



Fort Collins Loveland Water District
Engineering Department
5150 Snead Drive
Fort Collins, CO 80525
970.226.3104

REQUEST FOR PROPOSAL 1003 CONSULTANT SERVICES FOR THE COBB LAKE REGIONAL WATER TREATMENT AUTHORITY-TRANSMISSION PROJECT

The Fort Collins Loveland Water District (District), a quasi-municipal corporation and political subdivision of the State of Colorado is soliciting Requests for Proposals (RFP) from qualified Consultants to provide design and preconstruction services and construction support for the Cobb Lake Regional Water Treatment Authority (CLRWTA) Water Transmission Project.

Notice of this Request for Proposals has been posted on the District's webpage at <https://fclwd.com/water/engineering/>.

Proposal submission via email is required. Proposals shall be submitted as a single Microsoft Word or PDF file under 20MB and emailed to: ljalfant@fclwd.com. Proposals must be received before 3:00 p.m. (our clock) on March 22, 2024, and referenced as Proposal No. 1003 Consultant Services for the CLRWTA Transmission Project. The proposals will be evaluated by the District and other members of the CLRWTA Team and expects to accept by written notice the proposal that, in its estimation, represents the best value to the District and the Authority. Proposals received after the deadline indicated above will not be considered and will be rejected for lateness.

All questions must be submitted at any time, in writing via email, to Linsey Chalfant, at ljalfant@fclwd.com. Final questions shall be submitted no later than 4:00 p.m. MT (our clock) on February 28, 2024. Please format your email to include: 1003 Consultant Services for the CLRWTA Transmission Project in the subject line. Responses to all questions submitted before the deadline will be addressed in an addendum and placed on the District's webpage and emailed to Consultants listed on the plan holders list. **Respondents are required to email Linsey Chalfant to be placed on the plan holders list to receive addendums and schedule updates.**

The District reserves the right to act in its and the Authority's best interest and may terminate, modify, or suspend the process, reject any or all submittals, modify the terms and conditions of this selection process and/or waive informalities of any submission. The District will not be obligated to any respondent as a result of this RFP and is not obligated for any costs or fees incurred whatsoever by respondents in the preparation of their proposals. The District retains the right to award to one or more than one respondent as is in the District's best interest.

The selected Consultant shall be expected to sign the District's standard Master Services Agreement prior to commencing Services (see sample in Section IX). Following selection of a proposal, the District, at its sole discretion, will incorporate applicable proposal terms into the Master Services Agreement.

Sincerely,

Linsey Chalfant, PE
Project Manager

I. INTRODUCTION AND BACKGROUND

A. Purpose

The Fort Collins Loveland Water District (District) is seeking proposals for consultant services to provide design and preconstruction services and construction support for the CLRWTA Transmission Project (Project). Consultants will be required to work collaboratively with the District, Cobb Lake Water Treatment Authority (Authority), and its selected construction contractor.

This RFP will award a contract for Consultant services for the 8+ mile-30" transmission Project only. The new treatment plant design and construction services will be awarded under a separate RFP (anticipated for mid-2024).

B. Location

The Project will start at the future site of the Authority Treatment Plant located near the intersection of Weld County Road 13 and Weld County Road 90 in Section 30, Township 8 North, and Range 67 West and terminate near the intersection of Buss Grove Road and Larimer County Road 1 (see Figure 1 on the next page). Alignments and locations between the two points will be determined by the Project team.

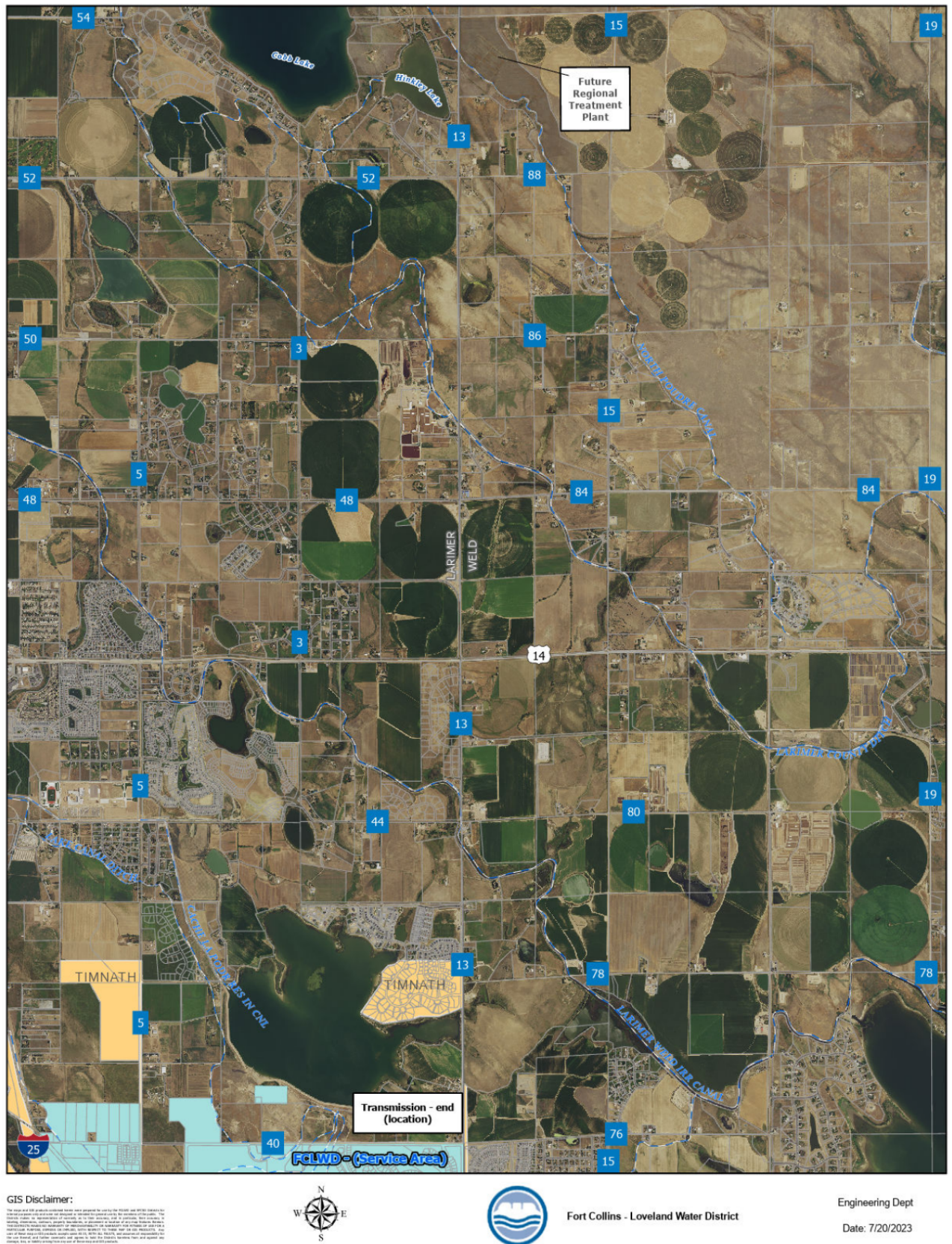
C. Background

The Authority is a separate governmental entity consisting of Fort Collins-Loveland Water District, and the Towns of Eaton, Severance, and Windsor (collectively "Partners"). The purpose of the Authority is to receive raw water supply from the Northern Integrated Supply Project (NISP), and other sources, for treatment and distribution to the Partners' customers. The Authority is governed by a Board of Directors, consisting of representatives from each of the Partner's organizations. The Partners have identified the need to accelerate the design of the treatment plant and treated water transmission pipe to have the plant online to meet treated water demands ahead of NISP deliveries. In addition, advancing the design will allow the Project team to firm up the infrastructure sizing, determine phasing of plant capacity, move forward with permitting and aid in financial planning with refined costs. The Partners have approved the District to lead and contract the design of the new treatment plant and transmission pipeline.

D. Funding

Early estimates project construction costs for the water treatment facility and transmission lines at \$151 million at full build out. The finished transmission line is estimated at \$76 million to convey the ultimate buildout capacity of 27MGD.

Figure 1: General Location Map-insert as a PDF



II. STATEMENT OF WORK

A. Guiding Principles

In general, the Consultant will be responsible for investigation and design services during preconstruction phases, and engineering services during construction for the Project. The District reserves the right to adjust the deliverables to correspond with the Project needs at any time.

B. Expertise

The Consultant's team must possess the expertise required and anticipated for the Project, including:

- Owner Agency
- Water conveyance
- Design of trenchless utility techniques
- Hydraulic analysis
- Pipe material selection
- Instrumentation and controls
- PRV and pump station design
- Mechanical design related to pipe conveyance and pump stations/PRVs
- Structural engineering
- Geotechnical engineering/ subsurface conditions
- Mechanical engineering
- Roadway engineering
- Environmental engineering
- Permitting
- Alignment challenges
- Community outreach and communication

C. Deliverables

During the contract period, the Consultant may be requested to perform some or all of the following services for the Project:

- Provide management, planning, engineering, surveying, geotechnical and site investigation, and other services required to plan, design, and construct the Project.
- Represent the District as an Owner's Agent.
- Select the most appropriate Project design compatible with the directives from the District and the expertise and experience of the construction contractor.
- Coordinate and address the design needs of the Authority, the proposed Treatment Plant Project and effective design standards.
- Perform routing study to establish the best alignment for the transmission main
- Perform hydraulic calculations and modeling (InfoWater Pro) for the water transmission main and associated appurtenances.
- Provide alternatives and recommendations for the trenchless methods to cross roads, ditches, rivers and/or other utilities where warranted.
- Provide cathodic protection and corrosion system engineering if warranted.
- Assist with transmission main material selection including appropriate pressure class.
- Provide geotechnical investigations and prepare reports.

- Provide Subsurface Utility Engineering (SUE) services including map compilation, field locations, potholing, and surveying to produce stamped SUE plans in compliance with State of Colorado requirements.
- Assist in identifying both temporary and permanent easements and property purchases required for any construction-related activities and prepare any legal descriptions and easement documents needed to assist District staff in acquiring the necessary property.
- Provide all surveying required for the design of the Project and baseline control for Contractor use during construction.
- Assist in landowner coordination and negotiation.
- Provide environmental engineering and consulting as required to complete tasks such as environmental studies, LUST site identification, historical and archaeological surveying, migratory bird surveys, and wetland surveys/delineation.
- Coordinate with 3rd party utility providers
- Coordinate connection points with other consultants, District projects, or Partners' projects.
- Assist, coordinate, manage, and participate in public outreach efforts and engagement including open houses, presentations, individual meetings, publications, graphics, etc.
- Assist and prepare necessary federal, state, and local permit applications as required (i.e., Larimer County, Weld County, 1041 permit, 404 permit, CLOMR/LOMR, floodplain use, no-rise, etc.).
- Prepare Project reports, technical memorandums, and basis of design documents.
- Prepare construction documents and technical specifications.
- Prepare erosion control plans in accordance with all applicable regulatory agencies as required.
- Provide resident engineering, construction administration, submittal review and field inspection services. **Resident engineer duties must be performed by experienced and qualified personnel approved by the District.**
- Provide instrumentation and controls expertise.
- Furnish as-built documentation and operation and maintenance manuals.
- Other services to be determined during the design/construction process.

D. Delivery Approach

The Project will be procured and managed using an Integrated Project Delivery (IPD) model. Experience with early contractor involvement (ECI) or alternative delivery methods of design and construction is critical and necessary for the Consultant. The Consultant will be part of an overall Project team consisting of the District's Project Manager(s) and other District staff, members of the Authority's Project team, construction Contractor's team, and the selected Consultant's team including subconsultants. This team will work together from the start of design through completion of construction. Each team member will have significant involvement in the design and construction concepts that are developed and utilized. Participation by all team members throughout the Project is expected to allow innovation and enhance project quality and value.

III. SCHEDULE

A. Anticipated Procurement Schedule

The procurement process will be a qualification-based, competitive process. The following procurement schedule is tentative and the District reserves the right to adjust this schedule.

Respondents are encouraged to request a meeting with the District's project management team prior to the 1:1 Discussion Period to discuss their qualifications and staffing and to discuss the District's Integrated Project Delivery (IPD) model. A meeting is not mandatory.

MILESTONE	DATE (SUBJECT TO CHANGE)
Issue RFP	02/02/24
1:1 Discussion Period-not mandatory	02/20/24 to 02/23/24
RFP Questions Due	02/28/24
Proposals Due	03/22/24
Short List Determined	03/29/24
Workshop	04/08/24 to 04/12/24
Begin Contract Negotiations	04/15/24

Shortly after the selection of the Consultant, a similar RFP process will be initiated to retain the construction contractor for the Project. The District will execute separate contracts directly with the Consultant and the construction contractor.

B. Anticipated Project Schedule

The schedule for construction of the Project is primarily dictated by the construction of the new water treatment facility and ahead of Northern Water's NISP deliveries. To expedite completion of the Project, design of the new water treatment plant will be conducted in parallel with award of that RFP in 2024.

Design of the Project will be conducted in phases, as agreed upon by the Project team. A preliminary Project schedule for the transmission phase is provided below. The District reserves the right to adjust this schedule.

MILESTONE	2024	2025	2026	2027	2028	2029	2030
Easement Acquisition							
State/County Permitting							
Preliminary Design							
Final Design							
Construction							
Water Treatment Plant Design (under separate RFP)							
Water Treatment Plant Online							

IV. PROPOSAL SUBMITTAL

Respondents shall submit a proposal tailored specifically to work related to the Project. Proposals shall be limited to forty (40) single-sided pages and with a minimum of 10-point font for all text. A maximum of ten (10) 11x17 sheets are allowed and will each count as a single page. Cover page, table of contents, tabs (if used) and resumes will not be counted toward this page limit.

Consultants are required to provide detailed written responses to the following items in the order outlined below. It is suggested that Consultants include each of the District's questions with their response immediately after the question. The responses shall be considered technical offers of what Consultants propose to provide and shall be incorporated in the contract award as deemed appropriate by the District. A proposal that does not include all the information required may be deemed non-responsive and subject to rejection.

A. Cover Letter

Proposals must include a cover letter including the name of the Consultant; firm; the primary office location; telephone number; website URL; and primary contact person's name and email address. The cover letter must include a clear and concise statement of the Consultant's understanding of the required services, a summary of the partnership the Consultant envisions with the District, and an explanation of why the Consultant can provide the best value to the District. Further, the cover letter must include a summary of the Consultant's qualifications and detail the Consultant's experience with alternative delivery models.

B. Firm Summary

Provide an outline describing the respondents firm, including:

1. Company Name, address, website.
2. Type of services available, with specializations indicated.
3. Location(s) of offices - identify which office will be the primary contact for the Project.
4. Have you, or your firm, ever defaulted on a contract? If so, where, and why?
5. Are any lawsuits pending against you or your firm currently? If yes, provide a summary of the matter and status of the lawsuit.

C. Qualification Summary

Provide a qualification narrative focused on the respondent's experience as related to the Project. Specifically, the summary should highlight the firm's experience and capabilities in designing large transmission mains similar to the Project. Expected similar features should include but not limited to water transmission work specific to work outlined in Section II above.

D. Summary of Project Experience

Provide an experience narrative of 2 to 5 most relevant matters for similar construction work (minimum of 30-inch diameter water transmission main and five (5) miles in length) designed by the firm in the last eight (8) years and describe the firm's roles and responsibilities as well as the roles and responsibilities of proposed team members on the matters. The experience highlighted should reflect large-scale water projects both in pipe and contract size using an alternative delivery model with early Consultant and Contractor

involvement during design. Include the owner's name, contact information, title of matter and a brief description of the work. Highlight participation by key staff proposed for this RFP and their role on the matter. Matter biographies shall include:

1. Description of the matter, including project name and location, and its similarity to the Project
2. Owner's name, address, telephone number, email address and contact person
3. A listing of key staff proposed in this proposal who participated in these projects and their roles and responsibilities.
4. Original contract amount and final contract amount
5. Responsibility of the firm and percent of contract self-performed
6. Key matter challenges and successes
7. Project delivery method used.

E. Project Personnel/Availability

The commitment of key personnel is critical to the District and the success of this Project. It is the District's expectation that key members assigned to the Project will remain throughout the project and function as the District's primary resources. Any replacement for key individuals must be approved in advance and agreed to in writing by the District Project Manager.

1. Provide an organization chart identifying the team's structure and titles. The chart should include all resources (including subconsultants) anticipated for the project and their specific roles and responsibilities. Identify what portion of work, if any, may be performed by subconsultants.
2. Submit detailed resumes of individuals (including subconsultants) proposed to fill key positions. Resumes should highlight or demonstrate the following:
 - a. Experience and capabilities in designing large diameter water transmission mains (30-inch diameter and larger).
 - b. Role and responsibility on related matters.
 - c. **Experience in a significant role on matters using alternative delivery methods with early construction contractor involvement during the design.**
 - d. Ability to collaborate with owners, construction contractors, subconsultants, subcontractors and other stakeholders.
3. Submit a narrative outlining the team's commitment to the Project and the availability of key members.

F. Project Execution Plan and Schedule

1. Provide a narrative detailing the Consultant's approach, tasks, schedule, critical path, and key milestones for completing all phases of design.
 - a. The plan should include any unique solutions or insights on the Project and describe the value and innovation the Consultant proposes to influence the delivery and execution of the work. Identify opportunities, challenges, and milestones.
 - b. Further identify major risks, including impacts and potential mitigation measures that could be implemented to reduce the risk.

- c. Describe how the Consultant's approach will drive the schedule, while managing critical paths, sequencing milestones, and mitigating risk.
 - d. The plan should include a schedule that identifies key milestones and deliverables dates and highlights any proposed changes to the District's anticipated schedule.
2. Describe how the project would be managed and who would have primary responsibility for its timely and professional completion.
3. Provide a description and examples of Consultant's expected deliverables.
4. Include a description of the software and other analysis tools to be used.
5. Identify what portion of work, if any, may be performed by subconsultants and subcontractors.

G. Sample Task Order

1. Sample Scope of Work:

Submit a Scope of Work describing the Consultant's first 6 months of technical work. The Consultant can assume that the Construction Contractor is procured as part of the design team and all contracting and team partnering is complete. The scope should clearly detail task elements describing the Consultant's intended efforts, assumptions, work to be completed, timelines/sequencing and desired outcomes.

The Scope of Work requirement is meant to be broad and will provide the District with insight into the Consultant's plan to execute the work, staff their team, and effectively communicate their approach for the first phase of work. The District understands this effort is preliminary in nature and further refinement will be necessary prior to finalizing a Task Order for this phase of work.

2. Sample Fee Proposal:

Provide a fee proposal spreadsheet for the Scope of Work outlined above. Identify the employee, title, and assigned hours with hourly rates anticipated for each task element. Price all services/deliverables, expenses, and fees separately.

Although rates and expenses are elements of the evaluation criteria, the selected Consultant will not be bound by the bottom-line costs detailed in the Scope of Work submitted in response to this RFP.

H. Rates & Expenses

1. Provide a schedule of billing rates by category of employee and job title.
2. Include a fee schedule for sub-consultants by category and job title, if used, with mark-up if applicable.
3. Provide a list of direct costs and reimbursable expenses (e.g., travel, printing, postage, etc.). Reasonable expenses will be reimbursable. Consultants will be required to provide original receipts to the District for all reimbursable expenses. Preapproved travel expenses may be reimbursable as per actual cost-plus markup.

This fee schedule will be firm for at least one (1) year from the date of execution of the

Master Services Agreement. The fee schedule will be used as a basis for determining fees should additional services be necessary.

I. Sample Agreement

The proposed Master Services Agreement is included as Section IX. Comments and amendments to the proposed form of the Master Services Agreement, including without limitation the insurance requirements, must be included in the proposal. Post-award comments and amendments to the Master Services Agreement not included in the proposal shall not be considered.

J. Additional Information

Please provide any information that distinguishes Consultant from its competition and any additional information applicable to this RFP that might be valuable in assessing Consultant's proposal. Explain any concerns the Consultant may have in objectively recommending the best solution.

K. Conflicts

All potential conflicts of interest must be disclosed.

L. Consultant Statement

A consultant statement form is attached as Section VIII. Complete the form indicating the Consultant hereby acknowledges receipt of the District's Request for Proposal and acknowledges that the Consultant has read and agrees to be fully bound by all the terms, conditions and other provisions set forth in the RFP.

V. ADDITIONAL INSTRUCTIONS FOR CONSULTANTS

A. Interviews

The top-rated Consultants may be invited to a 1–2-hour interview or workshop where they will be asked to detail the Consultant's overall project approach, challenges, risk elements, critical paths, milestones, experience with larger diameter pipes, alternative delivery experience, team development, permitting, and project related experience.

B. Consultant/Subconsultant

Consultants will be responsible for identifying any subconsultant in their proposal. Please note that the District will contract solely with the awarded Consultant therefore, Subconsultant will be the responsibility of the Consultant.

C. Current Standards

All work and/or materials must meet current standards in force by recognized technical and professional societies, trade and materials supply associations, institutes and organizations, bureaus, and testing laboratories, and national, federal, state, county, and local laws, codes, and ordinances. All work shall be designed in accordance with all current regulatory and District Standards.

D. Laws and Regulations

The Consultant agrees to comply fully with all applicable local, State of Colorado and Federal laws and regulations and municipal ordinances. The Consultant further agrees to comply fully with the Occupational Safety and Health Act, all regulations issued there under and all state laws and regulations enacted and adopted pursuant thereto.

E. Agreement & Term

The intent of the District is to award a contract to a qualified Consultant for the services outlined in this RFP. The Consultant and the District will enter into the Master Services Agreement. This Master Services Agreement will cover the design/preconstruction and construction phases of work. Design/preconstruction and construction work will be conducted in phases, with Task Orders negotiated and issued for each phase of work as the project progresses (see example Task Order attached hereto). The Master Services Agreement contains the terms and conditions of the contract, a general scope of work, hourly rates, insurance, etc. The District intends for the term of the Master Services Agreement to continue in full force for the duration of the Project.

F. Task Order Procedure

Work will be conducted in phases under the Master Services Agreement and authorized by individual Task Orders as the Project progresses. The Consultant shall provide all personnel, materials, equipment and supplies necessary to complete the services set forth in the applicable Task Orders.

Each Task Order form must include a start and completion date, total cost, and a general summary of work. Subsequent supporting documentation pages may include the Consultant's quote which includes a detailed scope of work, project schedule, deliverables, number of hours, cost detail supporting total cost including hourly rates, personnel details, materials, subconsultants, fee schedules and expenses. Cost factors outlined in the Task Order will be based on the budgetary cost factors submitted in the RFP response and subsequently negotiated and incorporated in the contract. Labor and equipment rates will be firm for the first year of the Master Services Agreement and may be updated annually in subsequent years based on fair market indices.

It is possible that the District will choose not to incorporate one (1) or more portions of the general scope of services described in this RFPs into any contract(s) executed pursuant to this RFP. Similarly, additional similar services may be added to the Master Services Agreement.

G. Withdrawal of Proposal

Proposals may be withdrawn within 48 hours of submission. Following the 48-hour withdrawal period, proposals are binding for a period of 90 days.

H. Signature

The proposal must be signed manually or electronically by an officer or person qualified to bind Consultant/Firm.

I. Conflict of Interest

No officer, employee, or board member shall have a financial interest in the sale to the District of any real or personal property, equipment, material, supplies, or services where such officer or employee exercises directly or indirectly any decision-making authority concerning such sale or any supervisory authority over the services to be rendered. This rule also applies to subcontracts with the District. Soliciting or accepting any gift, gratuity, favor, entertainment, kickback, or monetary value from anyone seeking to do business with the District is prohibited.

J. CORA

The District is a local governmental entity subject to the Colorado Open Records Act, C.R.S §§ 24-72-200.1 et seq. ("CORA"). Any proposals submitted hereunder are subject to public disclosure by the District pursuant to CORA. Respondents may submit one (1) additional complete proposal marked "FOR PUBLIC VIEWING." The respondent may redact text and data deemed confidential or proprietary in this proposal version under CORA. Such a statement does not necessarily exempt such documentation from public disclosure if required by CORA, by order of a court or appropriate jurisdiction, or other applicable law. Generally, under CORA trade secrets, confidential commercial and financial data information is not required to be disclosed by the District. Proposals may not be marked "Confidential" or "Proprietary" in their entirety. Any contract provisions resulting from this proposal request will be public information.

VI. REVIEW AND ASSESSMENT CRITERIA

Consultants will be evaluated on the following criteria. These criteria will be the basis for review and assessment of the written proposals and optional interview session. At the discretion of the District and its review committee, interviews with the top-rated Consultants may be conducted.

The rating scale shall be from 1 to 5, with 1 being a poor rating, 3 being an average rating, and 5 being an outstanding rating.

WEIGHTING FACTOR	QUALIFICATION	STANDARD
20%	Firm Summary, Qualifications Summary, & Summary of Project Experience	<ul style="list-style-type: none"> Does the firm have the resources, capacity and support capabilities required to successfully complete the Project? Has the firm successfully completed previous projects of this type, size, scale, and scope?
35%	Project Personnel/Availability	<ul style="list-style-type: none"> Do the assigned personnel who will be working on the Project have the necessary skills? Does the proposal highlight the assigned personnel's experience working on large waterline projects in a similar role, scale, and complexity as the Project? Are the roles and responsibilities of the Project team clearly identified? Does the Project team demonstrate experience with an alternative delivery method that includes early consultant and construction contractor involvement? Has the Consultant demonstrated its availability, willingness, and long-term commitment to the Project? Are the appropriate number of subconsultants/expertise provided to execute the Project?
20%	Project Execution Plan and Schedule	<ul style="list-style-type: none"> Does the proposal show an understanding of the Project objective, methodology to be used, and results that are desired from the Project? Has the Project team clearly identified the Project needs, challenges, and approach? Is the team capable of developing multiple innovative and customized solutions? Has the Project team outlined a reasonable schedule and critical milestones? Does the proposal identify the firm's ability to add value, innovation, and efficiencies to the Project?
15%	Sample Task Order	<ul style="list-style-type: none"> Does the Scope of Work fee schedule align with the Consultant's execution plan and approach for the initial project phase? Does the Scope of Work clearly show a detailed approach? Are the work hours and assigned personnel presented reasonable for the level of effort required in each project task or phase?
10%	Rates & Expenses/Sample Agreement/Add. Info/Conflicts	<ul style="list-style-type: none"> How do hourly rates compare with the market? Are expenses aligned with the District's guidelines as applicable and are the reimbursable expenses market competitive? Is there a mark-up on subconsultants and/or subcontractors? Does the Consultant team have any disqualifying factors?

VII. REFERENCE EVALUATION CRITERIA

Prior to the award, the Project Manager will check references using the following criteria. Negative responses from references may impact the award determination.

CRITERIA	STANDARD QUESTIONS
Overall Performance	Would you hire this Consultant again? Did they show the skills required by this Project?
Timetable	Was the original Scope of Work completed within the specified time? Were interim deadlines met in a timely manner?
Completeness	Was the Consultant responsive to client needs; did the Consultant anticipate problems? Were problems solved quickly and effectively?
Budget	Was the original Scope of Work completed within the Project budget?
Job Knowledge	If a study, did it meet the Scope of Work? If Consultant administered a construction contract, was the project functional upon completion and did it operate properly? Were problems corrected quickly and effectively?

VIII. CONSULTANT STATEMENT

Consultant hereby acknowledges receipt of the District's Request for Proposal and acknowledges that Consultant has read and agrees to be fully bound by all of the terms, conditions, and other provisions outlined in the RFP. Additionally, the Consultant makes the following representations to the District:

- a. All of the statements and representations made in this proposal are true to the best of Consultant's knowledge and belief.
- b. Consultant commits that it can meet the terms provided in this proposal.
- c. Consultant understands that proposals may be withdrawn within 48 hours of submission. Following the 48-hour withdrawal period, proposals are binding for a period of 90 days.
- d. Consultant understands that any changes to the District's standard Master Services Agreement that are not included in Consultant's proposal shall not be considered.
- e. Consultant further agrees that the method of the award is acceptable.
- f. Consultant also agrees to complete (1) the proposed Master Services Agreement with the District within 45 days of notice of award. If the agreements are not completed and signed within 45 days, the District reserves the right to cancel and award to the next highest-rated Consultant.

Company Name:

Physical Address:

Phone:

Name of Authorized Agent of Consultant:

Signature of Authorized Agent:

Primary Contact for Project:

Title:

Phone:

Email Address:

CONSULTANT STATEMENT IS TO BE SIGNED & RETURNED WITH YOUR PROPOSAL

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

MASTER SERVICES AGREEMENT

BETWEEN

FORT COLLINS-LOVELAND WATER DISTRICT

AND

NAME OF CONSULTANT

THIS MASTER SERVICES AGREEMENT (“Agreement”) is made and entered into the most recent day and year set forth below by and between **Fort Collins-Loveland Water District**, a quasi-municipal corporation and political subdivision of the State of Colorado (“Owner”), whose mailing address is 5150 Snead Drive, Fort Collins, Colorado 80525, and **NAME OF CONSULTANT** (“Consultant”), whose mailing address is Consultant Mailing Address. The Owner and the Consultant are sometimes referred to herein individually as a “Party” and collectively as the “Parties.”

WITNESSETH:

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

1. Services. The Consultant agrees to provide design and pre-construction services for a treatment plant and transmission pipeline pursuant to individual task orders executed by the Parties (“Task Orders”). All Task Orders shall be in the form attached hereto as **Exhibit A** and incorporated herein by this reference and shall include a description of the services to be performed, the time for performance, the maximum amount of payment, any materials to be supplied by the Owner and any other special circumstances relating to the performance of services. No services shall be provided by the Consultant, and no compensation shall be owed to the Consultant, as a result of entering into this Agreement alone. All Task Orders, including without limitation any terms and conditions included therein, shall be subject to the provisions of this Agreement. In the event of a conflict or inconsistency between a provision in the body of this Agreement and a Task Order or any exhibit or schedule attached hereto, the provision in the body of this Agreement shall control.

2. Time of Commencement and Completion of Services. The services to be performed pursuant to this Agreement shall be initiated no later than Commencement Date and completed no later than Completion Date.¹ Any modifications to such deadlines must be agreed upon in writing by the Parties prior to the applicable deadline.

3. Early Termination by Owner. Notwithstanding the time periods contained herein, the Owner may terminate this Agreement at any time without cause by providing written notice of termination to the Consultant. Such notice shall be delivered at least three (3) days prior to the termination date contained in said notice unless otherwise agreed in writing by the Parties. In the event of any such early termination by the Owner, the Consultant shall be paid for services rendered prior to the date of termination, subject only to the satisfactory performance of the Consultant’s obligations under this Agreement. Consultant understands and agrees that such payment shall be the Consultant’s sole right and remedy for such termination.

4. Suspension. Without terminating this Agreement or breaching its obligations hereunder, the Owner may, at its convenience, suspend the services of the Consultant by giving the

Consultant written notice one (1) day in advance of the suspension date. Upon receipt of such notice, the Consultant shall cease its work in as efficient a manner as possible so as to keep its total charges to the Owner for services under this Agreement to the minimum, but in no circumstance later than three (3) business days after receipt of the notice of suspension. No work shall be performed during such suspension except with prior written authorization by the Owner Representative (as defined below). If a suspension is still in effect thirty (30) calendar days after the Consultant's receipt of the notice of suspension, the Consultant may terminate this Agreement by providing the Owner with written notice of termination. Upon the Owner's receipt of such notice of termination from Consultant, this Agreement will be deemed terminated.

5. Compensation. The Owner agrees to pay the Consultant the amounts set forth in Task Orders, which shall be in accordance with the Consultant's then-current fee schedule, which may be adjusted by the Consultant no more frequently than once every twelve (12) months. The Owner shall provide no benefits to the Consultant other than the compensation stated above. The Consultant shall bill its charges to the Owner monthly. All invoices shall include the Task Order Billing Number indicated on the applicable Task Order and be emailed (a) to the Owner Representative and (b) engininvoice@fclwd.com.

6. Qualifications on Obligations to Pay. No partial payment made by the Owner shall be considered final acceptance or approval of that part of the services paid for or shall relieve the Consultant of any of its obligations under this Agreement. Notwithstanding any other terms of this Agreement, the Owner may withhold any payment (whether a progress payment or final payment) to the Consultant if any one or more of the following conditions exists:

- (a) The Consultant is in default of any of its obligations under this Agreement, including without limitation the obligation to maintain insurance and provide Certificates of Insurance to the Owner in accordance with Section 13 (Insurance).
- (b) Any part of such payment is attributable to services that are not performed in accordance with the terms of this Agreement and its associated exhibit(s). The Owner will pay for any portion of the services performed in conformance with this Agreement and its associated exhibit(s).
- (c) The Consultant has failed to make payments promptly to any third-party used to perform any portion of the services hereunder, subject to Paragraph 9, for which the Owner has made payments to the Consultant.

7. Owner Representative. The Owner will designate, prior to commencement of work, its project representative (the "Owner Representative") who shall make, within the scope of his or her authority, all necessary and proper decisions with reference to the services. All requests for contract interpretations, change orders, and other clarification or instruction shall be directed to the Owner Representative.

8. Independent Contractor. The Consultant agrees that the services to be performed by the Consultant are those of an independent contractor and not of an employee of the Owner. The Consultant is obligated to pay federal and state income tax on any moneys earned pursuant to this Agreement. Neither the Consultant nor its employees, if any, are entitled to workers' compensation benefits from the Owner for the performance of the services described in this Agreement.

9. Assignment. The Consultant shall neither assign any responsibilities nor delegate any duties arising under this Agreement to a third party without the prior written consent of the Owner, which may be granted or denied in Owner's sole discretion.

10. Standard of Care. The Consultant shall perform the services hereunder at or above the standard of care of those in its profession or industry providing similar services in the Owner's local area; provided, however, that in the event the standard of care is higher in the local area where the Consultant's office primarily responsible for providing the services is located, then the standard of care applicable to the local area where the Consultant's office is located shall be applicable to such services.

11. Accuracy of Work. The Consultant represents, covenants, and agrees that its work will be accurate and free from any material errors. The Consultant shall correct any errors or deficiencies in the Consultant's services of which it becomes aware promptly and without additional compensation unless such corrective action is directly attributable to errors or deficiencies in information furnished by the Owner. The Owner's approval of the Consultant's services shall not diminish or release the Consultant's duties or obligations hereunder, since the Owner is ultimately relying upon the Consultant's skill and knowledge to perform the services. The obligations contained in this Section 11 shall survive for a period of two (2) years² following termination or expiration of this Agreement.

12. Duty to Warn. The Consultant agrees to call to the Owner's attention errors in any drawings, plans, sketches, instructions, information, requirements, procedures, and other data supplied to the Consultant by the Owner or a third-party that it becomes aware of and believes may be unsuitable, improper, or inaccurate in a material way. However, the Consultant shall not independently verify the validity, completeness, or accuracy of such information unless otherwise expressly engaged to do so by the Owner. Nothing shall detract from this obligation unless the Consultant advises the Owner in writing that such data may be unsuitable, improper, or inaccurate and the Owner nevertheless confirms in writing that it wishes the Consultant to proceed according to such data as originally given.

13. Insurance.

- (a) During the term of this Agreement, the Consultant shall purchase and maintain, at its own cost and expense, the following:
- i. Workers' compensation insurance for its employees, if any, as required by Colorado law with limits of at least \$500,000 per injury or illness an employee suffers as a result of providing the services hereunder, with a \$500,000 aggregate per occurrence.
 - ii. Employer's liability insurance with limits of at least \$500,000 per employee/accident and \$1,000,000 aggregate.
 - iii. Commercial general liability insurance covering, without limitation, premises operations, products-completed operations, contractual liability insuring the obligations assumed by the Consultant under this Agreement, personal and advertising injury, and broad form property damage, with limits of at least \$2,000,000 per occurrence for bodily injury, death or damage to property; \$2,000,000 per occurrence for personal and advertising injury; \$2,000,000 products-completed operations; and \$2,000,000 general aggregate.
 - iv. Automobile liability insurance covering all owned, hired and non-owned vehicles used in the performance of the Consultant's services under this Agreement with a

limit of at least \$2,000,000 combined per accident for bodily injury and property damage.

- v. Professional liability insurance with limits of at least \$2,000,000 per claim and \$2,000,000 aggregate.
- (b) The insurance required herein may be satisfied through any combination of primary and excess/umbrella liability policies.
 - (c) The insurance required herein shall be written by an insurance company or companies that (i) have an A.M. Best Company rating of "A-VII" or better, and (ii) are authorized to issue insurance in the State of Colorado.
 - (d) The Owner, the Owner Representative, and the Owner's directors, officers, employees, and 3 shall be endorsed as "Additional Insureds" under the (i) commercial general liability insurance policy for both ongoing and completed services for a period of two (2) years⁴; and (ii) automobile liability policy.
 - (e) The Consultant shall provide a waiver of subrogation endorsement, or its equivalent, under the (i) workers' compensation; (ii) commercial general liability; and (iii) automobile liability insurance policies in favor of the Owner, its directors, officers, agents, and employees.
 - (f) All liability insurance policies required herein shall provide that the coverage is primary and non-contributory to other insurance available to the Owner and its directors, officers, agents, and employees. Any insurance maintained by the Owner and its directors, officers, agents, and employees shall be excess of and shall not contribute with the Consultant's insurance.
 - (g) Prior to commencement of performance, the Consultant shall provide certificates of insurance satisfactory to the Owner that clearly evidence all insurance coverages required herein, including but not limited to endorsements (individually and collectively, "Certificates of Insurance"). The Consultant agrees that, until the Owner is supplied with Certificates of Insurance, no payment under this Agreement will be made by the Owner. The Consultant will provide the Owner with updated Certificates of Insurance within ten (10) calendar days of the anniversary of the effective date of coverage should that date fall during the term of this Agreement. Failure of the Owner to require Certificates of Insurance or to identify a deficiency in coverage shall not relieve the Consultant of its responsibility to provide the specific insurance coverages set forth herein.
 - (h) Subject to Section 9 (Assignment), the Consultant shall require each subcontractor and/or third-party performing work for the Consultant related to the services to purchase and maintain insurance of the types and with policy limits no less than those required of Consultant under this Section 13. All general liability policies carried by a subcontractor and/or third-party shall be endorsed to include the Additional Insureds identified above. Each subcontractor and/or third-party shall be required to provide Consultant, upon request, with certificates of insurance evidencing such coverage prior to commencement of work by a subcontractor and/or third party.

- (i) The insurance policies afforded hereunder shall not be cancelled or allowed to expire unless at least thirty (30) days' prior written notice has been delivered to the Owner, except in the event of cancellation due to non-payment of a premium, in which case notice shall be given to the Owner no later than ten (10) days prior to cancellation of the policy. Upon receipt of any notice of cancellation or non-renewal, the Consultant shall, within five (5) days, procure other policies of insurance as necessary to comply with this Section 13 and provide Certificates of Insurance evidencing the same to the Owner. Notwithstanding the provisions contained in Section 18 (Remedies), if the Consultant fails to procure the required insurance or provide the Owner with Certificates of Insurance within the timeframe provided, the Owner may terminate or suspend this Agreement upon written notice to the Consultant.

14. Intentionally Deleted.

15. Compliance with Laws. The Consultant is obligated to familiarize itself and comply with all laws applicable to the performance of the services, including without limitation all state and local licensing and registration requirements.

16. Acceptance Not Waiver. The Owner's approval or acceptance of, or payment for, any of the services shall not be construed to operate as a waiver of any rights or benefits provided to the Owner under this Agreement.

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

18. Remedies. Except as provided in Section 13(i) (Insurance), in the event a Party declares a default by the other Party, such defaulting Party shall be allowed a period of ten (10) days within which to cure said default. In the event the default remains uncorrected, the Party declaring default may elect to (a) terminate the Agreement and seek damages; (b) treat the Agreement as continuing and require specific performance; or (c) avail itself of any other remedy at law or equity. If the non-defaulting Party commences legal or equitable actions against the defaulting Party, the defaulting Party shall be liable to the non-defaulting Party for the non-defaulting Party's reasonable attorney fees and costs incurred because of the default.

19. Indemnification; No Waiver of Liability or Immunity. The Consultant agrees to indemnify, defend, and hold harmless the Owner and its officers, directors, employees, agents, engineers/architects and attorneys from any and all damages and liabilities arising from the Consultant's negligent performance of the services. As part of this obligation, the Consultant shall compensate the Owner for the time, if any, spent by its legal counsel in connection with such claims or actions. The Consultant's obligations under this Section 19 shall be to the fullest extent permitted by law and shall survive termination or expiration of this Agreement. Notwithstanding any other provision contained in this Agreement, including but not limited to Exhibit A, the Owner does not agree to defend, indemnify, or hold harmless the Consultant or waive or limit the Consultant's liability (either by type of liability or amount) for the Consultant's negligent acts or omissions. The Owner is relying on and does not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, defenses, and protections provided by the Colorado Governmental Immunity Act, § 24-10-101, et seq., C.R.S., as from time to time amended, or otherwise available to the Owner or its officers or employees. Nothing herein shall be construed to require any indemnification that would make this Section 19, or any portion thereof, void or unenforceable or to eliminate or reduce the indemnification rights the Owner has by law.

20. Binding Effect. This writing constitutes the entire agreement between the Parties and shall be binding upon the Parties, their officers, employees, agents and assigns and shall inure to the benefit of the Parties' respective survivors, heirs, personal representatives, successors and permitted assigns.

21. Amendment. No amendment or modification of this Agreement shall be binding upon the Parties unless the same is in writing and approved by a duly authorized representative of each Party.

22. Law; Venue. The laws of the State of Colorado shall govern the construction, interpretation, execution, and enforcement of this Agreement. Venue for any dispute between the Parties arising out of or relating to this Agreement shall be in the State of Colorado District Court for Larimer County.

23. Severability. In the event any term or condition of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Agreement.

24. Annual Appropriation. The Owner's obligations hereunder are subject to the annual appropriation of funds necessary for the performance thereof, which appropriations shall be made in the sole discretion of the Owner's Board of Directors.

25. Ownership of Work Product. All documents such as reports, plans, drawings and contract specifications, information, and other materials prepared or furnished by the Consultant (or the Consultant's independent professional associates, permitted subcontractors, and consultants) and paid for pursuant to this Agreement are instruments of public information and property of the Owner. All internal documents which support the public information such as field data, field notes, laboratory test data, calculations, estimates, and other documents prepared by the Consultant as instruments of service shall be provided to the Owner. The Owner understands such documents are not intended or represented to be suitable for reuse by the Owner or others for purposes outside the specific scope and conditions of the services. Any reuse without written verification or adaptation by the Consultant for the specific purpose intended will be at the Owner's sole risk and without liability or legal exposure to the Consultant, or to the Consultant's independent professional associates, permitted subcontractors, or consultants.

26. Taxes. The Owner is a governmental entity and is therefore exempt from state and local sales and use tax. The Owner will not pay for or reimburse any sales or use tax that may not directly be imposed against the Owner. The Consultant shall use the Owner's sales tax exemption for the purchase of any and all products and equipment on behalf of the Owner.

27. Time is of the Essence. All times stated in this Agreement are of the essence.

28. Notices. All notices which are required, or which may be given under this Agreement shall be effective when mailed via registered or certified mail, postage prepaid and sent to the address first set forth above.

29. Counterparts, Electronic Signatures and Electronic Records. This Agreement may be executed in multiple counterparts, each of which shall be an original, but all of which, together, shall constitute one and the same instrument. The Parties consent to the use of electronic signatures and agree that the transaction may be conducted electronically pursuant to the Uniform Electronic Transactions Act, § 24-71.3-101, et seq., C.R.S.

30. No Third-Party Beneficiaries. The Parties to this Agreement do not intend to benefit any person not a party to this Agreement. No person or entity, other than the Parties to this Agreement, shall have any right, legal or equitable, to enforce any provision of this Agreement.

31. Section Headings. The section headings in this Agreement have been inserted for convenience of reference only and shall not affect the meaning or interpretation of any part of this Agreement.

32. Not Construed Against Drafter. Each Party acknowledges that it has had an adequate opportunity to review each and every provision contained in this Agreement, including the opportunity to consult with legal counsel. Based on the foregoing, no provision of this Agreement shall be construed against either Party by reason of such Party being deemed to have drafted such provision.

[Signature Pages Follow]

OWNER:

Fort Collins-Loveland Water District, a quasi-municipal corporation and political subdivision of the State of Colorado

By: _____
Name: _____
Title: _____
Date: _____

CONSULTANT:

NAME OF CONSULTANT⁵

By: _____
Name: _____
Title: _____
Date: _____

EXHIBIT A

FORM OF TASK ORDER

Effective Date: [TBD]

Task Order for Professional Services

[CONSULTANT] (Consultant) agrees to provide to Fort Collins-Loveland Water District (Owner), the professional services described below for the Project, as outlined in the Master Services Agreement executed by and between Consultant and Owner on [MSA Effective Date]. All services shall be performed in accordance with and shall be subject to the terms and conditions of the Master Services Agreement.

TASK NAME: [TBD]

TASK DESCRIPTION: [TBD]

TASK ORDER BILLING NUMBER: [TBD]

CONSULTANT CONTACT PERSON: [TBD]

OWNER REPRESENTATIVE: [TBD]

SCOPE OF WORK: [TBD]

CONSULTANT EMPLOYEES/SUBCONTRACTORS ASSIGNED TO TASK: [TBD]

APPROVED TASK HOURS SPECIFIC TO EACH EMPLOYEE/SUBCONTRACTOR: [TBD]

TOTAL COMPENSATION: Time and Materials Not to Exceed \$[TBD]

Instructions for Payment: Please reference Task Order Billing Number on Invoice when submitting request for payment. Please submit requests for payment to both the Owner Representative above and enginvoice@fclwd.com.

Fort Collins-Loveland Water District, a quasi-municipal corporation and political subdivision of the State of Colorado
(Owner)

[CONSULTANT], [ENTITY INFORMATION]
(Consultant)

By: _____
Chris Pletcher

By: _____
[NAME]

Title: General Manager

Title: [TITLE]

Date: _____

Date: _____

Address:
5150 Snead Drive
Fort Collins, CO 80525

Address:
[ADDRESS]
[ADDRESS CONTINUED]

Phone: (970) 226-310

Phone: [PHONE NUMBER]