



REQUEST FOR PROPOSAL (RFP) 19-015 Benefits Consultant

The City of Montrose (City) is requesting proposals from qualified firms to provide benefit consulting services for employee benefit related programs, to assist in the compliance of Federal and State Laws, and to assist the City in benefit request for proposal processes. Qualified firms will have extensive experience in performing insurance analysis, working with other benefit vendors, and assistance with plan recommendations for a self-insured City plan.

Proposals shall be submitted in a single Microsoft Word or PDF file under 20MB and e-mailed to: twilcox@ci.montrose.co.us. If electing to submit hard copy proposals instead, six (6) copies, will be received at the City of Montrose HR Department, 433 South First Street, Montrose, Colorado 81401. **Proposals must be received before 3:00 p.m. (our clock), May 20, 2019.** If delivered, they are to be sent to 433 South First Street, City Hall, Montrose, Colorado 81401. If mailed, the address is P.O. Box 790, Montrose, 81402-0790. **Please note, additional time is required for bids mailed to the PO Box to be received at the Human Resources Office.**

Questions concerning the scope of the bid or the bid submittal process should be directed to Terri Wilcox at (970) 240-1426 [or twilcox@ci.montrose.co.us](mailto:twilcox@ci.montrose.co.us).

All questions must be submitted in writing via email to Terri Wilcox no later than 5:00 PM our clock on April 29, 2019. Questions received after this deadline will not be answered. Responses to all questions submitted before the deadline will be addressed in an addendum and posted on the Rocky Mountain E-Purchasing System webpage.

A copy of the RFP may be obtained at www.rockymountainbidsystem.com.

The City of Montrose is subject to public information laws, which permit access to most records and documents. Proprietary information in your response must be clearly identified and will be protected to the extent legally permissible. Proposals may not be marked 'Proprietary' in their entirety. All provisions of any contract resulting from this request for proposal will be public information.

New Vendors: The City requires new vendors receiving awards from the City to fill out and submit an IRS form W-9 and to register for Direct Deposit (Electronic) payment. If needed, the W-9 form and the Vendor Direct Deposit Authorization Form will be provided by the City of Montrose Finance Department.

Sales Prohibited/Conflict of Interest: No officer, employee, or member of City Council, shall have a financial interest in the sale to the City 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 City. Soliciting or accepting any gift, gratuity favor, entertainment, kickback or any items of monetary value from any person who has or is seeking to do business with the City of Montrose is prohibited.

Collusive or sham proposals: Any proposal deemed to be collusive or a sham proposal will be rejected and reported to authorities as such. Your authorized signature of this proposal assures that such proposal is genuine and is not a collusive or sham proposal.

The City of Montrose reserves the right to reject any and all proposals and to waive any irregularities or informalities.

The selected Service Provider shall be expected to sign the City's standard Agreement **without revision** prior to commencing Services (see sample attached to this Proposal).

Sincerely,

Terri Wilcox
Human Resources Director

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REQUEST FOR PROPOSAL (RFP)

I. SCOPE OF SERVICES

A. Introduction

The City of Montrose (City) is requesting proposals from qualified firms to provide benefit consulting services for employee benefit related programs, to assist in the compliance of Federal and State Laws, and to assist the City in benefit request for proposal processes. Qualified firms will have extensive experience in performing insurance analysis, working with other benefit vendors, and assistance with plan recommendations for a self-insured City plan.

The City expects to enter into a Professional Services Agreement (Agreement) with the awarded Service Provider. The anticipated terms and conditions of the Agreement are set forth in attached Exhibit "A", Sample Professional Services Agreement, consisting of eight (8) pages and incorporated herein by reference; however, the City may include additional terms and conditions in the Agreement as deemed necessary.

B. Objectives & Deliverables

The City's goal is to select the firm who will be the most effective and proactive partner in performing the full range of services related to the design, implementation, maintenance, communication, and improvement of our employee benefits. These services include, but are not limited to the following:

1. Achieve the most cost-effective, yet service-focused access to insurance carriers and benefits networks.
2. Represent the City in negotiations, as needed, with providers on a wide range of issues including those related to fees, benefit levels, plan design, and special terms and conditions.
3. Advise the City to ensure compliance with laws and regulations related to employee benefits.
4. High-level customer service and day-to-day support, as needed, in claim administration, escalation and re-adjudication of claims with the benefit administrator.
5. Review contracts with vendors to insure accuracy and comprehensiveness of coverage; provide guidance in contract interpretation as needed.
6. Assist the City with the implementation and communication of new programs/benefits or changes to existing programs/benefits. Assist in Open enrollment design and organization. Attend open enrollment with an active role. Assist in creation of benefit booklets.
7. Provide general guidance on trends in benefits offered and eligibility requirements.
8. Determine and recommend the most economical funding methods for the benefit programs.
9. Provide modeling in order to establish annual premium rates, including COBRA.

10. Provide annual reports outlining the contracted programs and their status, and a market analysis report describing the market conditions for each benefit. This report will outline suggestions and recommendations for the City's strategy and will include the following items:
 - a) Complete list of policies, carriers, renewal dates, and rates.
 - b) Evaluation of overall insurance programs compared to similar employers.
 - c) Forecast of market conditions and forecasted impact to policy renewals.
 - d) Income and expense for the prior year and a projection for the forthcoming year including projected adequate reserve plan levels.
 - e) List of contract modifications and recommendations for each benefit. f) Account history, by benefit, of claims and premiums.
 - g) Summary of activity on open, ongoing claims.
 - h) Review of future goals and long-term strategy.
11. Provide a high level of customer service to our organization to include evaluation of claims data, submission of executive reports and reconciliation of accounts.
12. Provide monthly and quarterly management reports for all benefit products.
13. Assist with bid specifications and collaborate with the City in the development of solicitations for purchase.
14. Assist in revising and maintaining Plan Documents, including the preparation of amendments as needed; review for accuracy and appropriateness.
15. Provide innovative approaches to benefit challenges facing the City and make recommendations for benefit plan design changes.
16. Provide answers or guidance to any general or technical benefit questions.
17. Assist in the appropriate preparation of any government filing or compliance review.

C. Plan Information

1. Eligible Employees
The City of Montrose (City) has approximately 160 employees with benefits. Benefits are provided for all full employees who regularly work full-time 30 or more hours per week and their eligible dependents. See Attachment 1 for additional Eligibility information.
2. Plan Year and Open Enrollment
Open enrollment is traditionally held in October/November with an effective date of January 1 to coincide with the calendar year and the City's fiscal year.
3. Current Benefit Plans
 - a) Health Plan, High Deductible (Self-Funded, Employee/Employer Shared Cost):
UMR Covered Services: Medical
RX Administered by Optum, Specialty Rx Administered by Brioia RX
Stop Loss at \$75,000: Administered by QBE
 - b) Dental Plan (Self-Funded, Employee/Employer Shared Cost):
Administered by UMR

- c) Vision Plan (Self-Funded, Employer 100% Paid for Employee. Employee & Employer Paid for Dependents):
Administered by Vision Service Plan (VSP)
- d) Term Life Insurance:
Mandatory 2x salary up to \$200,000 for all continuous employees working 30 hours per week or more, Employer Paid
Basic Life & AD&D: Administered by Mutual of Omaha
- e) Voluntary Life and AD&D:
Employee Paid, max coverage is \$500,000 not to exceed 5 times annual earnings
Spousal Coverage \$10,000 increments to \$150,000 not to exceed 50% of employee insurance,
Child(ren) Coverage \$10,000 per child
Administered by Mutual of Omaha
- f) Long-term Disability (Fully Insured, Employer Paid, Administered by Mutual of Omaha)
- g) Flexible Spending Accounts*: Limited Health Care (\$2,650 limit) and Dependent Care; (\$5,000 limit); employee paid. Administered by P&A
- h) Employee Assistance Program (Employer Paid, Administered by Triad EAP)
- i) Family Medical Leave Act (Self-Administered)
- j) COBRA (Administered by P&A)

D. Professional's Qualifications

1. A minimum of three (3) years prior experience with governmental entities as clients.
2. Must have similar benefits consulting experience as outlined in this RFP within the last three (3) years with organizations with between 150 and 300 employees.
3. Firm must be licensed in the State of Colorado.
4. Prior experience with self-funded health, wellness and dental plans.
5. Understanding of, and direct experience with, Western Colorado demographic area healthcare delivery concerns (e.g. single hospital, limited PPO arrangements, consolidated specialty physicians, etc.).
6. Experience working with cafeteria-style benefit programs, including IRS Tax Code Sections 125 and 129 flexible spending plan arrangements.
7. Experience in evaluating benefit program designs and in making recommendations for program improvements and/or restructuring (e.g. HSA, onsite clinic, telemedicine, etc.).
8. Proposals shall be accepted on a fee-only basis. The City of Montrose will not consider a commission-based proposal.

II. TIMETABLE

The following is a proposed timetable developed for this RFP and may be subject to change.

ITEM:	DATE:
Question due to the City	April 29, 2019 at 5:00 P.M. (our clock)
Submittal Deadline	May 20, 2019 at 3:00 P.M. (our clock)
Interviews	Week of Jun 24 – Jun 27, 2019
Contract Signing	NLT the Week of July 29, 2019

III. SUBMITTAL REQUIREMENTS

The following documents must be included in the proposal. Proposals shall be limited to thirty (30) pages, excluding sample reports required in the attached Questionnaire. The City reserves the right to reject any proposal exceeding these limits or omitting any submittal requirement.

1. Completed Vendor Statement, attached and incorporated herein.
2. Submit a copy of your responses to the attached Vendor Questionnaire, incorporated herein. Responses to the Vendor Questionnaire must be arranged and numbered in the same order. Responses will be evaluated according to the criteria annotated in Section V of this RFP.

IV. PROPOSAL GUIDELINES

The City assumes no responsibility for liability for any costs firms may incur in responding to this RFP; including attending meetings, interview sessions and/or contract negotiations.

This RFP may be amended and/or revoked at any time prior to final execution of an Agreement with the City.

In evaluating the proposals, the City may seek information from a Proposer to clarify their proposal. In that event, Proposer must submit written and signed clarifications and such clarifications shall become part of the proposal.

All proposals shall remain subject to initial acceptance 150 days after the day of submittal.

At the option of the City, interviews may be conducted for the highest ranked firms following evaluation of written proposals. Firms invited to interview will be requested to interview on-site on a date specified by the City. An anticipated timeline is annotated in Section II of this RFP.

V. REVIEW AND ASSESSMENT

Firms shall be evaluated based upon their responses to the questions and requests for information in this Solicitation, and based upon whether and to what degree they comply with the instructions set forth herein. Thoroughness, accuracy, veracity, and professionalism in the responses shall be taken into account.

Firms will also be evaluated using on the following criteria. These criteria will be the basis for review and assessment of the written proposals and optional interview session. 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.

QUALIFICATION	STANDARD
Scope of Proposal/Deliverables	Does the proposal address all elements of the RFP? Does the proposal show an understanding of the project objectives, methodology to be used and deliverables required by the project? Are there any exceptions to the Scope of Services or Agreement?
Assigned Personnel	Do the persons who will be working on the project have the necessary skills and qualifications? Are sufficient people of the requisite skills and qualifications assigned to the project?
Availability	Can the work be completed in the necessary time? Can the target start and completion dates be met? Are other qualified personnel available to assist in meeting the project schedule if required?
Cost and Work Hours/Fee Schedule	Does the proposal included detailed cost break-down for each cost element as applicable and are the costs competitive? Do the proposed cost and work hours compare favorably with the Project Manager's estimate? Are the work hours presented reasonable for the effort required by each project task or phase?
Firm Capability	Does the firm have the resources, capacity and support capabilities required to successfully meet service schedules? Has the firm successfully completed previous projects of this type and scope?

VI. REFERENCE EVALUATION (TOP RATED FIRMS)

The Project Manager will check references using the following criteria. The evaluation rankings will be labeled Satisfactory/Unsatisfactory.

QUALIFICATION	STANDARD
Overall Performance	Would you hire this Professional again? Did they show the skills required by this project?
Timetable	Was the original Scope of Services completed within the specified time? Were interim deadlines met in a timely manner?
Completeness	Was the Professional responsive to client needs; did the Professional anticipate problems? Were problems solved quickly and effectively?
Budget	Was the original Scope of Services completed within the project budget?
Job Knowledge	Were problems corrected quickly and effectively?

VII. AWARD OF CONTRACT

The City's Agent/Contact is authorized to handle initial contacts regarding any protest of the solicitation or award of a City contract, or any claim arising out of the performance of a City contract, with the City Manager's approval. Any actual or prospective Bidder or Contractor who has a grievance in connection with the solicitation or award of a contract shall first seek resolution of the matter with the City's Agent/Contact.

If the City Manager or City designee does not, within thirty (30) days after receiving a protest, or within such longer period as may be agreed upon by the parties, issue a written decision on the protest or make a determination that award of the contract is necessary, the protest shall be considered denied.

By law, the City reserves the right to accept or reject any or all proposed bids, or any combination of them, and to waive any informality or irregularity in the bid or in the bidding.

Successful Bidders shall comply with all local, state, and federal directives, ordinances, rules, orders, and laws as applicable to, and affected by, the Bid Proposal.

No Bidder shall be excluded from consideration for award in conjunction with this solicitation on the basis of race, color, creed, national origination, handicap, or sex, or be subjected to discrimination under any contractual award administered by the City.

VENDOR STATEMENT

I have read and understand the specifications and requirements for this RFP and I agree to comply with such specifications and requirements. I further agree that the method of award is acceptable to my company. I also agree to complete a Professional Services Agreement, including signing the HIPAA Business Associate Agreement, and submit required insurance certificates to the City of Montrose (City) within fifteen (15) days of notice of award. I understand that if the contract is not completed and signed within 15 days, the City reserves the right to cancel and award to the next highest ranked firm.

FIRM NAME: _____

ADDRESS: _____

CITY, STATE, ZIP: _____

EMAIL ADDRESS: _____ **PHONE:** _____

CONTACT'S NAME: _____

SIGNATURE: _____

TELEPHONE: _____ **CELL:** _____

EMAIL: _____

VENDOR QUESTIONNAIRE

Scope of Proposal

1. Describe any problems you foresee, if any, in your ability to perform the services described in the RFP.
2. Describe your firm's services offered for plan design modeling as it relates to creating a holistic approach to the City's Total Rewards Strategy.
3. Explain what steps you have taken to become HIPAA compliant and what is your experience in offering HIPAA training to clients?
4. Explain how your firm stays current with change in federal and state laws and how this information will be communicated to the City. Describe your firm's practice for communicating and ensuring compliance in these federal and state laws, including but not limited to, HIPAA, PPACA, COBRA, and other federal and state compliance areas.
5. Describe any audit services that you provide for claim audits or dependent eligibility audits.
6. Submit a sample of annual and periodic reports you provide similar clients.
7. Describe any customized or ad hoc reporting capabilities including Internet capabilities.
8. Describe any services provided by your firm for the purposes of employee and management communication and employee and management training.
9. One area of interest for the City is improving its management reporting and analysis of the self-funded healthcare plan. Provide a description of how your firm assists clients in this area, along with a sample report you would offer the City as part of this contract.
10. What resources do you use for benchmarking?
11. Explain how you will ensure that performance standards for the City's benefit related vendors are negotiated and met.
12. What is your firm's experience in dealing with rural Western Slope demographic area healthcare issues? (e.g. single hospital, consolidated specialty physicians, etc.)
13. What is your experience in developing/evaluating/maintaining Section 125 plans (LFSA)?
14. What is your experience in bid proposals and negotiating for services of third party administrators, stop loss and other types of insurance?
15. What is your experience and recommendations for using a pharmacy benefits management firm?
16. Beyond the stated Scope of Services specified in this RFP, what additional services would you recommend to the City? What would be the estimated cost of those additional services?

Assigned Personnel & Availability

17. Provide information on the principal consultant who would be responsible for the City's account. What is their professional background and experience? Specifically include this consultant's experience dealing with public employers. Describe the team that would assist the principal consultant and the client.
18. If the principal consultant were to leave your firm, how would your firm ensure continuity of service? How soon would a new principal consultant be assigned to the City's account?
19. What is the principal consultant's experience with self-funded benefit plans; specifically, medical, dental, wellness and on-site clinics?
20. How many clients does the principal consultant provide services to? List the five (5) most comparable clients in which the principal consultant is involved in on an ongoing basis and which the firm can provide as a reference. Provide name of client, contact name, address, telephone number and number of employees.
21. Do you have an in-house benefits attorney? If yes, please provide his/her credentials and the number of years he/she has provided counsel on benefit issues. If not, do you use an external benefits attorney? If so, which firm do you use?
22. Tell us the location of the office(s) from which consulting services would be provided. What is the employee turnover rate among consultants and staff personnel of this office during the past three (3) years? If not located in the Western Slope area, how do you envision the relationship developing and taking place on an on-going basis?

Fee Schedule

23. Proposed cost

The anticipated length of the Agreement will be for a period of one (1) year. In addition, at the option of the City, the Agreement may be extended for additional one year periods not to exceed four (4) additional one year periods.

The proposed cost should be all-inclusive (i.e., miscellaneous administrative, travel, etc.). State the maximum annual consulting cost for the proposed services for each of the anticipated calendar contract years. Do not respond with hourly rates for this annual consulting fee.

Total Cost not to exceed:

Remainder of 2019 \$ _____
January 2020 – December 2020 \$ _____
January 2021 – December 2021 \$ _____
January 2022 – December 2022 \$ _____
January 2023 – December 2023 \$ _____
January 2024 – December 2024 \$ _____

24. The City recognizes that at times various projects and services may develop that are not part of the proposed Scope of Services. State the current hourly billing rates for each level of employee that may be involved in conducting additional services.

PLEASE NOTE: The City reserves the right under the terms of this RFP to request duties unrelated to the defined set of consulting services. The scope of these services and related cost will be agreed to by the parties, in writing, prior to the consultant performing the work. Compensation for these services will be based on a “not to exceed” amount.

Firm Capability

25. Describe your firm, its history and size, the locations in which it operates, and the number of employees.
26. Provide three (3) current clients, include at least one (1) public sector client, to which your firm provides similar services referenced in this RFP. For each reference include entity name, length of time as consultant, number of employees, and contact information (name, title, telephone number and email address) of individuals that can be contacted as references for your company.
27. Provide three (3) terminated clients, include at least one (1) public sector client, to which your firm provided similar services referenced in this RFP. For each reference include entity name, length of time as consultant, number of employees, and contact information (name, title, telephone number and email address) of individuals that can be contacted as references for your company.
28. Describe, if applicable, any pending litigation against your firm.

Attachment 1

City of Montrose Eligibility by Classification

An eligible Employee is a person who is classified by the employer on both payroll and personnel records as an Employee who regularly works full-time 30 or more hours per week for regular full-time Employees. There is no minimum numbers of hours required for Judges and Attorneys who are contracted by the City of Montrose and City of Montrose City Council members including Mayor (city council and judges will pay COBRA Rates and are only eligible for Medical, Dental and EAP):

- Medical
- Dental
- Vision
- Flexible Spending Accounts
- Life Insurance
- Long Term Disability
- Employee Assistance Program

Covered Entities

- 🔗 City of Montrose
- 🔗 Western Colorado Regional Dispatch Center (WestCO)
- 🔗 Downtown Development Authority when working 30 or more hours per week (DDA)

EXHIBIT A
INDEPENDENT CONTRACTOR AND PROFESSIONAL SERVICES
AGREEMENT

THIS AGREEMENT is entered into as of this ____ day of _____, 2019, by and between the **CITY OF MONTROSE**, State of Colorado, a Colorado home rule municipal corporation, whose address is 433 S. First Street, P.O. Box 790, Montrose, Colorado 81402-0790, hereinafter referred to as "City" and **NAME OF CONTRACTOR HERE**, whose address is _____, hereinafter referred to as "Contractor"; the aforementioned entities may sometimes be collectively referred to as the "Parties".

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

I. SCOPE OF CONTRACTED SERVICES

The Contractor agrees to perform professional services as set forth in **Exhibit A** attached hereto and incorporated by reference herein.

II. COMMENCEMENT AND COMPLETION OF SERVICES

The services to be performed pursuant to this Agreement shall begin on the execution date of this Agreement, and be pursued with due diligence for a period of one year from the date of this Agreement, or until otherwise terminated as set forth herein. The City in its sole discretion may renew this Agreement for two additional, one year periods under the terms and conditions mutually agreed to in writing by both parties.

III. CONTRACTOR RESPONSIBILITY

The Contractor shall be responsible for the level of quality, timely completion and coordination of all services rendered by the Contractor, and shall, without additional compensation, promptly remedy and correct any errors, omissions or other deficiencies. In the process of executing all services rendered under this Agreement, the Contractor must use due care not to cause any damage to public or private property.

A. Contractor shall be required to comply with all applicable Federal, State and Local safety and health laws, regulations, and ordinances. The City does not assume responsibility for monitoring, directing, or ensuring Contractor's compliance with said laws, regulations, and ordinances; such responsibility shall inure to the Contractor, and shall be a duty of the Contractor under this Agreement.

IV. COMPENSATION

For performance of the services provided under this Agreement, the City will pay the Contractor as set forth in the Fee Schedule pursuant to **Exhibit A** page _____. The invoice shall be accompanied with support documentation regarding services performed. Upon approval by the City Representative, such invoice shall be paid in full within 30 days of receipt.

V. CITY REPRESENTATIVE

The City designates the Human Resources Director as its representative, and authorizes him or his designee to make all necessary and proper decisions regarding this Agreement. All requests for contract interpretations, changes, clarifications or instructions shall be directed to the City Attorney.

VI. INDEPENDENT CONTRACTOR

The services to be performed by the Contractor are those of an independent contractor and not an employee of the City. As an independent contractor, Contractor is not entitled to worker's compensation benefits except as may be provided by the independent contractor nor to unemployment insurance benefits. The Contractor is obligated to pay all federal and state income tax on any moneys paid pursuant to this Agreement. Further, an IRS Form 1099 or equivalent shall be furnished to the Contractor by the City as proof of earnings for tax purposes.

VII. CONTRACTOR SERVICES

It is understood that the City enters into this Agreement based on the special abilities of the Contractor and that this Agreement shall be considered an agreement for personal services. Accordingly, the Contractor shall neither assign any responsibilities nor delegate any duties arising under this Agreement without the prior written consent of the City.

VIII. ACCEPTANCE NOT WAIVER

The City's approval of work, services rendered, and reports furnished hereunder shall not in any way relieve the Contractor of responsibility for the level of quality of the work. The City's approval or acceptance of, or payment for, any services shall not be construed as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

IX. DEFAULT

Each and every term and condition 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 thereof.

X. TERMINATION

City may terminate this Agreement at any time for its convenience. Contractor shall be paid for work properly completed to the date of termination, as determined by the City. Contractor may terminate this Agreement at any time without prejudice to any other right or remedy, upon giving the City 30 day's written notice. In the event of Contractor's termination of this Agreement, Contractor shall have no further obligation to the City. Upon completion of work or termination of this Agreement, Contractor shall deliver unto the City any final reports relating to this Agreement and a final invoice for payment.

XI. INSURANCE

- A. The Contractor agrees to procure and maintain, at its own cost, a policy or policies of insurance. The Contractor shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to this Agreement by reason of its failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations, or types.

- B. Contractor shall procure and maintain, and shall cause any subcontractor of the Contractor to procure and maintain, the minimum insurance coverages listed below. Such coverages shall be procured and maintained with forms and insurers acceptable to City. All coverages shall be continuously maintained from the date of commencement of services hereunder. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.
- C. Worker's Compensation insurance to cover obligations imposed by the Worker's Compensation Act of Colorado and any other applicable laws for any employee engaged in the performance of work under this Agreement, and Employers' Liability insurance with minimum limits of \$500,000 each accident, \$500,000 disease - policy limit, and \$500,000 disease - each employee. Evidence of qualified self-insured status may be substituted for the worker's compensation requirements of this Paragraph.
- D. Commercial general liability insurance with minimum combined single limits of \$1,000,000 each occurrence and \$1,000,000 aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, independent contractors, products, and completed operations. The policy shall contain a severability of interests provision.
- E. Comprehensive Automobile Liability insurance with minimum combined single limits for bodily injury and property damage of not less than \$500,000 each occurrence and \$500,000 aggregate with respect to each of Contractor's owned, hired and non-owned vehicles assigned to or used in performance of the services. The policy shall contain a severability of interests provision. If the Contractor has no owned automobiles, the requirements set forth herein shall be met by each employee of the Contractor providing services to the City under this Agreement.
- F. The Comprehensive Automobile Liability insurance required above shall be endorsed to include the City and the City's officers and employees as additional insureds. Every policy required above shall be primary insurance and any insurance carried by the City, its officers, or its employees, shall be excess and not contributory insurance to that provided by Contractor. The additional insured endorsement for the Comprehensive General Liability insurance required above shall not contain any exclusion for bodily injury or property damage arising from completed operations. The Contractor shall be responsible for any deductible losses under any policy required above.
- G. Professional/Contractor Liability insurance with minimum limits of \$1,000,000 each occurrence and \$1,000,000 aggregate.
- H. Certificates of insurance shall be completed by the Contractor's insurance agent as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect, and shall be reviewed and approved by the City prior to commencement of services under this Agreement. Each certificate shall identify this Agreement and shall provide that the coverages afforded under the policies shall not be canceled, terminated or materially changed until at least 30 days prior written notice has been given to the City. Any statement on the certificates which describe this 30-day prior written notice as being less than obligatory shall be stricken by the insurance agent completing the certificates. The City reserves the right to request and receive a certified copy of any policy and any endorsement thereto.

- I. Failure on the part of the Contractor to procure or maintain policies providing the required coverages, conditions, and minimum limits shall constitute a material breach of contract upon which the City may immediately terminate this Agreement, or at its discretion City may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the City shall be repaid by Contractor to the City upon demand, or the City may offset the cost of the premiums against any monies due to Contractor from the City. The City reserves the right to request and receive a certified copy of any policy and any endorsement thereto.
- J. The Parties hereto understand and agree that the City is relying on, and does not waive or intend to waive by any provision of this Agreement, the monetary limitations (presently \$150,000 per person and \$600,000 per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, (C.R.S. § 24-10-101 et seq., as from time to time amended, or otherwise available to the City.

XII. INDEMNIFICATION

To the fullest extent permitted by law, the Contractor agrees to indemnify and hold harmless the City, its officers and its employees, from and against all liability, claims and demands, on account of injury, loss, or damage, which arise out of or are in any manner connected with the services hereunder, if such injury, loss, or damage, or any portion thereof, is caused by, or claimed to be caused by, the act, omission, or other fault of the Contractor or any subcontractor of the Contractor, or any officer, employee, representative, or agent of the Contractor or of any subcontractor, or any other person for which Contractor is responsible. The Contractor shall investigate, handle, respond to, and provide defense for, and defend against any such liability, claims and demands, and bear all other costs and expenses related thereto, including court costs and attorney fees. The obligation of this Paragraph XII shall not be construed to extend to any injury, loss, or damage which is caused by the act, omission, or other fault of the City, its officers, or its employees.

XIII. INTEGRATION & SEVERABILITY

- A. This Agreement constitutes the final agreement between the Parties. It is the complete and exclusive expression of the Parties' agreement on the matters contained in this Agreement. All prior and contemporaneous negotiations and agreements between the Parties on the matters contained in this Agreement are expressly merged into and superseded by this Agreement. The provisions of this Agreement may not be explained, supplemented, or qualified through evidence of trade usage or a prior course of dealings. In entering into this Agreement, neither Party has relied upon any statement, representation, warranty, or agreement of the other Party except for those expressly contained in this Agreement. There are no conditions precedent to the effectiveness of this Agreement other than those expressly stated in this Agreement.
- B. If any provision of this Agreement is held invalid, illegal or unenforceable, the Parties shall negotiate in good faith so as to replace each invalid, illegal or unenforceable provision with a valid, legal and enforceable provision which will, in effect, from an economic viewpoint, most nearly and fairly approach the effect of the invalid, illegal or unenforceable provision and the intent of the Parties in entering into this Agreement.

XIV. THE FOLLOWING PROVISIONS ARE REQUIRED BY HB 06-1343, AS AMENDED BY HB 07-1073 and SB 08-139:

- A. Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.
- B. Contractor shall not enter into a contract with a Subcontractor that fails to certify to the Contractor that the Subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement. Contractor shall, within 20 days of hiring a new employee during the term of this Agreement, cause a written, notarized copy of its affirmation of said employee's status to be sent to the Owner.
- C. Contractor hereby affirms that it has confirmed or attempted to confirm the employment eligibility of all employees who are newly hired for employment in the United States through participation in the e-verify program, ("e-verify program" means the employment verification program authorized in 8 U.S.C. 1324a, as amended, that is administered by the United States Department of Homeland Security, or the "department program"). If the Contractor is not accepted into the e-verify program, prior to entering into this Agreement, the Contractor shall apply to participate in the e-verify program every 3 months until the Contractor is accepted or this Agreement has been completed, whichever is earlier. Contractor is prohibited from using the e-verify program procedures to undertake preemployment screening of job applicants while this Agreement is being performed. This subparagraph "C" shall not be effective if the e-verify program is discontinued.
- D. If the Contractor obtains actual knowledge that a Subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, the Contractor shall be required to: (a) notify the Subcontractor and the City within 3 days that the Contractor has actual knowledge that the Subcontractor is employing or contracting with an illegal alien; and (b) terminate the subcontract with the Subcontractor if within 3 days of receiving the notice required pursuant to section (a) of this subparagraph, if the Subcontractor does not stop employing or contracting with the illegal alien; except that the Contractor shall not terminate the contract with the Subcontractor if during such 3 days the Subcontractor provides information to establish that the Subcontractor has not knowingly employed or contracted with an illegal alien.
- E. Contractor shall comply with any reasonable request by the applicable State agency or department made in the course of an investigation that said agency or department is undertaking pursuant to its lawful authority. If Contractor violates a provision of this Section XIV, City may terminate this Agreement for material breach. If this Agreement is so terminated, Contractor shall be liable for actual and consequential damages to City. City is required by State law to notify the Office of the Secretary of State if Contractor violates a provision of this Section XIV, and City terminates this Agreement for that reason.

XV. MISCELLANEOUS PROVISIONS

- A. Each Party hereto agrees to cooperate in all reasonable respects necessary to consummate the transactions contemplated by this Agreement, and from time to time to do such acts and things and execute and deliver such documents and instruments as may reasonably be required in order to implement the transactions contemplated hereby. Each Party hereto agrees to cooperate in the execution of subsequent addenda, or to re-execute an amended version of this Agreement, in the event that a Party discovers: 1) a clerical error; or 2) a misinterpretation of law; or 3) an error as to form; when such error(s) obviate or hinder the consideration, performance or enforcement of this Agreement.

B. Special Terms and Conditions: Special provisions or conditions relating to the services to be performed pursuant to this Agreement are set forth in **Exhibit B** – Confidentiality, and **Exhibit C** – HIPAA Business Associate Agreement attached hereto and incorporated herein by reference.

EXECUTED AND EFFECTIVE the date above first written.

CITY OF MONTROSE

CONTRACTOR

William E. Bell, City Manager

_____, its _____
(Print Name) (Officer)

STATE OF COLORADO)
) SS.
COUNTY OF MONTROSE)

The foregoing instrument was acknowledged before me this ____ day of _____, 2019, by _____, City Manager.

Witness my hand and official seal.
My commission expires: _____.

(SEAL)

Notary

STATE OF COLORADO)
) SS.
COUNTY OF MONTROSE)

The foregoing instrument was acknowledged before me this ____ day of _____, 2019, by _____.

Witness my hand and official seal.
My commission expires: _____.

(SEAL)

Notary

Exhibit B
INSURANCE REQUIREMENTS

1. The Professional will provide, from insurance companies acceptable to the City, the insurance coverage designated hereinafter and pay all costs. Before commencing work under this bid, the Professional shall furnish the City with certificates of insurance showing the type, amount, class of operations covered, effective dates and date of expiration of policies, and containing substantially the following statement:

“The insurance evidenced by this Certificate will not reduce coverage or limits and will not be cancelled, except after thirty (30) days written notice has been received by the City of Montrose.”

In case of the breach of any provision of the Insurance Requirements, the City, at its option, may take out and maintain, at the expense of the Professional, such insurance as the City may deem proper and may deduct the cost of such insurance from any monies which may be due or become due the Professional under this Agreement. **The City, its officers, agents and employees shall be named as additional insureds on the Professional's general liability and automobile liability insurance policies for any claims arising out of work performed under this Agreement.**

2. Insurance coverages shall be as follows:
 - A. Workers' Compensation & Employer's Liability. The Professional shall maintain during the life of this Agreement for all of the Professional's employees engaged in work performed under this agreement:
 1. Workers' Compensation insurance with statutory limits as required by Colorado law.
 2. Employer's Liability insurance with minimum limits of \$100,000 per accident, \$500,000 disease aggregate, and \$100,000 disease each employee.
 - B. Commercial General & Vehicle Liability. The Professional shall maintain during the life of this Agreement such commercial general liability and automobile liability insurance as will provide coverage for damage claims of personal injury, including accidental death, as well as for claims for property damage, which may arise directly or indirectly from the performance of work under this Agreement. Coverage for property damage shall be on a "broad form" basis. The amount of insurance for each coverage, Commercial General and Vehicle, shall not be less than \$1,000,000 combined single limits for bodily injury and property damage.

In the event any work is performed by a subcontractor, the Professional shall be responsible for any liability directly or indirectly arising out of the work performed under this Agreement by a subcontractor, which liability is not covered by the subcontractor's insurance.
 - C. Errors & Omissions. The Professional shall maintain errors and omissions insurance in the amount of \$1,000,000.

Exhibit C
HIPAA Business Associate Agreement

This Amendment is entered into this _____ day of _____, _____, between City of Montrose (“Employer”), acting on behalf of _____ (the “Plan(s)”), and _____ (“Business Associate”). This Amendment is incorporated into the _____ Services Agreement between Employer and Business Associate, dated _____ (the “Agreement”). The parties intend to use the Agreement to satisfy the Business Associate contract requirements in the regulations at 45 CFR 164.502(e), 164.504(e) and 164.314(a), issued under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), as amended by Title XIII, Subtitle D of the American Recovery and Reinvestment Act of 2009 (P.L. 111-5) and regulations promulgated there under; and for further applicable HIPAA developments published after enactment of P.L. 111-5, including statutes, case law, regulations and other agency guidance.

Effective as of “ENTER DATE”, the Agreement shall be amended by adding the following new provision:

Enactment and Impact of ARRA Provisions. Business Associate acknowledges that enactment of the American Recovery and Reinvestment Act of 2009 (P.L. 111-5, ARRA) amended certain provisions of HIPAA in ways that now directly regulate, or will on future dates directly regulate, Business Associate’s obligations and activities under HIPAA’s Privacy Rule and Security Rule. Requirements applicable to Business Associate under Title XIII, Subtitle D of ARRA are hereby incorporated by reference into the Agreement, including provisions that would govern the Plan’s action if the Business Associate undertakes that action on behalf of the Plan. Business Associate agrees to comply, as of the applicable effective dates of each such HIPAA obligation relevant to Business Associate, with the requirements imposed by ARRA, including monitoring federal guidance and regulations published there under and timely compliance with such guidance and regulations. Further, notwithstanding any other provision of the Agreement or underlying services contract(s) between the parties, _____ (“Business

Associate”) agrees to pay all penalties and reasonable expenses, including those incurred for reasonable remediation, which are assessed or finally determined by a court of competent jurisdiction to be result of _____ (“Business Associate”) (or its agent’s) failure to comply with its HIPAA obligations or through contractual agreement between the Business Associate and Plan.

In consequence of the foregoing direct regulation of Business Associate by HIPAA laws and regulations, notwithstanding any other provision of the Agreement, Business Associate further agrees to monitor HIPAA Privacy and Security requirements imposed by future laws and regulations, and to timely comply with such requirements when acting for or on behalf of the Plan in its capacity as a Business Associate. Business Associate agrees that it will report security violations to the City of Montrose, Information Services Director.

IN WITNESS WHEREOF, each of the parties has caused this Amendment to be signed on its behalf by a duly authorized officer of such party as of the date written below.

City of Montrose, Colorado _____ (“Business Associate”)

By: _____ By: _____

Name: _____ Name: _____
Title: _____ Title: _____

