

**AGREEMENT  
FOR PROFESSIONAL SERVICES**

THIS AGREEMENT is made and entered this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between Pueblo, a Municipal Corporation ("Client") and Stantec Architecture Inc. (hereinafter referred to as "Consultant") for Consultant to render professional consulting services for Client with respect to Relocation of Pueblo Transit's Administration and Maintenance Facility and related ancillary services, hereinafter referred to as the "Project." In consideration of the mutual covenants hereinafter set forth, the parties agree as follows:

SECTION 1. GENERAL AND SCOPE OF SERVICES.

(a) Consultant shall perform the professional planning and consulting services for the Project described in more detail in Schedule 1 attached hereto and incorporated herein by reference (the "Basic Services") to Client's reasonable satisfaction. Such services shall include all usual and customary professional services as indicated in RFQ #18-072 including any required drafting or design services incident to its work on the Project. In the event this Agreement follows the selection of Consultant by Client pursuant to a Request for Proposals or RFQ, all of the requirements of that Request for Proposal or RFQ are incorporated herein by reference, unless any requirement is expressly excluded in Schedule 1.

(b) To the extent Consultant performs any of the Project work through subcontractors or subconsultants, Consultant shall be and remain as fully responsible for the full performance and quality of services performed by such subcontractors or subconsultants as it is for services performed directly by Consultant or Consultant's employees.

(c) To the extent Consultant requires access to private property to perform its services hereunder, Consultant shall be required to make arrangements to obtain such access. However, in the event Client has already secured access for Consultant to any such property through a right of entry agreement, access agreement, letter of consent or other instrument, Consultant shall fully comply with and be subject to the terms and conditions set forth therein. A copy of any such instrument will be provided to Consultant upon request.

SECTION 2. CONSULTANT'S RESPONSIBILITIES.

(a) Consultant shall be responsible for the professional quality, technical accuracy and completion of Consultant's work, including that performed by Consultant's subconsultants and subcontractors, and including drawings, reports and other services, irrespective of Client's approval of or acquiescence in same.

(b) Consultant shall be responsible, in accordance with applicable law, to Client for all loss or damage to Client caused by Consultant's negligent act or omission; except that Consultant hereby irrevocably waives and excuses Client and Client's attorneys from compliance with any requirement to obtain a certificate of review as a condition precedent to commencement of an action, including any such requirements set forth in Section 13-20-602, C.R.S. or similar statute, whether now existing or hereafter enacted.

(c) Consultant shall be completely responsible for the safety of Consultant's employees in the execution of work under this Agreement and shall provide all necessary safety and protective equipment for said employees.

(d) Consultant represents that Schedule 3 attached hereto is the schedule by which Consultant proposes to accomplish its work, with time periods for which it will commence and complete each major work item. Except to the extent the parties agree to time extensions for delays beyond the control of Consultant, Consultant shall adhere to this schedule and perform its work in as timely a manner as allowed by the applicable professional standard of

care so as not to delay Client's timetable for achievement of interim tasks and final completion of Project work. Consultant further acknowledges that its schedule has accounted for all reasonably anticipated delays, including those inherent in the availability of tools, supplies, labor and utilities required for the work, the availability of information which must be obtained from any third parties, and all conditions to access to public and private facilities.

(e) Before undertaking any work or incurring any expense which Consultant considers beyond or in addition to the Scope of Service described in Schedule 1 or otherwise contemplated by the terms of this Agreement, Consultant shall advise Client in writing that (i) Consultant considers the work beyond the scope of this Agreement, (ii) the reasons that Consultant believes the out of scope or additional work should be performed, and (iii) a reasonable estimate of the cost of such work. Consultant shall not proceed with any out of scope or additional work until authorized in writing by Client. The compensation for such authorized work shall be negotiated, but in the event the parties fail to negotiate or are unable to agree as to compensation, then Consultant shall be compensated for its direct costs and professional time at the rates set forth in Schedule 2 attached hereto.

### SECTION 3. FEES FOR SERVICES; PAYMENT.

(a) Client will pay to Consultant as full compensation for all services required to be performed by Consultant under this Agreement, except for services for additional work or work beyond the scope of this Agreement, the maximum sum of U.S. \$180,949, computed as set forth in Schedule 2.

(b) Consultant shall submit periodic, but not more frequently than monthly, applications for payment, aggregating to not more than the maximum amount set forth above, for actual professional services rendered and for reimbursable expenses incurred. Applications for payment shall be submitted based upon the hourly rates and expense reimbursement provisions set forth in Schedule 2 attached hereto, and shall contain appropriate documentation that such services have been performed and such expenses incurred. Thereafter, Client shall pay Consultant for the amount of the application within 45 days of the date such application is received.

(c) No separate or additional payment shall be made for profit, overhead, local telephone expenses, lodging, routine photocopying, computer time, secretarial or clerical time or similar expenses unless otherwise provided and listed in Schedule 2.

(d) No compensation shall be paid to Consultant for services required and expenditures incurred in correcting Consultant's mistakes or negligence.

(e) Compensation for authorized work beyond the scope of this Agreement shall be governed by the provisions of Section 2(e).

(f) In the event services under this Agreement are phased and to be performed in more than one fiscal year or are subject to annual appropriation, Consultant acknowledges that funds only in the amount of initial appropriation are available. Client shall provide notice to Consultant in the event Client fails to appropriate funds, and in such event Consultant's obligations under this Agreement shall immediately cease, except for completion of any services paid in advance if any.

### SECTION 4. CLIENT'S RESPONSIBILITIES.

(a) Client agrees to advise Consultant regarding Client's Project requirements and to provide all relevant information, surveys, data and previous reports accessible to Client which Consultant may reasonably require.

(b) Client shall designate a Project Representative to whom all communications from Consultant shall be directed and who shall have limited administrative authority on behalf of Client to receive and transmit information and make decisions with respect to the Project. Said representative shall not, however, have authority to bind Client as to matters of governmental policy or fiscal policy, nor to contract for additions or obligations exceeding a value which is the lesser of \$5000 or 5% of the maximum contract price.

(c) Client shall examine all documents presented by Consultant, and render decisions pertaining thereto within a reasonable time. The Client's approval of any drawings, specifications, reports, documents or other materials or product furnished hereunder shall not in any way relieve Consultant of responsibility for the professional adequacy of its work.

(d) Client shall perform its obligations and render decisions within a reasonable time under the circumstances presented. Based upon the nature of Client and its requirements, a period of 14 days shall be presumed reasonable for any decision not involving policy decision or significant financial impact, when all information reasonably necessary for Client to responsibly render a decision has been furnished. A period of 46 days shall be presumed reasonable for Client to act with respect to any matter involving policy or significant financial impact. The above periods of presumed reasonableness shall be extended where information reasonably required is not within the custody or control of Client but must be procured from others.

#### SECTION 5. TERMINATION.

(a) Client reserves the right to terminate this Agreement and Consultant's performance hereunder, upon thirty (30) days' prior written notice, either for cause or for convenience. Upon such termination, Consultant and its subcontractors shall cease all work and stop incurring expenses, and shall promptly deliver to Client all data, drawings, specifications, reports, plans, calculations, summaries and all other information, documents, work product and materials as Consultant may have accumulated in performing this Agreement, together with all finished work and work in progress.

(b) Upon termination of this Agreement for events or reasons not the fault of Consultant, Consultant shall be paid at the rates specified in Schedule 2 for all services rendered and reasonable costs incurred to date of termination; together with any reasonable costs incurred within 10 days of termination provided such latter costs could not be avoided or were incurred in mitigating loss or expenses to Consultant or Client. In no event shall payment to Consultant upon termination exceed the maximum compensation provided for complete performance in Section 3(a).

(c) In the event termination of this Agreement or Consultant's services is for breach of this Agreement by Consultant, or for other fault of Consultant including but not limited to any failure to timely proceed with work, or to pay its employees and consultants, or to perform work according to the highest professional standards, or to perform work in a manner deemed satisfactory by Client's Project Representative, then in that event, Consultant's entire right to compensation shall be limited to the lesser of (a) the reasonable value of completed work to Client or (b) payment at the rates specified in Schedule 2 for services performed to Client's reasonable satisfaction and reimbursable expenses reasonably incurred, prior to date of termination.

(d) Consultant's professional responsibility for its completed work and services shall survive any termination.

(e) Consultant may terminate this Agreement upon thirty (30) days notice in writing in the event Client has committed material breach of this Agreement. Non-payment of payments authorized and owed under this Agreement will be considered a material breach of this Agreement.

## SECTION 6. SITE ACCESS.

In the event the Project will require access to property not under the control of Client, Consultant and Consultant's employees and consultants shall obtain all additional necessary approval and clearances required for access to such property. Client shall assist Consultant in obtaining access to such property at reasonable times but makes no warranty or representation whatsoever regarding access to such property. Notwithstanding the foregoing, Consultant understands and agrees that entry to some property by Consultant may be subject to compliance by Consultant with the terms and conditions of an access agreement in accordance with section 1(c) of this Agreement.

## SECTION 7. USE OF DOCUMENTS.

(a) Upon full payment of all monies authorized and owed to Consultant under this Agreement, plans, drawings, designs, specifications, reports and all other documents ("Work Product") prepared or provided by Consultant hereunder shall become the sole property of Client, subject to applicable federal grant requirements, and Client shall be vested with all rights therein of whatever kind and however created, whether by common law, statute or equity. Client shall have access at all reasonable times to inspect and make copies of all notes, designs, drawings, specifications, and all other technical data or other documents pertaining to the work to be performed under this Agreement. In no event shall Consultant publish work product developed pursuant to this Agreement except (i) with advance written consent of Client, which consent may be granted or withheld in Client's sole and absolute discretion and (ii) in full compliance with the requirements of this Agreement and applicable federal regulations.

## SECTION 8. INSURANCE AND INDEMNITY.

(a) Consultant agrees that it shall procure and will maintain during the term of this Agreement, such insurance as will protect it from claims under workers' compensation acts, claims for damages because of personal injury including bodily injury, sickness or disease or death of any of its employees or of any person other than its employees, and from claims or damages because of injury to or destruction of property including loss of use resulting therefrom; and such insurance will provide for coverage in such amounts as set forth in subparagraph (b).

(b) The minimum insurance coverage which Consultant shall obtain and keep in force is as follows:

(i) Workers' Compensation Insurance complying with statutory requirements in Colorado and in any other state or states where the work is performed. The Workers' Compensation Insurance policy shall contain an endorsement waiving subrogation against the Client.

(ii) Commercial General Liability Insurance. The Consultant shall secure and maintain during the period of this agreement/contract and for such additional time as work on the project is being performed, Commercial General Liability Insurance issued to and covering the liability of the contractor with respect to all work performed by him and all his subcontractors under the agreement/ contract, to be written on a comprehensive policy form. This insurance shall be written in amounts not less than \$1,000,000 for each occurrence and aggregate for personal injury including death and bodily injury and \$1,000,000 for each occurrence and aggregate for property damage. This policy of insurance shall name the City of Pueblo, its agents, officers and employees as additional insureds. This policy shall have all necessary endorsements to provide coverage without exclusion for explosion and collapse hazards, underground property damage hazard, blanket contractual coverage, as well as Owner's and Contractor's Protective Liability (OCP) coverage. The policy shall also provide coverage for contractual liability assumed by Contractor under the provisions of the Agreement/Contract, and "Completed Operations and Projects Liability" coverage.

(iii) Professional Liability Insurance with coverage of not less than \$1,000,000, and with a deductible of not more than \$5,000.

(iv) Comprehensive Automobile Liability Insurance. The Consultant shall procure and maintain during the period of the agreement/contract and for such additional time as work on the project is being performed, Comprehensive Automobile Liability Insurance. This insurance shall be written with limits of liability for and injury to one person in any single occurrence of not less than \$350,000 and for any injury to two or more persons in any single occurrence of not less than \$1,000,000. This insurance shall include uninsured/underinsured motorist coverage and shall protect the Consultant from any and all claims arising from the use both on and off the site of the project of automobiles, trucks, tractors, backhoes and similar equipment whether owned, leased, hired or used by Consultant.

(c) Consultant agrees to hold harmless and indemnify (but not defend) Client from and against any liability to third parties, arising out of negligent acts or omissions of Consultant, its employees, subcontractors and consultants.

#### SECTION 9. SUBCONTRACTS.

(a) Client acknowledges that Consultant is the prime contractor and the only party with whom Client has a contractual relationship under this Agreement. To the extent Consultant performs any Project activities through subconsultants or subcontractors, Consultant shall contractually bind each of its subconsultants and subcontractors by subcontract agreement to all of the terms of this Agreement which are for the benefit of Client, and Client shall be a third party beneficiary of those subcontract provisions.

(b) Consultant shall indemnify Client from all claims and demands for payment for services provided by subcontractors of Consultant.

(c) Consultant acknowledges that, due to the nature of the services to be provided under this Agreement, the Client has a substantial interest in the personnel and consultants to whom Consultant assigns principal responsibility for services performed under this Agreement. Consequently, Consultant represents that it has selected and intends to employ or assign the key personnel and consultants identified in its proposal submitted to Client prior to execution of this Agreement to induce Client to enter this Agreement. Consultant shall not change such consultants or key personnel except after giving notice of a proposed change to Client and receiving Client's consent thereto. Consultant shall not assign or reassign Project work to any person to whom Client has reasonable objection.

#### SECTION 10. REQUIRED FEDERAL PROVISIONS.

(a) Consultant understands that Client may be funding the Project in whole or part with funds provided by Federal Metropolitan Planning Funds and the Federal Transit Agency. Consultant agrees it is subject to and shall comply with all applicable provisions of said grant as indicated in Schedule 4, the Act under which the contract award has been made, and applicable regulations. The provisions of Schedule 4 which are in direct conflict with and cannot be deemed a alternative remedy of Client shall supersede the provisions of this Agreement.

(b) Consultant shall comply with all applicable Federal, State, and local laws applicable to its activities.

(c) All records with respect to any matters covered by this Agreement shall be available for inspection by City at any time during normal business hours and as often as City deems necessary, to audit, examine and make excerpts or transcripts of relevant information, and otherwise to perform its official functions or duties.

#### SECTION 11. MISCELLANEOUS.

(a) Notices. Any and all notices or other communications required or permitted by this Agreement or by law to be served on or given to either Consultant or Client by the other party shall be in writing and shall be

deemed duly served and given when personally delivered to the party to whom it is directed, or in lieu of such personal service, when deposited in the United States mail, first-class postage prepaid, addressed to the Client, Attention: City, Attn: Pepper Whittlef, 350 Alan Hamel Ave, Pueblo, Colorado, 81003 or to Consultant at Stantec Architecture Inc., Attn: Merlin Maley, 1050 17<sup>th</sup> Street, Denver, CO 80265. Either party may change his address for the purpose of this paragraph by giving written notice of such change to the other party in the manner provided in this paragraph.

(b) Entire Agreement. This instrument contains the entire agreement between Consultant and Client respecting the Project, and any other written or oral agreement or representation respecting the Project or the duties of either Client or Consultant in relation thereto not expressly set forth in this instrument and its attachments is null and void. In the case of any conflict between the terms of this Agreement for Professional Services and terms of Schedule 1 or any other attachment hereto, the terms of this Agreement shall govern.

(c) Successors and Assigns. This Agreement shall be binding on the parties hereto and on their successors and assigns; provided, however, neither this Agreement, nor any part thereof, nor any moneys due or to become due hereunder to Consultant may be assigned by it without the written consent of Client, which consent may be withheld in Client's sole and absolute discretion. Any assignment or attempted assignment in violation of this subsection shall be void.

(d) Amendments. No amendment to this Agreement shall be made nor be enforceable unless made by written amendment signed by an authorized representative of Consultant and by Client in accordance with the requirements of Section 4(b) of this Agreement or upon authorization of Client's governing board.

(e) Choice of Law. This Agreement shall be governed and interpreted in accordance with the laws of the State of Colorado. Any unresolved dispute arising from or concerning any breach of this Agreement shall be decided in a state court of competent jurisdiction located in Pueblo, Colorado.

(f) Equal Employment Opportunity. In connection with the performance of this Agreement, neither Consultant nor its consultants shall discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, disability or age. Consultant shall endeavor to insure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, national origin, disability or age.

(g) Severability. If any provision of this Agreement, except for Section 2, is determined to be directly contrary to and prohibited by law or the requirements of any federal grant or other Project funding source, then such provision shall be deemed void and the remainder of the Agreement enforced. However, it is the intent of the parties that Section 2 of this Agreement not be severable, and that if any provision of said section be determined to be contrary to law or the terms of any federal grant, then this entire Agreement shall be void.

## SECTION 12. STATE-IMPOSED MANDATES PROHIBITING ILLEGAL ALIENS FROM PERFORMING WORK

(a) At or prior to the time for execution of this Agreement (which may be referred to in this section as this "Contract"), Consultant (which may be referred to in this section as "Contractor") shall submit to the Purchasing Agent of City its certification that it does not knowingly employ or contract with an illegal alien who will perform work under this Contract and that the Contractor will participate in either the "E-Verify Program" created in Public Law 208, 104<sup>th</sup> Congress, as amended and expanded in Public Law 156, 108<sup>th</sup> Congress, as amended, that is administered by the United States Department of Homeland Security or the "Department Program" established pursuant to §8-17.5-102(5)(c) C.R.S. that is administered by the Colorado Department of Labor and Employment in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Contract.

(b) Contractor shall not:

(I) Knowingly employ or contract with an illegal alien to perform work under this contract;

(II) Enter into a contract with a subconsultant that fails to certify to Contractor that the subconsultant shall not knowingly employ or contract with an illegal alien to perform work under this Contract.

(c) The following state-imposed requirements apply to this contract:

(I) The Contractor shall have confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Contract through participation in either the E-Verify Program or Department Program.

(II) The Contractor is prohibited from using either the E-Verify Program or Department Program procedures to undertake pre-employment screening of job applicants while this Contract is being performed.

(III) If the Contractor obtains actual knowledge that a subcontractor or subconsultant performing work under this Contract knowingly employs or contracts with an illegal alien, the Contractor shall be required to:

A. Notify the subconsultant and the Client's Purchasing Agent within three (3) days that the Contractor has actual knowledge that the subcontractor/subconsultant is employing or contracting with an illegal alien; and

B. Terminate the subcontract with the subcontractor/subconsultant if within three (3) days of receiving the notice required pursuant to subparagraph (c)(III)A. above the subcontractor/subconsultant does not stop employing or contracting with the illegal alien; except that the Contractor shall not terminate the contract with the subcontractor/subconsultant if, during such three (3) days, the subcontractor/subconsultant provides information to establish that the subcontractor/subconsultant has not knowingly employed or contracted with an illegal alien.

(IV) The Contractor is required to comply with any reasonable request by the Colorado Department of Labor and Employment (hereinafter referred to as "CDLE") made in the course of an investigation that CDLE is undertaking pursuant to its authority under §8-17.5-102(5), C.R.S.

(d) Violation of this Section 12 by the Contractor shall constitute a breach of contract and grounds for termination. In the event of such termination, the Contractor shall be liable for Client's actual damages.

(e) As used in this Section 12, the terms "subcontractor" and "subconsultant" shall mean any subconsultant or subcontractor of Consultant rendering services within the scope of this Agreement.

### SECTION 13. PERA LIABILITY

Consultant shall reimburse the City for the full amount of any employer contribution required to be paid by the City of Pueblo to the Public Employees' Retirement Association ("PERA") for salary or other compensation paid to a PERA retiree performing contracted services for the City under this Agreement. The Consultant shall fill out the questionnaire attached as Exhibit A and submit the completed form to Client as part of the signed Agreement.

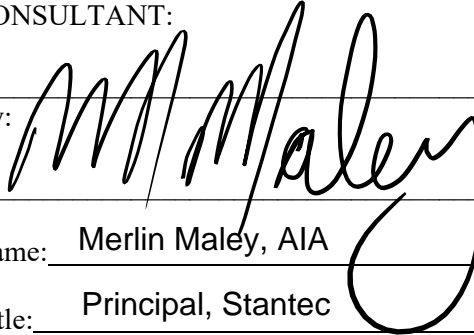
SECTION 14. LIMITATION OF LIABILITY

The total amount of all claims Client may have against Consultant under this Agreement or arising from the performance or non-performance of the services under any theory of law, including but not limited to claims for negligence, negligent misrepresentation and breach of contract, shall be strictly limited to the lesser of the fees or \$200,000. As Client's sole and exclusive remedy under this Agreement any claim, demand or suit shall be directed and/or asserted only against Consultant and not against any of Consultant's employees, officers or directors.

Neither Client nor Consultant shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected to this Agreement or the performance of the services on this Project. This mutual waiver includes, but is not limited to, damages related to loss of use, loss of profits, loss of income, unrealized energy savings, diminution of property value or loss of reimbursement or credits from governmental or other agencies.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the day and year first above written.

CONSULTANT:

By:   
Name: Merlin Maley, AIA  
Title: Principal, Stantec

CITY OF PUEBLO, A MUNICIPAL CORPORATION

By \_\_\_\_\_  
President of the City Council

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
City Attorney



**Schedule 1 & 2**  
**Scope of Services and Fees**



Review Draft Program with stakeholders.	X	X		X		1	Pre-meeting Agenda 3 hour meeting	0 \$ -	3 \$ 468	3 \$ 510	0 \$ -	0 \$ -	0 \$ -	0 \$ -	0 \$ -	0 \$ -
Stakeholder Review: Draft Space Needs Program	X					5	Comments on Space Needs Program	0 \$ -	0 \$ -	0 \$ -	0 \$ -	0 \$ -	0 \$ -	0 \$ -	0 \$ -	0 \$ -
Draft Space Needs Program Revisions		X				5	Revised Program	1 \$ 205	10 \$ 1,560	2 \$ 340	0 \$ -	2 \$ 420	0 \$ -	2 \$ 420	0 \$ -	0 \$ -
Stakeholder Review: Final Space Needs Program	X					1	Final Sign-Off	0 \$ -	0 \$ -	0 \$ -	0 \$ -	0 \$ -	0 \$ -	0 \$ -	0 \$ -	0 \$ -
Task # 2 Expenses (printing, hotel, mileage, meals)		X					Travel = \$135/Trip Meals = \$15/Person/Day Printing = \$200									\$ 545
<b>SUBTOTAL</b>					Working Days	<b>30</b>		<b>10 \$ 2,050</b>	<b>56 \$ 8,736</b>	<b>18 \$ 3,060</b>	<b>0 \$ -</b>	<b>13 \$ 2,730</b>	<b>0 \$ -</b>	<b>5 \$ 1,050</b>	<b>0 \$ -</b>	<b>0 \$ 545</b>
<b>TASK # 3: SITE EVALUATION PROCESS (10 SITES)</b>																
<b>DELIVERABLES</b>																
Develop Site Evaluation Criteria with Stakeholders - Developed with Goals & Vision and Space Needs Program - 3 Level Evaluation Process	X	X		X		1	Pre-meeting Agenda	0 \$ -	8 \$ 1,248	16 \$ 2,720	0 \$ -	0 \$ -	0 \$ -	0 \$ -	0 \$ -	0 \$ -
Prepare Draft Site Evaluation Criteria		X				5	List of Criteria	1 \$ 205	2 \$ 312	8 \$ 1,360	0 \$ -	0 \$ -	0 \$ -	0 \$ -	0 \$ -	0 \$ -
Stakeholder Review: Draft Site Evaluation Criteria	X	X				3	Comments on Criteria	0 \$ -	0 \$ -	0 \$ -	0 \$ -	0 \$ -	0 \$ -	0 \$ -	0 \$ -	0 \$ -
Finalize Site Evaluation Criteria		X				1	Comments on Criteria	0 \$ -	0 \$ -	4 \$ 680	0 \$ -	0 \$ -	0 \$ -	0 \$ -	0 \$ -	0 \$ -
Level 1 Analysis of Potential Sites		X				5	Findings from Analysis (10 Sites)	0 \$ -	3.5 \$ 546	14.5 \$ 2,465	7.5 \$ 750	7.5 \$ 1,575	0 \$ -	11 \$ 2,310	0 \$ -	0 \$ -
Level 1 Stakeholder Presentation/Discussion	X	X		X		1	2 hour meeting	1 \$ 205	2 \$ 312	4 \$ 680	0 \$ -	0 \$ -	0 \$ -	0 \$ -	0 \$ -	0 \$ -
Level 2 Analysis of Potential Sites		X				5	Findings from Analysis (5-6 Sites)	0 \$ -	4 \$ 624	32 \$ 5,440	8 \$ 800	8 \$ 1,680	0 \$ -	12 \$ 2,520	0 \$ -	0 \$ -
Level 2 Stakeholder Presentation/Discussion	X	X		X		1	2 hour meeting	1 \$ 205	2 \$ 312	4 \$ 680	0 \$ -	0 \$ -	0 \$ -	0 \$ -	0 \$ -	0 \$ -
Level 3 Analysis of Potential Sites		X				5	Findings from Analysis	0 \$ -	20 \$ 3,120	20 \$ 3,400	0 \$ -	12 \$ 2,520	0 \$ -	12 \$ 2,520	0 \$ -	0 \$ -
Level 3 Stakeholder Presentation/Discussion	X	X		X		1	2 hour meeting	1 \$ 205	2 \$ 312	2 \$ 340	0 \$ -	2 \$ 420	0 \$ -	0 \$ -	0 \$ -	0 \$ -
Environmental Screening of 10 sites (no detailed field studies)		X				5	Environmental Screening of 10 sites (no detailed field studies)	0 \$ -	0 \$ -	0 \$ -	0 \$ -	8 \$ 1,680	40 \$ 4,600	0 \$ -	0 \$ -	0 \$ -
Prepare Draft Level 1,2 & 3 Report		X				5	Level 1,2&3 Report	0 \$ -	4 \$ 624	20 \$ 3,400	8 \$ 800	12 \$ 2,520	0 \$ -	12 \$ 2,520	0 \$ -	0 \$ -
Review Draft Level 1,2 & 3 Report with Stakeholders	X	X		X		1	Level 1,2&3 Report	0 \$ -	8 \$ 1,248	8 \$ 1,360	0 \$ -	0 \$ -	0 \$ -	0 \$ -	0 \$ -	0 \$ -
Stakeholder Review: Draft Level 1,2 & 3 Report	X					1	Comments on Level 1,2&3 Report	0 \$ -	0 \$ -	0 \$ -	0 \$ -	0 \$ -	0 \$ -	0 \$ -	0 \$ -	0 \$ -
Task # 3 Expenses (printing, hotel, mileage, meals)		X					Travel = \$135/Trip Meals = \$15/Person/Day Printing = \$200									\$ 365
<b>SUBTOTAL</b>					Working Days	<b>35</b>		<b>4 \$ 820</b>	<b>55.5 \$ 8,658</b>	<b>132.5 \$ 22,525</b>	<b>23.5 \$ 2,350</b>	<b>49.5 \$ 10,395</b>	<b>40 \$ 4,600</b>	<b>47 \$ 9,870</b>	<b>0 \$ -</b>	<b>0 \$ 365</b>
<b>TASK # 4: MASTER PLANNING - TOP 2 LEVEL 3 PREFERRED SITES</b>																
<b>DELIVERABLES</b>																
Internal Stantec Master Plan Hot Start		X				3	Generated concepts before charrette	4 \$ 820	20 \$ 3,120	4 \$ 680	8 \$ 800	0 \$ -	0 \$ -	0 \$ -	0 \$ -	0 \$ -
3 Day Master Plan Charrette	X	X		X		3	(3) Review Meetings, 2 hours eachday + on-site work session	0 \$ -	24 \$ 3,744	0 \$ -	24 \$ 2,400	0 \$ -	0 \$ -	0 \$ -	0 \$ -	0 \$ -
Draft Master Plan Charrette Outcome		X						0 \$ -	0 \$ -	0 \$ -	0 \$ -	0 \$ -	0 \$ -	0 \$ -	0 \$ -	0 \$ -
- Preferred Mater Plan & Design Concept		X				3	Hard-lined, CAD based site plan and illustrative	1 \$ 205	2 \$ 312	4 \$ 680	16 \$ 1,600	0 \$ -	0 \$ -	0 \$ -	0 \$ -	0 \$ -
- Existing Site & Facilities Recommendations		X				1	Hard-lined, CAD based site plan and illustrative	1 \$ 205	2 \$ 312	4 \$ 680	8 \$ 800	0 \$ -	0 \$ -	4 \$ 840	0 \$ -	0 \$ -

- Off-Site Improvement Recommendations		X				1	Narrative	1	\$ 205	2	\$ 312	4	\$ 680	0	\$ -	0	\$ -	0	\$ -	4	\$ 840	0	\$ -	0	\$ -
- Phasing Plans for All On-Site and Off-Site Recommendations		X				3	Hard-lined, CAD based phasing plans	1	\$ 205	2	\$ 312	4	\$ 680	8	\$ 800	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -
- Cost Estimate for All On-Site and Off-Site Recommendations		X				5	Independent estimate with contingencies & escalation		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ 5,000		\$ -
- Land Acquisition Cost Estimate		X				5	Independent estimate with contingencies & escalation		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ -		\$ 5,000		\$ -
- Agency Consultation Letters for CATEX Compliance		X				2	Agency Consultation Letters for CATEX Compliance	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -	8	\$ 920	0	\$ -	0	\$ -	0	\$ -
- Environmental Analysis (CATEX)		X				15	*FTA CATEX Checklist on Selected Option (no detailed field or technical studies included)	0	\$ -	2	\$ 312	2	\$ 340	0	\$ -	12	\$ 2,520	80	\$ 9,200	0	\$ -	0	\$ -	0	\$ -
Review Preferred Master Plan Recommendations with Stakeholders	X	X		X		1	2 to 3 hour meeting	0	\$ -	8	\$ 1,248	8	\$ 1,360	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -
Preferred Master Plan Recommendations Revisions		X				5	Revised Document	0	\$ -	6	\$ 936	6	\$ 1,020	16	\$ 1,600	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -
Stakeholder Review: Preferred Master Plan Recommendations	X	X				1	Final Sign-Off	1	\$ 205	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -
Task # 4 Expenses (printing, hotel, mileage, meals)		X					Travel = \$135/Trip Meals = \$15 - \$45/Person/Day Lodging = \$130/Person/Night Printing = \$200																	\$ 1,080	
<b>SUBTOTAL</b>					Working Days	<b>25</b>		<b>9</b>	<b>\$ 1,845</b>	<b>68</b>	<b>\$ 10,608</b>	<b>36</b>	<b>\$ 6,120</b>	<b>80</b>	<b>\$ 8,000</b>	<b>12</b>	<b>\$ 2,520</b>	<b>88</b>	<b>\$ 10,120</b>	<b>8</b>	<b>\$ 1,680</b>	<b>0</b>	<b>\$ 10,000</b>	<b>0</b>	<b>\$ 1,080</b>
<b>TASK # 5: FINAL REPORT</b>																									
<b>DELIVERABLES</b>																									
Review Final Report Table of Contents, Outline & Format	X	X		X		1	1 hour meeting	0	\$ -	8	\$ 1,248	8	\$ 1,360	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -
Develop Draft Report		X				15	Document	1	\$ 205	20	\$ 3,120	20	\$ 3,400	40	\$ 4,000	8	\$ 1,680	0	\$ -	8	\$ 1,680	0	\$ -	0	\$ -
Stakeholder Review: Draft Report	X					5	Report Comments	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -
Review Draft Report with Stakeholders	X	X		X		1	2 hour meeting	0	\$ -	2	\$ 312	2	\$ 340	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -
Draft Report Revisions		X				5	Revised Document	1	\$ 205	4	\$ 624	4	\$ 680	10	\$ 1,000	4	\$ 840	0	\$ -	4	\$ 840	0	\$ -	0	\$ -
Deliver Final Report to Stakeholders		X				3	Final Sign-Off	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -	0	\$ -
Task # 4 Expenses (printing, hotel, mileage, meals)		X					Travel = \$135/Trip Meals = \$15/Person/Day Printing = \$200																	\$ 365	
<b>SUBTOTAL</b>					Working Days	<b>30</b>		<b>2</b>	<b>\$ 410</b>	<b>34</b>	<b>\$ 5,304</b>	<b>34</b>	<b>\$ 5,780</b>	<b>50</b>	<b>\$ 5,000</b>	<b>12</b>	<b>\$ 2,520</b>	<b>0</b>	<b>\$ -</b>	<b>12</b>	<b>\$ 2,520</b>	<b>0</b>	<b>\$ -</b>	<b>0</b>	<b>\$ 365</b>
<b>TOTAL</b>					<b>Total Working Days</b>	<b>170</b>		<b>40</b>	<b>\$ 8,200</b>	<b>281.5</b>	<b>\$ 43,914</b>	<b>284.5</b>	<b>\$ 48,365</b>	<b>153.5</b>	<b>\$ 15,350</b>	<b>99.5</b>	<b>\$ 20,895</b>	<b>128</b>	<b>\$ 14,720</b>	<b>79</b>	<b>\$ 16,590</b>	<b>0</b>	<b>\$ 10,000</b>	<b>0</b>	<b>\$ 2,915</b>
<b>TOTAL FEE</b>																							<b>\$</b>		<b>180,949</b>

\* Need for detailed environmental studies specific to a resource is outside the scope of this labor/cost proposal.

**Schedule 3**  
**Project Schedule**





## **Schedule 4**

### **FTA Regulatory Compliance Clauses**

Reference to “Bidders and bids” is interchangeable to references to “Proposer and proposals”

#### **1.0 FTA FUNDING REQUIREMENT**

The Federal Transit Administration may finance this project in part or in whole. Accordingly, federal requirements apply to this Contract and if those requirements change, then the changed requirements shall apply to the project as required. Notwithstanding any involvement of the FTA in this Contract, the federal government shall have no obligations or liabilities to any third-party Contractor. City and the Contractor/Consultant recognize that the requirements of the Program Fraud Civil Remedies Act of 1986, as amended, 49 U.S.C. 3801 et seq. and U.S. DOT regulations, “Program Fraud Civil Remedies, “ 49 CFR Part 31, apply to actions pertaining to this Contract. City and the Contractor/Consultant also agree to comply with the requirements of 49 U.S. C. 5323 (h) (2) by refraining from the use of any FTA assistance to support procurements using exclusionary or discriminatory specifications. City also agrees to refrain from using state or local geographic restrictions unless otherwise allowed by FTA.

#### **2.0 MAINTENANCE, AUDIT AND INSPECTION OF RECORDS**

The Contractor/Consultant shall permit the authorized representatives of City, the United States Department of Transportation and the Comptroller General of the United States to inspect, audit, make copies and transcriptions of all work, materials, payrolls and other data and records of the Contractor/Consultant relating to its performance under the Contract. The Contractor/Consultant shall maintain all such records for a period of three (3) years after City makes final payment under this Contract.

#### **3.0 INTEREST OF MEMBERS OF, OR DELEGATES TO CONGRESS**

No member of or delegate to the Congress of the United States shall be admitted to any share or part of this Contract or to any benefit arising from it.

#### **4.0 ENERGY CONSERVATION**

The Contractor/Consultant shall recognize mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42U.S.C. Section 6321 et seq.).

#### **5.0 TITLE VI COMPLIANCE**

During the performance of this Contract, the Contractor/Consultant shall comply with all requirements of the Civil Rights act of 1964, as amended; the regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation Title 49, Code of Federal Regulations, Part 21, as they may



be amended from time to time; and any implementing requirements of FTA; all of which are incorporated by reference and made a part of this Contract.

## **6.0 EQUAL EMPLOYMENT OPPORTUNITY**

In connection with the execution of this Contract, the Contractor/Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, gender, disability, age, national origin, ancestry, marital status, pregnancy, medical condition, or sexual orientation. The Contractor/Consultant shall take affirmative action to insure that applicants are employed, and the employees are treated during their employment, without regard to their race, color, religion, gender, disability, age, national origin, ancestry, marital status, pregnancy, medical condition, or sexual orientation. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor/Consultant shall comply with any implementing regulations FTA may issue.

## **7.0 ACCESS REQUIREMENTS FOR INDIVIDUALS WITH DISABILITIES**

The Contractor/Consultant agrees to comply with all applicable requirements of the American with Disabilities Act of 1990 (ADA), 42 U.S.C. Sections 12101 *et seq.* and 49 U.S.C. Section 322; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. Section 794; Section 16 of the Federal Transit Act, as amended; 49 U.S. C. App. Section 612; and implementing regulations and requirements of FTA, as amended.

## **8.0 COVENANTS AGAINST GRATUITIES**

Contractor/Consultant shall not offer or provide gifts, favors, entertainment, or any other gratuities of monetary value to any official, employee, or agent of City during the period of this Contract or for a period of one year thereafter.

## **9.0 NON-COLLUSION AFFIDAVIT**

By submitting a bid, the Bidder represents and warrants that such bid is genuine and not a sham, or collusive, or made in the interest or in behalf of any person not herein named, and that the bidder has not, directly or indirectly, induced or solicit any other bidder to put in a sham bid, or any person, firm or corporation to refrain from bidding, and that the bidder had not in any manner sought by collusion to secure to the bidder an advantage over any other bidder.

## **10.0 PENALTY FOR COLLUSION**

If, at any time, it shall be found that the person, firm or corporation to whom a Contract has been awarded has, in presenting any bid or bids, colluded with any other party or parties, then the Contract so awarded shall be null and void and the Contractor and its bondsmen shall be liable to City for all loss or damage

which City may suffer thereby and the Board of Directors may advertise for a new Contract for said labor, supplies, materials or equipment.

## **11.0 BID PROTEST PROCEDURES**

### 11.1 General Procedures

- a. Any Bidder or Contractor whose direct economic interest would be affected by the award of the Contract or the failure to award the Contract may file a protest, claim or dispute with City pursuant to these protest procedures prior to filing any protest, claim or dispute with the FTA.
- b. Protests, claims or disputes, where applicable, shall be in writing and filed with the City of Pueblo directed to the Director of Purchasing, 230 S. Mechanic Street, Pueblo, CO 81003.

### 11.2 Protest Before Bid Opening

Protests with respect to an Invitation for Bid or Request for Proposal shall be submitted in writing prior to the opening of bids or the closing date of proposals, unless the aggrieved person did not know and could not have known of the facts giving rise to such protest prior to bid opening or the closing date for proposals. In that case, the protest shall be submitted within five (5) calendar days after such aggrieved person knows or should have known of the facts giving rise to the protest. The protest shall clearly identify:

- a. the name, address, and telephone number of the protester
- b. the grounds for the protest, any and all documentation to support the protest and the relief sought
- c. steps that have been taken to date in an attempt to correct the alleged problem or concern.

### 11.3 Protest After Award

- a. Any individual or entity may file a protest with City alleging a violation of applicable federal, state law and/or City policy or procedure relative to seeking, evaluating and/or awarding a procurement Contract. In addition, any individual or entity may file a protest with City alleging that City has failed to follow its Procurement Protest Procedures. Such protest must be filed no later than five (5) calendar days from the notice of award or non-award of the procurement Contract.
- b. A protest, dispute or claim with respect to the award of a contract either through solicitation of bids or proposals or through direct negotiation shall be submitted in writing within five (5) days of notification of such award to the City of Pueblo's Director of Purchasing for a decision. All claims shall clearly identify:
  1. the name, address, and telephone number of the protester
  2. the grounds for the protest and the relief sought

3. the steps that have been taken to date in an attempt to correct the alleged problem or concern
4. supporting documents

A written decision by the City of Pueblo's Director of Purchasing stating the grounds for allowing or denying the protest will be mailed to the protestor prior to execution of the Contract. Such decision shall be final unless the Board of Directors accepts an appeal of the Director of Purchasing decision.

c. FTA Protest Procedures

FTA will only review protests regarding the alleged failure of City to have written protest procedures, or the alleged failure to follow such procedures. An alleged violation on other grounds are under the jurisdiction of the appropriate State or local administrative or judicial authorities. Alleged violations of a specific Federal requirement that provides an applicable complaint procedure shall be submitted and processed in accordance with the Federal regulation.

FTA will only review protest submitted by an intercede party as defined in FTA 4220.1C. FTA's decision on any appeal will be final.

## **12.0 TERMINATION/RESOLUTION OF DISPUTES**

### 12.1 Termination for Convenience of City

In accordance with the provisions of 48 CFR 52.249.2 (Code of Federal Regulations, the performance of work or delivery of products under this Contract may be terminated in whole or in part by City upon written notice to the Contractor in accordance with this clause whenever City determines that such termination is in its best interests. After receipt of said notice, Contractor shall stop work on this Contract on the date and to the extent specified in said notice. After receipt of said notice, Contractor shall submit to City its termination claim setting forth Contractor's actual, direct and unavoidable costs incurred which cannot be canceled as a result of said termination, together with such information as may be required by City to evaluate the claim. The determination of City on the claim shall be final.

### 12.2. Termination for Default

In accordance with the provisions of 48 CFR 52.249-8 (Code of Federal Regulations), if the Contractor should be in default and fails to remedy this default within ten (10) calendar days after receipt from City of such notice of default, City may in its discretion terminate this Contract or such portion thereof as City determines is most directly affected by the default. The term "Default" for purposes of this provision includes, but is not limited to, the performance of work in violation of the terms of this Contract; abandonment, assignment, or subletting of this Contract without approval of City; bankruptcy or appointment of a receiver for Contractor's property; failure of

Contractor to perform the services or other required acts within the time specified for in this Contract or any extension thereof; refusal or failure to provide proper workmanship; failure to take effective steps to end a prolonged labor dispute; and the performance of this Contract in bad faith.

### 12.3 Termination for Force Majeure

The performance of work under this Contract may be terminated by City, in its discretion, upon application therefore by the Contractor for unforeseen causes beyond the control and without the fault or negligence of the Contractor, including acts of God, acts of the public enemy, governmental acts, fires and epidemics whose causes irrecoverably disrupt or render impossible the Contractor's performance thereunder. An "act of God" shall mean an earthquake, flood, cyclone, or other cataclysmic phenomenon of nature beyond the power of the Contractor to foresee or make preparation in defense against.

### 12.4 Remedies for Breach of Contract

- a. Penalty for failure to complete Contract: In case of failure on the part of the Contractor to complete its Contract within the specified time or within authorized extensions thereof, the Contract may be terminated and City, in such event, not thereafter, shall not pay the Contractor any further compensation for any labor, supplies or materials furnished by it under said Contract; and the Board may proceed to complete such Contract either by relating in writing or otherwise and the Contractor and its bondsmen shall be liable to City for all loss or damage which it may suffer due to the Contractor's failure to completed its Contract within such time.
- b. Failure to meet Contract requirements: When the Contractor fails to meet the requirements of the Contract, the product or service may be brought from any source by City, and if a greater price than that named in the Contract is paid by City, the excess price will be charged to and collected from the Contractor.

## 13.0 DISADVANTAGED BUSINESS ENTERPRISES

City hereby notifies all respondents that recipients of Federal financial assistance from the Department of Transportation, Federal Transit Administration, are committed to and have adopted a Disadvantaged (Minority/Women) Business Enterprise (DBE) Policy, in accordance with federal regulations issued by the Department of Transportation.

This DBE Policy provides that DBE's will be afforded every practicable opportunity to submit bids and to participate in the performance of all Contracting activities.

The DBE goal for this procurement is a five (5) percent DBE GOAL.

A Disadvantaged Business Enterprise of DBE means a small business concern of which at least 51% is owned by one or more socially and economically disadvantaged individuals, including women, or, in the case of any publicly-owned business, at least 51% of the stock is owned by one or more socially and

economically disadvantaged individuals; and whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

“Socially and economically disadvantaged individuals” means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are African Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Asian-Indian Americans, or Women; and any other minorities or individuals found to be disadvantaged by criteria as defined in Section 8(a) of the Small Business Act, as amended, and implementing regulations.

#### **14.0 FEDERAL CHANGES**

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives; including without limitation those listed directly or by reference in the Agreement between the Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor’s failure to so comply shall constitute a material breach of this contract.

#### **15.0 INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS**

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E, dated June 19, 2003, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any City of Pueblo or City requests which would cause Contractor to be in violation of the FTA terms and conditions.

#### **(a) 16.0 NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTIES**

City and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to City, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

#### **PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS**

The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S.DOT regulations, “Program Fraud Civil remedies,” 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may

make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.