) whose proposal is determined to be most responsive to the Teller County Public Works needs and most advantageous to the Teller County Public Works considering cost as well as other factors based on the criteria described herein, all solely determined by the Teller County Public Works. Award of contract may be made without discussion after proposals are received. Proposals should, therefore, be submitted initially on the most favorable terms, from both price and technical standpoints. OWNER reserves the right to reject any or all proposals, and to award a contract in whole or in part or not at all. Any contract ensuing from this solicitation will be via a Professional Services Agreement (PSA). An example is included herein as Attachment D.

It is understood that the Teller County Public Works reserves the right, notwithstanding anything herein to the contrary: to reject any and/or all bids and to waive informalities in bids, to reject nonconforming, non-responsive, or conditional bids, and to accept the bid, that, in the opinion of the Department, is in the best interest of Teller County, State of Colorado.

All information submitted in response to this bid is public record after the bid opening. The bidder should not include, as a part of the response to the invitation to bid, any information, which the bidder believes to be a trade secret or other privileged or confidential data. If the bidder wishes to include such material with a bid, then the material should be supplied under separate cover and identified as confidential. Statements that the entire bid is confidential will not be honored. Teller County will endeavor to keep that information confidential, separate and apart from the bid, subject to the provisions of the Colorado Open Records Act or order of court.

If a bid contains information that the Bidder does not want disclosed to the public, or used for any purpose other than the evaluation of this offer, all such information must be indicated with the following or similar statement:

"The information contained on page(s) _____, shall not be duplicated, used in whole or in part for any purpose other than to evaluate the proposal provided; that if a contract is awarded to this company, as a result of the submission of such information, Teller County shall have the right to duplicate, use or disclose this information to the extent provided in the contract. This restriction does not limit Teller County's right to use the information contained herein if obtained from another source."

All such non-disclosure items specified in the proposal, and in this section, shall be subject to The Colorado Public Records Act or as otherwise provided by law or regulation.

All material provided to Teller County during the RFB process and contract negotiation and administration would be expected to be used without restriction by Teller County in the future. Please be specific about any exceptions the Bidder may have to this provision.

In the event that a Bid is rejected, Teller County reserves the right to use any of the concepts or ideas contained therein without incurring any liability.

All Respondent marketing and promotional documentation supplied as part of the proposal may be included as addenda to any final contract that may result.

No work shall commence nor shall any invoices be paid until the contractor has provided adequate proof of insurance for the risks and in the amounts as specified in the "Insurance Requirements for Contractors" and until such proof is accepted by the Teller County Public Works. If you want to challenge the insurance requirements, you must contact Brad Shaw, Operations Supervisor, at (719)687-8812 at least one-week prior the bid closing date.

Any discount allowed by the vendor for prompt payment, etc., must be reflected in the bid figure, and not entered as separate pricing on the bid.

No telephone, telegraph, or facsimile bids will be accepted.

Bids must be clearly identified on the front of the envelope by bid title. Responsibility for timely submittal and routing of bids, prior to opening, lies solely with the bidder. Bids received after the opening time specified will not be considered.

Minority Business Enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on grounds of race, color or national origin.

Bids must be furnished exclusive of any Federal, State or Local taxes.

No Bid may be withdrawn by the bidder for a period of one hundred twenty (120) days after the date established as the bid due date.

AWARD OF BID:

Teller County will make the bid award selection based upon the requested information received from bid information from the bidders.

I. INTENT

Teller County intends to make an award for the 2012 Dust Suppressant contained herein to the lowest responsive, responsible bidder. All information obtained from the bids will be evaluated in selecting a bid. Any contract ensuing from this solicitation will be via a Professional Services Agreement (PSA). An example is included herein as Attachment D.

All information obtained from the bids will be evaluated in selecting which bid will be in Teller County's best interest. The County is requesting 2012 Dust Suppressant.

Bidders are responsible to carefully examine the specifications prior to preparation and submittal of a bid. Failure to complete any portion of the Request for Bid may be deemed just cause for rejection of your bid.

II. TERM

Prices and terms shall remain in effect for the period April 5, 2012 through December 31, 2012.

Bidders are advised that bids shall be binding upon the Bidder for Thirty (30) calendar days from the proposal due date. A Bidder may withdraw or modify their bid any time prior to the bid due date by a written request, signed in the same manner and by the same person who signed the bid.

III. ADDENDA TO THE REQUEST FOR BID (S)

If it becomes necessary to revise any part of this RFB, an addendum will be provided to all Respondents who have been placed on the official plan holders' list in the Teller County Public Works Department.

IV. BIDDER RESPONSIBILITY FOR BID COSTS

Teller County is not liable for any cost incurred by any Bidder associated with the preparation of a proposal or the negotiation of a contract for services prior to the issuing of the contract.

Selected Bidders may after the bid opening, be asked to present their Bids and/or to demonstrate ability to provide products or services to Teller County's representatives at a location in Teller County reasonably designated by Teller County. The Bidder shall bear all costs for such presentations

V. NON-COLLUSION

The Bidders shall certify, by completing ATTACHMENT C – Bidder Affidavit, and submitting it with the bid package: (a) that the Bid is genuine and is not made in the interest of, or on behalf of, an undisclosed person, firm, or corporation; (b) that the Bidder has not directly or indirectly induced or solicited any other Bidders to put in a false or sham bid; (c) that the Bidder has not solicited or induced any other person, firm, or corporation to refrain or abstain from proposing a bid; (d) that the Bidder has not sought by collusion to obtain for themselves any advantage over any other Bidders or over Teller County; and (e) the Bidder shall not violate or cause any person to violate, the Colorado Code of Ethics (C.R.S. 24-18-101 et. seq.).

VI. NOTIFICATION

Each Bidder submitting a bid in response to this RFB will be notified in writing as to acceptance or rejection of their bid. Teller County plans to release such letters within one hundred twenty (120) days of the proposal submission date. Teller County may delay this action if it is deemed to be in the best interests of the County.

VII. RIGHT TO REJECT PROPOSALS AND NEGOTIATION

Teller County reserves the right to reject any and all bids and to waive any formality in bids received, to accept or reject any or all of the items in the bid, and award a contract in whole

or in part or not at all, if it is deemed in the County's best interest, and to resolicit bids if deemed to be in Teller County's best interest.

Teller County reserves the right to negotiate any and all elements of the proposal, if such action is deemed to be in the best interest of Teller County.

VIII. TAXES

Teller County, as a governmental unit, is exempt from any and all taxes. Unless otherwise indicated, the prices shown in the bids shall not include taxes of any kind.

IX. NON-COLORADO CORPORATIONS

Unless waived by Teller County before or at the time that a contract is awarded to a corporation domiciled outside the State of Colorado, such corporation shall obtain authorization to do business in the State of Colorado, designate a place of business in Colorado, and appoint an agent for service of process. Filing requirements may be available at www.sos.state.co.us/chap5.html.

Such corporation must furnish Teller County with a certificate from the Secretary of the State of Colorado to the effect that a certificate of authority to do business in the State of Colorado has been issued and is valid. There shall also be procured from the Colorado Secretary of State a certified copy of the designation of place of business and appointment of agent for service of process, or a letter from the Colorado Secretary of State that such designation of place of business and agent for service of process has been made.

The laws of the State of Colorado shall govern any contract (herein referred to as the Contract) executed between the successful bidder and Teller County and any interpretations or constructions thereof. Further, the place of performance and transaction of business shall be deemed to be in the County of Teller, State of Colorado, and in the event of litigation, the exclusive venue and place of jurisdiction shall be the State of Colorado, and more specifically, Teller County, Colorado.

X. APPROPRIATION OF FUNDS

Performance of Teller County's obligations under this RFB, and any contract entered into are expressly subject to appropriation of funds by Teller County and any other Federal, State and/or Local funding sources. Further, in the event that funds are not appropriated in whole or in part sufficient for performance of the County's obligations under any contract, or appropriated funds may not be expended due to Teller County's spending limitations, then any contract entered into shall thereafter become null and void by operation of law, and Teller County shall thereafter have no liability for compensation or damages in excess of the County's authorized appropriation for any contract entered into or the applicable spending limit, whichever is less. Teller County shall notify the Bidder as soon as reasonably possible in the event of non-appropriation or in the event a spending limitation becomes applicable.

The funds appropriated for any contract entered into are equal to or exceed the contract amount for the year in which this contract was awarded. For work to be completed in subsequent fiscal years, if any, Teller County will notify the Bidder of the appropriation of

funds for such work after the adoption of Teller County's annual appropriation resolution for those years.

The Bidder and Teller County agree and acknowledge as a part of any contract entered into, that no change order or other form or order or directive may be issued by Teller County which requires additional compensable work to be performed, which work causes the aggregate amount payable under the contract to exceed the amount appropriated for any contract entered into as listed above, unless the Bidder has been given a written assurance by the County that lawful appropriations to cover the cost of the additional work have been made or unless such work is covered under a remedy-granting provision in any contract entered into.

XI. SPECIFICATIONS

All prices shall be F.O.B. delivered to the place(s) designated by the Teller County Public Works and shall include all loading, weighing, set up, spray application (if applicable), and incidental charges.

Bidders shall submit proof, meeting all specifications in the Request for Bid, by submittal of test results performed by a third party, arms length, laboratory independent of the manufacturer, processor, supplier or vendor. **RESULTS OF LABORATORY TESTING DOCUMENTING COMPLIANCE WITH THE SPECIFICATIONS OF THIS BID MUST BE SUBMITTED WITH THE RESPONSE TO THIS SOLICITATION. BIDS NOT CONTAINING THE INFORMATION REQUESTED WILL BE REJECTED.** The successful bidder is required to provide Teller County with test results as requested. Teller County may periodically sample the material for compliance with the specifications.

XII. REQUIREMENTS

All prices shall be complete, in place at the specific project for the Teller County Public Works for which these bid(s) are solicited and shall include any/all installation, loading, weighing, set up, spray application (if applicable), and incidental charges.

Prices and terms shall remain in effect for the period April 5, 2012 through December 31, 2012.

XIII. PENALTIES

GENERAL PENALTIES

Products which fail to meet any of the other specification requirements (outside of acceptable range), will result in total rejection of the material. The supplier/ vendor, at its sole expense will be required to replace any rejected material plus any material that is contaminated. Any product that is rejected shall be removed by the supplier/vendor and replaced with product that meets the material specifications, including handling and transportation charges at no additional cost to Teller County. Removal includes the removal of all-material contaminated by the non-specification material, if any. Teller County at its sole discretion will determine and establish the amount of material contaminated.

XIV. FAILURE TO COMPLETE WORK ON TIME

Should, at Teller County’s sole discretion, any operations be adversely affected by insufficient availability of the materials/services quoted herein, liquidated damages of one thousand dollars (\$1,000.00) per day will be assessed, including free time that any work remains uncompleted after the elapse of contract time. This daily charge will be deducted from any money due the Contractor. This deduction will not be considered a penalty, but as liquidated damages.

XV. INSURANCE REQUIREMENTS

Prior to commencement of any work, contractor shall deliver Certificates of Insurance to Teller County Public Works Department P.O. Box 805, 308 Weaverville Road, Bldg. A, Divide, CO 80814. The insurance required shall be procured and maintained in full force and effect for the duration of the Contract and shall be written for not less than the following amounts, or greater if required by law. Certificate Holder shall be Teller County at the above address.

I. Workers' Compensation and Employers' Liability

- A. State of Colorado: Statutory
- B. Applicable Federal: Statutory
- C. Employer's Liability:
 - \$ 100,000 Each Accident
 - \$ 500,000 Disease-Policy Limit
 - \$ 100,000 Disease-Each Employee

D. Waiver of Subrogation

E. Payment and Performance bonds:

Payment Bond - Contractor shall furnish a penal bond with good and sufficient surety to be approved by the Board of County Commissioners conditioned that such contractor shall at all times promptly make payments of all amounts lawfully due to all persons supplying or furnishing such person or such person’s subcontractors with labor, laborers, materials, rental machinery, tools, or equipment used or performed in the prosecution of the work provided for in such contract and that such contractor will indemnify and save harmless the county to the extent of any payments in connection with the carrying out of any such contract which the county may be required to make under the law. Payment Bond will remain in effect until such time as probationary acceptance is granted by the County and the Contractor provides proof to County that all of their financial obligations related to these projects are complete.

Performance Bond - Contractor shall furnish a performance bond with good and sufficient surety to be approved by the Board of County Commissioners conditioned that such contractor shall perform all of its obligations provided for in the contract. Performance Bond will

remain in effect until such time as probationary acceptance is granted by the County.

II. Commercial General Liability on an Occurrence Form including the following coverages: Premises Operations; Products and Completed Operations; Personal and Advertising Injury; Medical Payments; Contractual Liability; Independent Contractors; and Broad Form Property Damage. Coverage provided should be at least as broad as found in Insurance Services Office (ISO) form CG0001. Minimum limits to be as follows:

- A. Bodily Injury & Property Damage General Aggregate Limit \$ 1,000,000
- B. Products & Completed Operations Aggregate Limit \$ 1,000,000
- C. Personal & Advertising Injury Limit \$ 500,000
- D. Each Occurrence Limit \$ 500,000

Other General Liability Conditions:

- i. Products and Completed Operations to be maintained for one year after final payment. Contractor shall continue to provide evidence of such coverage to the County on an annual basis during the aforementioned period (as appropriate).
 - ii. **Contractor agrees that the insurance provided to the County by and for the Contractor is primary, and any County insurance is secondary.**
 - iii. If coverage is to be provided on Claims Made forms, contractor must refer policy to Risk Management Department for approval and additional requirements.
- III. Commercial Automobile Liability coverage to be provided on Business Auto, Garage, or Truckers form. Coverage provided should be at least as broad as found in ISO form CA0001 (BAP), CA0005 (Garage) or CA0012 (Trucker) including coverage for owned, non-owned, & hired autos. Limits to be as follows:

- A. Bodily Injury & Property Damage Combined Single Limit \$1,000,000
- B. Personal Injury Protection Colorado Statutory Limit
- C. Uninsured/Underinsured Motorist Colorado Statutory Limit

IV. Umbrella Liability: \$1,000,000

V. **All Insurance policies** (except Workers Compensation and Professional Liability) **shall include Teller County and its elected officials and employees as additional insured as their interests may appear.** The additional insured endorsement should be at least as broad as ISO form CG2010 for General Liability coverage and similar forms for Commercial Auto and Umbrella Liability.

VI. The County reserves the right to reject any insurer it deems not financially acceptable by insurance industry standards. All Insurance Companies shall be licensed to do business in Colorado and shall have an AM Best rating of not less than B+ and/or VII.

VII. Certificates of insurance on all policies shall give the County written notice of not less than thirty (30) days prior to cancellation or change in coverage.

VIII. Contractor shall furnish Teller County separate certificates of insurance for all contractors and sub-contractors. Such certificate must meet all requirements listed above.

ANY DEVIATIONS FROM THE STANDARDS GIVEN ABOVE MUST BE APPROVED PRIOR TO BID OPENING BY Teller County Public Works.

XVI. BID SCHEDULE

Teller County will make the bid award selection based upon the requested information received from bid information from the bidders.

Bidders are required to bid DELIVERED PRICES on Goods or Services.

RESULTS OF LABORATORY TESTING, DOCUMENTING COMPLIANCE WITH THE SPECIFICATIONS CONTAINED IN THIS REQUEST FOR BID SHALL BE SUBMITTED WITH THE RESPONSE TO THIS SOLICITATION FOR EACH MATERIAL BID. BIDS NOT CONTAINING THE INFORMATION REQUESTED WILL BE REJECTED.

DUE DATE: April 5, 2012 AT 11:00 A.M.

Failure to sign and return this submittal page and attachment C (bidder affidavit) with your bid may be cause for rejection

Please submit price per gallon for each product applied and Magnesium Chloride delivered. Specify lead- time required. Applications are to various roads located within Teller County. Deliveries go to Teller County's storage facility at 308 Weaverville Road, Bldg A, Divide, CO 80814. No substitute offers will be considered.

Signature: _____ Title: _____

Date: _____

Blended Product \$ _____ applied

Magnesium Chloride \$ _____ applied \$ _____ delivered

Lignin Sulfonate \$ _____ applied

Contractor submitted alternative \$ _____ applied

Lead-time required for application: _____.

Lead-time required for deliveries: _____.

Can Supplier provide a tank and any necessary vault to Teller County for use at our facility for when we need short loads or when weather effects application? Yes/No.

Is there a charge for tank? Yes/No. If yes, list cost per month \$ _____.

Tank Capacity _____.

APPENDIX A

PROPOSAL CONTENT & MINIMUM SUBMITTAL REQUIREMENTS

Respondents are encouraged to submit clear responses to the RFB. Responses of excessive length or ornateness are discouraged. The COUNTY RESERVES THE RIGHT TO INCLUDE THE SELECTED PROPOSAL, OR PARTS THEREOF, IN ANY FINAL CONTRACT. Due to the need for any expedited review of proposals and selection of a Respondent, Respondents are cautioned against submitting excessive and extraneous material not directly responsive to the issues raised in the RFB. Instructions regarding scope and content are given in this section.

These instructions are designed to ensure the submission of information essential to the understanding and comprehensive evaluation of the proposal.

The proposal and all required submittal forms must contain the signature of a duly authorized officer or agent of the Respondent's company empowered with the right to bind the Respondent.

To be considered responsive, all proposals MUST include the following information with an emphasis on adding value to the County. In order to expedite the evaluation of proposals, Respondents shall

organize their proposals in the sequence, using the same lettering/numbering system, specified below. Proposals not addressing the following items may be considered non-responsive:

A. Detailed Company Background

At a minimum, provide the following information relative to your firm. Similar information must be provided for each sub-Respondent, partner and /or joint venture member. Define any joint relationships with other vendors.

- (1.) Firm Name and business address, including telephone number.
- (2.) Year established (include former firm names and year established, if applicable). Identify the state in which the firm was, **and is**, organized or incorporated.
- (3.) Type of ownership, name and location of parent company and subsidiaries, if any.
- (4.) Indication of whether the firm is licensed to do business in the State of Colorado.

B. Staff Resumes Assigned to Project

Identify and provide resumes of the account representative and technical staff that may be assigned to the project. Realizing multiple technical support staff may support such a network; identify the primary contact to be used by Teller County.

C. Experience

Summarize experience and relate its relevance to the proposed project.

D. Project Narrative

Explain in detail the service you are offering. If applicable, explain how this service will benefit Teller County in the future. Explain how it will give Teller County a technological/competitive edge.

Multiple contracts could be awarded as a result of responses to this RFB. Would the Bidder use third party vendors or resellers for any of the services required under the RFB? When would they be used and in what way? How will they be compensated? The County may elect to contract for all or only a portion of none of the planned work.

Be prepared to give any oral presentation to Teller County representatives outlining the Bidder's view of current opportunities and practices, stressing potential alternatives, recommending solutions, industry trends, financial advantages or disadvantages.

E. Project Schedule

Indicate a proposed project schedule.

Identify any projects constraints.

F. Costs

Provide a schedule of rates by services for each product or service offering. Also include any other fees that would be associated with this service.

G. Statement of Product Interests

Explain any concerns the Bidders may have in maintaining objectivity in recommending the best solution for the County.

H. References

Bidders shall provide a list of past and present clients for past and present contracts for work of similar size and scope.

ATTACHMENT A – *SCOPE OF WORK*

ATTACHMENT B – *SPECIFICATIONS*

ATTACHMENT C – *BIDDER AFFIDAVIT*

ATTACHMENT D - *SAMPLE CONTRACT*

ATTACHMENT A

SCOPE OF WORK

Various road segments are scheduled to receive approximately 180,000 gallons of spray application of the above materials. Application rates will generally be from 0.50 gallon per square yard for new treatments to 0.20 to 0.40 gallon per square yard for one-time re-applications respectively. Occasionally application rates of 0.50 gallon per square yard may be applied at a 0.25 gallon per square yard rate for two separate and distinct applications.

In addition, Teller County wishes to test the application of various mixtures of chloride and lignin on several sites. The successful vendor is expected to provide evidence of his capability to furnish thoroughly mixed products in varying application rates in support of this endeavor at the unit prices quoted herein.

Teller County Department of Transportation's personnel normally work 6:00 a.m. to 4:30 p.m., Monday through Thursday. Occasionally, due to circumstances beyond our control, work may extend later than 4:30 p.m. or may include Fridays. The successful bidder is required to accommodate these situations as necessary for the unit price quoted in the bid.

The quantities shown are estimated and approximate in nature based on Teller County's need, known as of the date of this request. Actual quantities purchased will be determined solely by Teller County in consideration of their needs at the time of application and budgetary constraints.

Please note: locations, types, dates, times and application rates on roads shall be as determined and directed by TDOT.

Additionally, Teller County wishes to investigate the possibility of obtaining a storage tank and any necessary vault from successful bidder which will be placed at our facility. This tank should

provide the opportunity to offload trucks should we only need a short load for an application or in case of adverse weather. Contractor should indicate on their bid submittal sheet if they can offer such service and also include any fees associated with such service.

ATTACHMENT B

SPECIFICATIONS

ROAD MAINTENANCE DIVISION

DUST CONTROL PRODUCT SPECIFICATIONS

MAGNESUM CHLORIDE

MgCl ₂	30.00(% by weight, + or - 5%)
Mg	7.61 (% by weight, + or - .15%)
SO ₄	2.50 (% by weight, + or – 1.00%)
K	.05
Na	.05
H ₂ O	65.00 (% by weight, + or – 5.00%)

Specific Gravity: 1.290 to 1.340
Weight per Gallon: 10.0 to 10.9 lbs.

LIGNIN SULFONATE

Calcium Lignin Sulfonate	40.0 (% by weight)
Methoxyl	4.2 (% by weight)
Reducing Sugars (as glucose)	3.6 (% by weight)
Na	1.0 (% by weight)
Ca	2.5 (% by weight)
Insolubles (CaSO ₄ H ₂ O)	1.0 (% by weight)

PH of 10% solution: 5.5
Specific Gravity: 1.252
Weight per Gallon: 10.45

BLEND (80%-20% Magnesium Chloride with Lignin Sulfonate Binding Agent)

Shall be a mixture of 80% Magnesium Chloride and 20% Lignin Sulfonate conforming to the specifications above.

ATTACHMENT C

BIDDER AFFIDAVIT

(For 2012 Dust Suppressant)

A. _____, being first duly sworn, deposes and says that:

Representative is the _____ (Owner, partner, officer, representative or agent) of (name of firm) _____ who is submitting the attached bid.

The Representative certifies that he/she has submitted a bid in full compliance with this RFB and without collusion with any other person, individual or corporation and is fully informed respecting the preparation and contents of the bid and of all pertinent circumstance respecting such bid; Such information provided as a response to this RFB is genuine and not collusive; No representative(s) or any of the officer(s), partner(s), owner(s), agent(s), employee(s) or party(s) in interest, including this affidavit, has in any way colluded, conspired, connived, or agreed, directly or indirectly with any other company, firm or person replying to this RFB to submit information that is collusive or a sham in connection with such contract or has any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other company, firm or person to fix any overhead, profit or cost element of the submitted proposed price or the proposed price of any other company/firm submitting a bid, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against Teller County or any person interested in the proposed contract; and The price(s) quoted in the attached bid is fair and proper and not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the company or firm submitting a bid or any of its agent(s), owner(s), representative(s), employee(s), or party(s) in interest, including this affiant.

In addition, the Representative certifies that he/she has examined the specifications and instructions of this RFB and certifies that he/she must provide proof of insurance if awarded this bid, with the understanding that the award may go to the next lowest bidder if he/she does not provide proof of insurance within the required ten (10) days after Notice of Award.

SIGNED _____ TITLE: _____

PRINTED NAME: _____

FIRM: _____

ADDRESS: _____

ATTACHMENT D

This sample contract is included only as information for bidders to review the County's standard form contract language and there is no need to submit any of the attached sample contract forms. Successful bidder will be provided with the necessary contract form for execution.

SAMPLE CONTRACT

TELLER COUNTY GOVERNMENT INDEPENDENT CONTRACTOR / PROFESSIONAL SERVICES AGREEMENT

CONTRACT NUMBER: _____

PROJECT NAME: _____

COUNTY DEPARTMENT: _____

CONTRACTOR: _____

EFFECTIVE DATE: _____

EXPIRATION DATE: _____, unless sooner terminated as hereinafter provided.

SUBJECT MATTER: _____

CONTRACT AMOUNT: _____

THIS AGREEMENT, entered into effective as of the Effective Date set forth above, is made by and between the COUNTY OF TELLER, COLORADO, by its BOARD OF COUNTY COMMISSIONERS, P.O. Box 959, Cripple Creek, Colorado 80813 ("**COUNTY**") and _____ ("**CONTRACTOR**") whose address is _____

WHEREAS, the **COUNTY** desires to purchase and receive from the **CONTRACTOR** the services described in Attachments A and B and in the above described Subject Matter; and

WHEREAS, the **CONTRACTOR** represents and warrants that it is an individual or entity qualified, having the power and authority and able to provide the type of services required by the **COUNTY**; and

WHEREAS, the parties to this **Agreement** desire to reduce to written terms the manner and conditions under which these services will be provided and compensated.

NOW, THEREFORE, in consideration of the above, and in accordance with the mutual terms, conditions, requirements, and obligations set forth in this **Agreement**, the **COUNTY** and **CONTRACTOR** agree as follows:

SECTION 1. PROJECT

The **COUNTY** agrees to retain the **CONTRACTOR** to perform the services described in Attachments A. and B. and in the above described Subject Matter (“Services”). The **CONTRACTOR** agrees to provide those Services in accordance with the provisions of this **Agreement**.

SECTION 2. CONTRACTOR’S RESPONSIBILITIES

2.1 **CONTRACTOR** will execute the attached W-9 form with the name consistent with this contract at the time it executes this contract.

2.1.1 If **CONTRACTOR** is an entity with a U.S. Employer Identification Number that has completed and executed the attached W-9 form at the time it executes this contract, check this box . If this box is not checked **CONTRACTOR** shall complete and sign Attachment F, produce the identification described on Attachment F, and comply with all identification, affidavit, and other verification requirements of C.R.S. § 24-76.5-101 through 103 (House Bill 06S-1023).

2.1.2 If the Services to be provided by **CONTRACTOR** by this Agreement constitute: the furnishing of labor, time, or effort by the **CONTRACTOR** or a subcontractor not involving the delivery of a specific end product other than reports that are merely incidental to the required performance, check this box . If this box is checked, **CONTRACTOR** shall complete and sign Attachment E.

2.2 The scope of Services to be performed by the **CONTRACTOR** is set forth in Attachments A. and B.;

2.3 All issues or questions of the **CONTRACTOR** about this **Agreement** arising during the term of this **Agreement** shall be addressed to the designated County Representative identified in Section 3 below.

2.4 The **CONTRACTOR** shall attend meetings and submit reports, plans, drawings as required in Attachments A and B, and shall be reasonably available to the County Representative to respond to any issues that may arise during the term of this **Agreement**.

2.5 All employees, agents, representatives and sub-contractors of the **CONTRACTOR** who will have significant responsibility for performance under this **Agreement** shall be identified to COUNTY in writing and be subject to reasonable approval by the County Representative prior to the commencement of any work by these individuals.

2.6 All governmental permits or licenses specified in Attachments A and B are to be acquired by the **CONTRACTOR** and all other licenses and permits required to provide the Services shall be obtained and maintained by the **CONTRACTOR** in a prompt and legally sufficient manner and at the **CONTRACTOR’s** own expense. Upon demand by the **COUNTY**, the **CONTRACTOR** shall provide the **COUNTY** with written evidence of the permits or licenses.

2.7 All Services to be performed under this **Agreement** by the **CONTRACTOR** shall be performed in a good and workmanlike manner and in accordance with generally recognized professional or other practices and standards of the **CONTRACTOR’s** profession and occupation and to the reasonable satisfaction of the **COUNTY**.

2.8 **CONTRACTOR** shall adhere to COUNTY, state and federal confidentiality regulations and requirements, concerning all information received under this **Agreement**. **CONTRACTOR** agrees at all times during the term of this Agreement and thereafter to hold in strictest confidence, and not to disclose to any person, firm or corporation without the prior written authorization of the **COUNTY**, any confidential information of the **COUNTY** received in the course of performance of the Services.

2.9 **CONTRACTOR** shall be solely responsible for:

2.9.1 The provision of personnel and equipment needed to provide all Services in a timely and satisfactory manner.

2.9.2 The satisfactory performance of employees, agents and subcontractors required to carry out the terms of this **Agreement**.

2.10 Under this **Agreement**, **CONTRACTOR** is an independent contractor with full control and supervision of the Services performed. **CONTRACTOR** has full control over employment, supervision, compensation and discharge of all persons, involved in delivering the Services specified in this **Agreement**.

2.11 This **Agreement** is not intended to nor does it limit the right of **CONTRACTOR** to provide services to others. However, **CONTRACTOR** shall not accept any other position that would or could conflict with **CONTRACTOR's** obligations hereunder.

2.12 **CONTRACTOR** shall report all income pursuant to this **Agreement** to the IRS on appropriate forms. **CONTRACTOR** acknowledges that it/he/she is obligated to pay federal and state income taxes and FICA payments on all monies paid pursuant to this **Agreement**, and that the **COUNTY** will not do so.

2.13 Pursuant to Section 8-70-115, C.R.S., **CONTRACTOR** acknowledges that it/he/she, and all employees, agents, and subcontractors, are not entitled to unemployment insurance benefits unless unemployment compensation coverage is provided by **CONTRACTOR** or some entity other than the **COUNTY**.

2.14 **CONTRACTOR** acknowledges that it/he/she is an independent contractor under the Colorado Worker's Compensation Act and claims to have such insurance or to be exempt from Worker's Compensation Insurance coverage because it/he/she owns the assets of its/his/her own business, manages and controls such business services, has ultimate responsibility for its/his/her business decisions and is subject to any profit or loss from such business. **CONTRACTOR** understands and acknowledges that it/he/she, and all employees, agents, and subcontractors, are not entitled to worker's compensation benefits and that if it/he/she/they are injured while performing contractual work for the **COUNTY**, it/he/she/they will not be covered for such injury under **COUNTY's** Worker's Compensation, or any other **COUNTY** insurance policy. **CONTRACTOR** will execute any independent contractor insurance status or other forms electing to be exempt from such coverage's as are requested by the **COUNTY**.

2.15 **CONTRACTOR** certifies that to the best of his/her/its knowledge, **CONTRACTOR** has no undisclosed outstanding agreement or obligation that is in conflict with any of the provisions of this Agreement, or that would preclude **CONTRACTOR** from complying with the provisions hereof. Should **CONTRACTOR** enter into any such conflicting agreement or obligation during the term of this

Agreement, **CONTRACTOR** hereby agrees to provide **COUNTY** with notice thereof prior to undertaking such obligation or agreement.

SECTION 3. COUNTY'S RESPONSIBILITIES

- 3.1 The **COUNTY** agrees to compensate the **CONTRACTOR** as set forth in Section 5 below for Services rendered in accordance with this **Agreement**.
- 3.2 The County Representative for the purposes of this **Agreement** is _____ . The County Representative shall have the authority to transmit instructions, receive information and documents and resolve any issues arising out of the performance of this **Agreement**. The County Representative may provide the **CONTRACTOR** with the identity of an alternate contact person in the event County Representative is unavailable to respond to the **CONTRACTOR's** inquiries.

SECTION 4. TIME OF PERFORMANCE AND DELAY

CONTRACTOR's time of performance shall commence as of the Effective Date of this **Agreement** and shall be completed no later than _____, unless the time of Performance is extended by mutual, written agreement of the parties or the **Agreement** is terminated in accordance with Section 13 below. **CONTRACTOR** shall promptly, diligently and expeditiously perform the Services.

SECTION 5. COMPENSATION

5.1 The **COUNTY** agrees to pay the **CONTRACTOR** for the complete and satisfactory performance of Services under this **Agreement** per this Section 5 and any payment schedule described in Attachment B, but in no event more than the following maximum amount:

The amount and terms of compensation referenced above shall not be modified except in accordance with Section 19 below.

5.2 The **CONTRACTOR** shall provide to the **COUNTY** written evidence of Services actually performed, and at the **COUNTY's** request, shall itemize all hourly labor expenses and direct expenses incurred by the **CONTRACTOR**.

5.3 If the County Representative determines that the **CONTRACTOR** is not making sufficient progress or is performing unsatisfactory work under this **Agreement**, the County Representative may so notify the **CONTRACTOR** and/or protest any **CONTRACTOR's** written invoice or statement, by providing written notice to the **CONTRACTOR**. The written notice shall identify the nature of the problem and request an appropriate remedial action by the **CONTRACTOR**. The **CONTRACTOR** shall either correct the problem and advise the County Representative of the correction, or shall provide a detailed written response to the notice within ten (10) days following the **COUNTY's** notice.

If resolution of the problem cannot be achieved, the dispute will be resolved in accordance with Section 12 below. During the term of any dispute resolution process, payment of the **CONTRACTOR's** invoices or statement may be withheld by the **COUNTY**.

5.4 Unless otherwise agreed upon in writing by the **COUNTY**, the **CONTRACTOR** shall be solely responsible for compensation of third parties, including employees, subcontractors, consultants and suppliers, which are retained by the **CONTRACTOR** related to this **Agreement**. Such third parties shall not be considered third-party beneficiaries to this **Agreement**. Prior to any interim and final payment(s) of compensation under this **Agreement**, the **CONTRACTOR** shall provide certification to, and evidence satisfactory to, the **COUNTY** that all compensation owed to such third parties has been paid in full.

5.5 No payment made under this **Agreement** shall be conclusive evidence of the performance of this **Agreement**, either in whole or in part, and no payment, including final payment, shall be construed to be a consent or agreement on the part of the **COUNTY** to accept unsatisfactory or deficient work.

5.6 The **COUNTY** shall pay proper monthly invoices within thirty (30) days following the **COUNTY's** receipt of such invoices.

SECTION 6. FUNDING AVAILABILITY

6.1 The Teller County Board of County Commissioners adopted the 2012 Teller County budget on or about December 8, 2011. This budget as adopted, or as amended, appropriated adequate funds to pay for the services rendered in accordance with this agreement.

6.2 Financial obligations of the **COUNTY** under this **Agreement** and/or those payable after the current fiscal year are contingent on the continuation and availability of any applicable state or federal funding, and also the **COUNTY's** budgeting and appropriation of funds for those obligations, without any obligation on the **COUNTY** to do so. Should the **COUNTY's** payments under this **Agreement** be from any applicable state or federal funding, and in the event such state or federal funding is reduced or terminated, in addition to the **COUNTY's** other termination rights under this **Agreement**, the **COUNTY** shall have the right to terminate this **Agreement** by written notice to **CONTRACTOR**. Should the performance of this **Agreement** continue past the current fiscal year, the **COUNTY** shall notify the **CONTRACTOR** in writing when sufficient funds are available for continuance of the **CONTRACTOR's** performance under this **Agreement** into the new fiscal year. Unless the **CONTRACTOR** is notified in writing of availability of funds prior to the end of the current fiscal year, the **CONTRACTOR** shall not commence or perform any work in the new fiscal year for which a new appropriation is required to make payment.

SECTION 7. INDEPENDENT CONTRACTOR/RELATIONSHIP

It is agreed and understood by the **CONTRACTOR** that nothing in this **Agreement** shall make any action undertaken by the **CONTRACTOR** an official action of the **COUNTY**, and that the **CONTRACTOR** is an independent contractor, providing Services on a contractual basis.

Nothing contained in this **Agreement** or any of the actions to be taken hereunder shall constitute any one or more of the **COUNTY** and its officers, directors, successors and assigns as partners or joint venturers with, agents for or principals of any one or more of the **CONTRACTOR** and its officers, directors, successors and assigns.

Nothing in this **Agreement** shall in any way be construed to constitute **CONTRACTOR** as an agent, employee or representative of the **COUNTY**, but **CONTRACTOR** shall perform the Services

hereunder as an independent contractor. Through creation of this independent contractor relationship, **COUNTY** will not:

- a. Require the **CONTRACTOR** to work exclusively for the **COUNTY**;
- b. Establish a quality standard for **CONTRACTOR** other than any plans and specifications;
- c. Pay **CONTRACTOR** other than the agreed contractual rate;
- d. Provide more than minimal training for **CONTRACTOR**;
- e. Provide tools or benefits to **CONTRACTOR** other than basic materials or equipment; or
- f. Combine the **CONTRACTOR's** business operations with that of the **COUNTY**;
- g. Pay any person/service provider personally, but, rather, will make payments to the **CONTRACTOR** in the name of the **CONTRACTOR** as specified on page 1 of this **Agreement**. No payments will be made unless and until the name on the attached W-9 form matches the **CONTRACTOR** name.

CONTRACTOR represents that it does now, and/or intends to, provide similar service to others at the same time **CONTRACTOR** provides services to the **COUNTY** under this **Agreement**.

SECTION 8. INSURANCE

8.1 During the entire term of this **Agreement**, the **CONTRACTOR** shall maintain, at its own expense, insurance through companies reasonably approved by the **COUNTY** in at least the following minimum amounts and classifications:

	<u>Limits of Liability</u>
Workers' Compensation Employer's Liability	Not less than that required by statute
	<u>Limits of Liability</u>
Comprehensive General Liability (including blanket contractual liability insurance):	
Bodily Injury	\$ 500,000 each person \$1,000,000 each occurrence
Property damage	\$ 600,000
Comprehensive Automobile Liability	
Bodily Injury	\$ 500,000 each person \$1,000,000 each occurrence
Property damage	\$ 600,000
Professional Liability/Errors and Omissions	As determined by the COUNTY commensurate with risks of Services provided under this Agreement .

Any other insurance required by Attachment A or B.

[Add Builders Risk Insurance, Payment Bonds, Performance Bonds – if applicable]

8.2 The **CONTRACTOR** shall furnish certificates of such insurance to _____ prior to performance of this **Agreement**. The **COUNTY** shall be named as an additional insured on all policies of liability insurance. The **COUNTY** shall have the right to require higher limits of liability in its reasonable discretion.

8.3 **CONTRACTOR** understands that no such insurance will be provided by the **COUNTY**.

SECTION 9. INDEMNIFICATION

CONTRACTOR agrees to protect, defend, indemnify and hold harmless the **COUNTY**, its divisions, boards, agencies, institutions and departments, the Teller County _____ Department, the State of Colorado, and each of their officers, officials, employees, representatives, agents, successors and assigns against any and all losses, penalties, injuries, claims, fines, legal actions, damages, settlements, costs, charges, professional fees, attorney's fees or other expenses or liabilities of every kind and character incurred by said listed parties and/or arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings, or causes of action of every kind and character, in connection with, or arising directly or indirectly out of **CONTRACTOR's** negligence, intentional act, professional error, mistake, omission, performance or failure to perform and/or default or breach under the terms of this **Agreement**, or fault of **CONTRACTOR** during the performance of this **Agreement**. Without limiting the generality of this Section, in any and all such claims or actions relating to personal injury, or of any other tangible or intangible personal or property right, or actual or alleged violation of any applicable statute, ordinance, administrative order or directive, order, rule or regulation, **CONTRACTOR** shall respond to and defend any such claims or actions at its sole expense with counsel approved by the **COUNTY** and agrees to bear all other costs and expense related thereto, and attorney's fees, even if such claim is groundless, false or fraudulent.

SECTION 10. AUDIT AND INSPECTION

10.1 The **CONTRACTOR** shall at all times during the term of this **Agreement** maintain such detailed books and records as shall sufficiently and properly reflect all logs, bills, receipts, payments and direct costs of any nature related to the performance of this **Agreement**, and shall utilize such generally accepted bookkeeping procedures and practices as will properly reflect these matters and costs. Books and records shall be subject, at any reasonable time, to inspection, audit or copying by Federal, State or County personnel, or such other persons, auditors or accountants as are designated by the **COUNTY**.

10.2 The **CONTRACTOR** shall permit the County Representative or other authorized Federal, State or County personnel, at any reasonable time, to inspect, transcribe or copy any and all data, notes, records, documents and files of the work the **CONTRACTOR** is performing in relation to this **Agreement**.

SECTION 11. OWNERSHIP

11.1 All data, plans, reports, notes, information and documents ("Information") provided to or prepared by the **CONTRACTOR** in performance of this **Agreement** shall be and become the property of the **COUNTY** upon payment of Services rendered by the **CONTRACTOR**, and shall be delivered to the County Representative.

11.2 Except as provided in Section 10 above, all such information shall be maintained as confidential by the **CONTRACTOR** and shall not be made available by the **CONTRACTOR** to any individual or entity, other than any team or group that may be organized by the **COUNTY** to advise **COUNTY** and **CONTRACTOR** regarding the Subject Matter hereof, without the written consent of the County Representative.

SECTION 12. DISPUTES

12.1 Any dispute concerning the performance of this **Agreement** which is not resolved by mutual agreement of the parties shall be filed in the Courts in Teller County, Colorado, unless otherwise agreed in writing by the parties, which shall be the sole convenient forum for such litigation.

12.2 The **CONTRACTOR** shall not cease performance of this **Agreement** during the term of the dispute resolution process unless the parties mutually agree in writing that performance may be suspended.

SECTION 13. SUSPENSION AND TERMINATION

13.1 Without terminating this **Agreement**, the **COUNTY** may suspend the **CONTRACTOR's** Services following written notice to the **CONTRACTOR**. On the suspension date specified in the notice, the **CONTRACTOR** shall have ceased its Services in an orderly manner. The **CONTRACTOR** shall be reimbursed for all reasonable costs incurred and unpaid for Services rendered through the suspension date specified in the notice, but in no case will the **CONTRACTOR** be paid for Services rendered after the date of such suspension. If resumption of the **CONTRACTOR's** Services requires any waiver or change in this **Agreement**, any such waiver or change shall require the written agreement of all parties, and the writing shall be attached as an addendum to this **Agreement**.

13.2 The **COUNTY** shall have the right to terminate this **Agreement**, in whole or in part, at any time during the course of performance by providing written notice to the **CONTRACTOR**. On the termination date specified in the notice, the **CONTRACTOR** shall have ceased its Services in an orderly manner. If a new contractor is retained to, or the **COUNTY** will itself, complete the Services, the **CONTRACTOR** will cooperate fully with the **COUNTY** in preparing the new contractor or the **COUNTY** itself to take over completion of the Services on the specified termination date. The **CONTRACTOR** will be reimbursed for all reasonable costs incurred and unpaid for Services rendered in conformance with this **Agreement** through the date of termination specified in the **COUNTY's** notice to the **CONTRACTOR**, but in no case will the **CONTRACTOR** be paid for Services rendered after the date of such termination.

13.3 In the event of a material breach of this **Agreement** by the **COUNTY**, the **CONTRACTOR** shall have the right to terminate this **Agreement** thirty (30) days after written notice to the **COUNTY** specifying such material breach, unless the **COUNTY** has cured such material breach within said period.

SECTION 14. COMPLIANCE WITH LAWS

At all times during the performance of this **Agreement**, the **CONTRACTOR** shall strictly observe, comply with, and conform to all applicable federal, state and local laws, constitutions, ordinances, rules, regulations, governmental requirements, and executive and other orders that have been or may hereafter be established.

If this **Agreement** is for a public work (as defined in C.R.S. 24-16-103(6) or other applicable statute, rule or regulation) financed in whole or in part by funds of the State of Colorado or Teller County, then Colorado labor shall be preferred and shall be employed by **CONTRACTOR** and those under **CONTRACTOR** as and in the manner required by C.R.S. 8-17-101 *et seq.*

SECTION 15. NON-DISCRIMINATION

The **CONTRACTOR** shall not hire, discharge, transfer, promote or demote, or in any manner discriminate against any person otherwise qualified and capable because of race, color, sex, marital status, age, religion, disability, national origin, military service, veteran status or any other basis prohibited by law. The **CONTRACTOR** agrees to comply with all applicable state and federal statutes and regulations concerning non-discrimination.

SECTION 16. APPLICABLE LAW

This **Agreement** shall be governed by and construed and interpreted in accordance with the laws, rules, and regulations of the State of Colorado and Teller County, which shall be applicable in the enforcement, interpretation, and execution of this **Agreement**.

SECTION 17. RIGHTS OF THIRD PARTIES

This **Agreement** does not and shall not be deemed to confer on any third party the right to the performance or proceeds under this **Agreement**, or to claim any damages or to bring any legal action or other proceeding against the **COUNTY** or **CONTRACTOR** for any breach or other failure to perform this **Agreement**. Nothing in this **Agreement** is intended to name a person or group of persons as third party beneficiaries. The parties hereby expressly deny and disclaim any desire or intent to create any third party beneficiaries and agree that the benefits hereunder are intended for the general public welfare.

Notwithstanding any other provision of this **Agreement** to the contrary, no term or condition of this **Agreement** shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections or other provisions of the Colorado Governmental Immunity Act, as now or hereafter amended, which, among other things, limits liability for claims for injuries to persons or property arising out of the alleged negligence of the **COUNTY**, its departments, institutions, agencies, boards, officials, employees and representatives.

SECTION 18. ASSIGNMENT/SUBCONTRACTS

The **CONTRACTOR** shall not assign its interest in this **Agreement** or subcontract any of the work to be performed under this **Agreement** without the written consent of the **COUNTY**.

SECTION 19. CHANGES OR MODIFICATIONS

19.1 This **Agreement** may not be amended, modified, extended, revised or otherwise altered, nor may any party hereto be relieved of any of its liabilities or obligations hereunder, except by a written instrument duly executed by both parties. Any written instrument entered into in accordance with the provisions of the preceding sentence shall be valid and enforceable notwithstanding the lack of separate legal consideration therefore.

19.2 No change order, or any other matter, resulting in an increase to the contract price set forth in Section 5 above, the total of all payments under this **Agreement** exceeding that contract price, shall be executed or effective unless the increase is approved by the appropriate County Official(s) and the additional funds have been appropriated or otherwise made available. The **CONTRACTOR** shall prepare a cost calculation for any such additional costs or payments and submit it to the County Representative prior to approval of any change order or other matter. The County Representative then may seek to arrange for a change order, confirming with the **CONTRACTOR** when funds have been appropriated or made available to cover the additional costs or payments.

SECTION 20. ENTIRE AGREEMENT

The **Agreement** constitutes the entire agreement and understanding of the parties hereto with respect to the subject matter hereof and supersedes all prior agreements, proposals, offers, counteroffers, and understandings of the parties regarding said subject matter, whether written or oral, all of which are hereby merged into and superseded by this **Agreement**.

SECTION 21. ATTACHMENTS

The following attachments are made a part of this **Agreement**:

Attachment A:	Scope of Services
Attachment B:	Payment Schedule
Attachment C:	Insurance Certificates
Attachment D:	IRS Form W9 – to be completed by CONTRACTOR for Finance Department
Attachment E:	Notification of Immigration Compliance Requirements and Certification by Contractor [Use Attachment E only if the box in Section 2.1.2 IS checked]
Attachment F:	Affidavit [Use Attachment F only if the box in Section 2.1.1 is NOT checked]

In the event of any inconsistencies between this **Agreement** and the Attachments, the terms of [this **Agreement**] shall control.

SECTION 22. NOTICES

All notices to be given under this **Agreement** shall be given or served in writing and sent to the parties at the addresses specified above. Notices to the **COUNTY** shall be given to the **COUNTY** and also to the County Representative. All notices shall be sent by:

- a. Certified or Registered Mail and shall be effective three (3) days after the date of mailing;
- b. Federal Express or similar nationally recognized carrier via overnight service and shall be effective one (1) day after delivery to such carrier;
- c. Facsimile transmission and shall be effective on the date of sending, with confirmation of receipt, of the transmission; or
- d. Personal service and shall be effective on the same day as service.

Any address provided herein may be changed from time to time by either party serving the other with notice as above provided.

SECTION 23. SUCCESSORS AND PERMITTED ASSIGNS

The terms, conditions and covenants hereof shall extend to and be binding upon and inure to the benefit of the heirs, personal representatives, successors and permitted assigns of the parties hereto.

SECTION 24. CONSTRUCTION

This **Agreement** shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the parties, it being recognized that both the **COUNTY** and the **CONTRACTOR** have contributed to the preparation of this **Agreement**.

SECTION 25. WAIVER

Except as expressly provided herein, no waiver by any party of any failure or refusal of the other party to comply with its obligations under this **Agreement** shall be deemed a waiver of any other subsequent failure or refusal to so comply by such other party. No waiver shall be valid unless in writing by the party to be charged and only to the extent therein set forth.

SECTION 26. HEADINGS

The title of this **Agreement** and the section and other headings used in this **Agreement** have been inserted for convenience of reference only, are not part of the parties' agreement, shall not be deemed in any manner to modify, expand, explain or restrict any of the provisions of this **Agreement**, and are not intended to have any legal effect. Accordingly, no reference shall be made to any such title or heading for the purpose of interpreting, construing, or enforcing any of the provisions of this **Agreement**.

SECTION 27. SEVERABILITY

This **Agreement** is subject to, and is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules and regulations. If any provision of this **Agreement** or the application thereof to any person or circumstance shall for any reason, or to any extent, be invalid or unenforceable, the remainder of this **Agreement** and the application of such provision to other persons or circumstances shall not be affected thereby, but shall be enforced to the greatest extent permitted by law. However, if the severance of such provision has a materially-adverse impact upon the obligations of any party hereto, any party that suffers the materially-adverse impact may terminate this **Agreement**.

SECTION 28. ATTORNEY'S FEES, COSTS AND EXPENSES

Anything to the contrary herein notwithstanding, in any action, proceeding or dispute resolution process arising from, out of or in connection with this **Agreement** and the transactions contemplated hereby, the prevailing party therein shall recover from the other party hereto the costs, expenses and reasonable attorney's fees incurred by the prevailing party in connection therewith. For the purposes of this Section 28, the prevailing party shall be determined based on a consideration of which party is the most successful in the dispute/proceeding, taken as a whole. In no event shall any recovery of costs, expenses or attorney's fees from **COUNTY** occur if such would violate applicable law.

SECTION 29. CUMULATIVE REMEDIES

Unless expressly provided otherwise herein, the remedies of the parties provided for herein, and all other remedies available at law, shall be cumulative and concurrent, and may be pursued singly, successively or together, at the sole and absolute discretion of the party for whose benefit such remedies are provided, and may be exercised as often as occasion therefore shall arise.

SECTION 30. COUNTERPARTS/FACSIMILE SIGNATURE

This **Agreement** may be executed in two or more counterparts, each of which shall be deemed an original, but all of which constitute one and the same **Agreement**. The **CONTRACTOR** and the **COUNTY** hereby agree that the delivery of an executed copy of this **Agreement** by facsimile shall be legal and binding and shall have the same full force and effect as if an original executed copy of this **Agreement** had been delivered.

SECTION 31. AUTHORITY

The person(s) signing this **Agreement** on behalf of the **CONTRACTOR** represent and warrant that they have the power and authority to contract for, act on behalf of, and bind the **CONTRACTOR**.

IN WITNESS WHEREOF, the parties hereto have executed this **Agreement** on the _____ day of _____, 2012.

COUNTY:

CONTRACTOR:

**BOARD OF COUNTY COMMISSIONERS
OF TELLER COUNTY, COLORADO**

BY: _____

BY: _____

NAME: _____

NAME: _____

TITLE: _____

TITLE: _____

STATE OF COLORADO)
)ss.
COUNTY OF TELLER)

The forgoing instrument was acknowledged before me this _____ day of _____,
2012 by _____, as _____ of the Teller County Board of
County Commissioners.

Witness my hand and official seal.

Notary Public _____

My commission expires: _____

STATE OF COLORADO)
)ss.
COUNTY OF _____)

The forgoing instrument was acknowledged before me this _____ day of _____,
2012 by _____, as _____ of _____
_____.

Witness my hand and official seal.

Notary Public _____

My commission expires: _____

Attachment A

Scope of Services

Attachment B

Payment Schedule

The **COUNTY** shall pay proper monthly invoices within thirty (30) days following the **COUNTY's** receipt of such invoices.

Attachment C

Insurance Certificate(s)

[Are to be provided to the department contact prior to work beginning.]

Attachment D

Form W-9 (Rev. December 2000) Department of the Treasury Internal Revenue Service	Request for Taxpayer Identification Number and Certification	Give form to the requester. Do not send to the IRS.
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Please print or type	Name (See Specific Instructions on page 2.)	
	Business name, if different from above. (See Specific Instructions on page 2.)	
	Check appropriate box: <input type="checkbox"/> Individual/Sole proprietor <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Other ▶	
	Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
	City, state, and ZIP code	

Part I Taxpayer Identification Number (TIN) Enter your TIN in the appropriate box. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 2 . For other entities, it is your employer identification number (EIN). If you do not have a number, see How to get a TIN on page 2. Note: If the account is in more than one name, see the chart on page 2 for guidelines on whose number to enter.	List account number(s) here (optional)																																													
<table border="1" style="margin: auto;"> <tr> <td colspan="9" style="text-align: center;">Social security number</td> </tr> <tr> <td style="width: 10px; height: 15px;"> </td> <td style="width: 10px; height: 15px;"> </td> <td style="width: 10px; height: 15px;"> </td> <td style="width: 10px; height: 15px;"> </td> <td style="width: 10px; height: 15px;"> </td> <td style="width: 10px; height: 15px;"> </td> <td style="width: 10px; height: 15px;"> </td> <td style="width: 10px; height: 15px;"> </td> <td style="width: 10px; height: 15px;"> </td> </tr> <tr> <td colspan="9" style="text-align: center;">or</td> </tr> <tr> <td colspan="9" style="text-align: center;">Employer identification number</td> </tr> <tr> <td style="width: 10px; height: 15px;"> </td> <td style="width: 10px; height: 15px;"> </td> <td style="width: 10px; height: 15px;"> </td> <td style="width: 10px; height: 15px;"> </td> <td style="width: 10px; height: 15px;"> </td> <td style="width: 10px; height: 15px;"> </td> <td style="width: 10px; height: 15px;"> </td> <td style="width: 10px; height: 15px;"> </td> <td style="width: 10px; height: 15px;"> </td> </tr> </table>	Social security number																		or									Employer identification number																		Part II For U.S. Payees Exempt From Backup Withholding (See the instructions on page 2.)
Social security number																																														
or																																														
Employer identification number																																														

Part III Certification	
Under penalties of perjury, I certify that:	
1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and 2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and 3. I am a U.S. person (including a U.S. resident alien).	
Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. (See the instructions on page 2.)	

Sign Here	Signature of U.S. person ▶	Date ▶
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<p>Purpose of Form</p> <p>A person who is required to file an information return with the IRS must get your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.</p> <p>Use Form W-9 only if you are a U.S. person (including a resident alien), to give your correct TIN to the person requesting it (the requester) and, when applicable, to:</p> <ol style="list-style-type: none"> 1. Certify the TIN you are giving is correct (or you are waiting for a number to be issued), 2. Certify you are not subject to backup withholding, or 3. Claim exemption from backup withholding if you are a U.S. exempt payee. <p>If you are a foreign person, use the appropriate Form W-8. See Pub. 515, Withholding of Tax on Nonresident Aliens and Foreign Corporations.</p> <p>Note: If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.</p>	<p>What is backup withholding? Persons making certain payments to you must withhold and pay to the IRS 31% of such payments under certain conditions. This is called "backup withholding." Payments that may be subject to backup withholding include interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.</p> <p>If you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return, payments you receive will not be subject to backup withholding. Payments you receive will be subject to backup withholding if:</p> <ol style="list-style-type: none"> 1. You do not furnish your TIN to the requester, or 2. You do not certify your TIN when required (see the Part III instructions on page 2 for details), or 3. The IRS tells the requester that you furnished an incorrect TIN, or 4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or 	<ol style="list-style-type: none"> 5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only). <p>Certain payees and payments are exempt from backup withholding. See the Part II instructions and the separate Instructions for the Requester of Form W-9.</p> <p>Penalties</p> <p>Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.</p> <p>Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.</p> <p>Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.</p> <p>Misuse of TINs. If the requester discloses or uses TINs in violation of Federal law, the requester may be subject to civil and criminal penalties.</p>
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Attachment E

NOTIFICATION OF IMMIGRATION COMPLIANCE REQUIREMENTS AND CERTIFICATION BY CONTRACTOR

_____ (“**CONTRACTOR**” herein) acknowledges that **CONTRACTOR** has been notified of the immigration compliance requirements of C.R.S. § 8-17.5-101, *et. seq.* (House Bill 06-1343) and hereby agrees to comply with all of the provisions of C.R.S. § 8-17.5-101, *et. seq.*, and further **AGREES** and **CERTIFIES** that:

1. **CONTRACTOR** shall not knowingly employ or contract with an illegal alien to perform work under the Agreement to which this Attachment E is attached and made a part of (“**this public contract for services**”); and

2. **CONTRACTOR** shall not enter into a contract with a subcontractor that fails to certify to **CONTRACTOR** that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this public contract for services; and

3. **CONTRACTOR** has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this public contract for services through participation in either the E-Verify Program for employment verification that is jointly administered by the United States Department of Homeland Security and the Social Security Administration, or the Department Program established pursuant to C.R.S. § 8-17.5-102(5)(c); and

4. **CONTRACTOR** is hereby prohibited from using either the E-Verify or Department Program procedures to undertake pre-employment screening of job applicants while this public contract for services is being performed; and

5. If **CONTRACTOR** obtains actual knowledge that a subcontractor performing work under this public contract for services knowingly employs or contracts with an illegal alien, **CONTRACTOR** shall:

(A) Notify the subcontractor and Teller County within three (3) days that **CONTRACTOR** has actual knowledge that the subcontractor is employing or contracting with and illegal alien; and

(B) Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required pursuant to subparagraph (A) of this Section 5 the subcontractor does not stop employing or contracting with the illegal alien; except that **CONTRACTOR** shall 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; and

6. **CONTRACTOR** is hereby required to comply with any reasonable request by the Colorado State Department of Labor and Employment (“**Department**” herein) made in the course of an investigation that the **Department** is undertaking pursuant to the authority established in C.R.S. § 8-17.5-102(5); and

7. If **CONTRACTOR** violates a provision of this Attachment E, Teller County may terminate this public contract for services for a breach of this contract. If this public contract for services is terminated, **CONTRACTOR** shall be liable for actual and consequential damages to Teller County.

8. Teller County is obligated to notify the office of the Secretary of State if **CONTRACTOR** violates a provision of this Attachment E and Teller County terminates this public contract for services for such breach. Based on this notification, the Secretary of State is to maintain a list that includes the name of **CONTRACTOR**, Teller County as the political subdivision that terminated the public contract for services, and the date of the termination. A contractor is to be removed from the list if two years have passed since the date the contract was terminated, or if a court of competent jurisdiction determines that there has not been a violation of the provision of this Attachment E. Teller County is obligated to notify the office of the Secretary of State if a court has made such a determination. The list is to be available for public inspection at the office of the Secretary of State and is to be published on the internet on the website maintained by the Secretary of State; and

9. The **Department** may investigate whether **CONTRACTOR** is complying with the provisions of this Attachment E. The **Department** may conduct on-site inspections where a public contract for services is being performed within the State of Colorado, request and review documentation that proves the citizenship of any person performing work on a public contract for services, or take any other reasonable steps that are necessary to determine whether **CONTRACTOR** is complying with the provisions of this Attachment E. The **Department** is to receive complaints of suspected violations of this Attachment E and shall have discretion to determine which complaints, if any, are to be investigated. The results of any investigation shall not constitute final agency action. **CONTRACTOR** is hereby notified that the **Department** is authorized to promulgate rules in accordance with article 4 of title 24, C.R.S., to implement the provisions of C.R.S. § 8-17.5-101(5).

10. At the time this Attachment E is executed by **CONTRACTOR**, **CONTRACTOR** does not knowingly employ or contract with an illegal alien and has participated in either the E-Verify or Department Program in order to verify that it does not employ any illegal aliens to perform work under this public contract for services.

Dated this _____ day of _____, 2012.

[**CONTRACTOR**]

By: _____

Printed Name: _____

Attachment F

AFFIDAVIT

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 Legal Permanent Resident of the United States, or

I am otherwise 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 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 shall constitute a separate criminal offense each time a public benefit is fraudulently received.

Signature

Date

County Employee: _____ Date: _____
(Signature)