

INVITATION FOR BID

WORK: Town of Superior – Pond Water Quality Maintenance Services

SUBMITTAL DATE AND LOCATION:

Date of Request: February 22, 2017

Due Date for Bids: March 10, 2017 by 10:00 A.M.

Submit one printed copy of the Bid to:
Town of Superior
124 E. Coal Creek Drive
Superior, CO 80027

The Town of Superior requests Bids for:

Monitoring and maintaining 19 ponds in Superior, Colorado. The Contractor will maintain a level of water quality acceptable for the designated uses of the ponds through an intensive, integrated water quality preventative management program specifically designed for each site.

Any questions concerning this Request for Bid shall be submitted by 10:00 a.m. on March 8, 2017 and directed **IN WRITING ONLY** to the Parks, Recreation and Open Space Management Analyst, FAX: 303-494-2521, or E-MAIL: allisonj@superiorcolorado.gov

Allison James

PUBLICATION DATE: February 22, 2017

PUBLISHED IN: Rocky Mountain E-Purchasing System

TOWN OF SUPERIOR

Attachments

- Section I Instructions to Bidders
- Section II General Scope of Services (Exhibits A, B, C, D)
- Section III Prospective Contractor’s Certificate Regarding Employing or Contracting with Illegal Aliens
- Section IV Sample Professional Services Agreement

**SECTION I
INSTRUCTIONS TO BIDDERS**

1. A "Bid" is a responsive, conforming, unconditional, complete, legible, and properly executed offer by a Bidder to provide the work specified in the Request for Bids for the compensation specified.
2. Bids shall be clearly marked with the work name, contact person, mailing address, and telephone number of the Bidder.
3. It shall be the responsibility of the Bidder to ensure that the Bid is in proper form and in the Town's possession by or before the time and date designated in the Request for Bids. Bids will not be accepted after the designated time and date. Any Bid received late will be returned to the Bidder unopened, if possible.
4. If a mistake is made or discovered during or after the Bid review, the Town reserves the right to determine which party made the mistake and whether the mistake is material and, after these determinations, the Town, in its sole reasonable discretion, shall decide whether to accept or reject the Bid. No advantage shall be taken by any party of manifest clerical errors or omissions in any Bid, and the contract and attached documents (the "Contract Documents"). Bidders shall notify the Town immediately of any errors or omissions that are encountered.
5. Any interlineation, alteration, or erasure shall be initialed by the Bidder. On the Bid, the price of each item shall be stated in numerals and words; in case of conflict, the words shall control. In the case of conflict between the indicated sum of any addition of figures and the correct sum, the correct sum shall control.
6. The Town shall not reimburse any Bidder for any cost incurred in preparing a Bid or attending equipment demonstrations, inspections, pre-bid conferences, or interviews.
7. Any amplification, clarification, explanation, interpretation, or correction of a Bid shall be made only by written addendum, and a copy of the addendum shall be mailed or delivered to each person receiving a Request for Bids. The Town is not responsible for any amplification, clarification, explanation, or interpretation or correction of a Bid not contained in written addenda.
8. Bids by corporations shall be executed in the corporate name by the president or a vice-president (or a corporate officer accompanied by evidence of authority to sign), and the corporate seal shall be affixed and attested by the secretary or an assistant secretary. The corporate address and state of incorporation shall be shown. Bids submitted by partnerships shall be executed in the partnership name and signed by a partner, and the legal address of the partnership shall be shown. Bids submitted by limited liability companies shall be executed in the company's name and signed by a member, and the legal address of the company shall be shown. Names and titles shall be typed or printed below each signature.
9. The following information shall be submitted with the Bid:

- 9.1. The names and resumes of staff personnel who will be assigned to the work.
- 9.2. A complete proposed scope of work and schedule, including any alternatives that can be identified. The Bidder is expected to review the work site prior to submittal of the Bid.
- 9.3. The names and addresses of any subcontractors who will be retained for the work.
- 9.4. A list of the Bidder's previous experience on similar projects.
10. The submission of a Bid shall be conclusive evidence and a legal admission that the Bidder: (1) has no questions, complaints, or objections in connection with the Contract Documents, subject to any requests made by the Bidder for amplification, clarification, explanation, interpretation, or correction; (2) has no questions, complaints, or objections as to the completeness, sufficiency, scope, or detail of the Bid; and (3) has full knowledge of the scope, nature, quality, and quantity of the equipment to be provided, the performance criteria, the requirements of the contract, the site and conditions of delivery, the Superior Municipal Code, and other applicable law.
11. The contract will be awarded to the lowest responsible and responsive Bidder complying with the terms and conditions, guidelines, and specifications presented in the Bid Request and these Instructions to Bidders. The Town reserves the right to determine, in its sole reasonable discretion, whether any Bid meets the needs or purposes intended and is within the approved budget. The Town does not base its award on prices alone. Also to be considered are: quality of product; past experience with the Bidder or any subcontractors, consultants, products or suppliers; qualifications of the Bidder and/or subcontractors or suppliers; services offered; warranties; maintenance considerations; long-range costs; delivery; and similar conditions.
12. The Town reserves the right to conduct such investigations as it deems necessary to assist in the evaluation of any Bid to establish the experience, responsibility, reliability, references, reputation, qualifications, or financial ability of any Bidder, manufacturer or supplier. The purpose of such investigation is to satisfy the Town that the Bidder has the experience, resources, and commercial reputation necessary to supply the specified equipment and to perform the necessary warranty and product support in accordance with the Contract Documents in the prescribed manner and time.
13. The Town reserves the right, if it deems such action to be in its best interests, to reject any and all Bids or to waive any irregularities or informalities therein. Any incomplete, false, or misleading information provided by any Bidder shall be grounds for rejection of the Bid. If Bids are rejected, the Town further reserves the right to investigate and accept the next best Bid in order of ranking, or to reject all Bids and re-solicit for additional Bids.
14. No Bid shall include federal excise taxes or state or local sales or use taxes.
15. In the event of any claim, suit, or demand which may result from any Bid, or the award of any contract as a result of submission of a Bid, Colorado law shall govern any such claim, suit, or demand and the rights and duties of the parties.

16. All parts not specifically mentioned which are necessary in order to provide a complete unit, shall be included in the Bid. Any item listed as "Standard" in the manufacturer's published specification, furnished by the Bidder, is assumed to be included in the Bid. Any variations shall be outlined in writing, noting cost factors where applicable.
17. Bids shall be in accordance with the specifications contained in the Contract Documents. Should any requirement in the specifications not be included in manufacturer's specification sheets, the Bidder shall include with its Bid a statement of compliance. Failure to do so shall be grounds for disqualification of the Bid.
18. Each Bid shall include a statement of standard warranty of the manufacturer.
19. Any Bid received as a result of this request is prepared at the Bidder's expense and becomes Town property and is therefore a public record upon opening by the Town. No Bid may be withdrawn for a period of sixty (60) days after the deadline for Bids.

**SECTION II
EXHIBIT A
GENERAL SCOPE OF SERVICES**

INTRODUCTION

The Town of Superior is seeking Bids from qualified firms for the purpose of monitoring and maintaining 19 ponds in Superior.

The objective of the pond water quality preventative management program is to focus on the prevention of water quality degradation. The primary goal will be to maintain a level of water quality acceptable for the designated uses of the ponds through an intensive, integrated water quality preventative management program specifically designed for each site.

All ponds have their own nature and must be treated individually. The degree of management for each pond will depend on matters such as designated use, public scrutiny, and, in general, what is best for the water quality health of the pond.

POND LOCATIONS AND DESCRIPTIONS

Pond 1 is a 5.2 acre-foot pond encompassing 0.77 surface acres located between S. Brandon Ct and McCaslin Blvd. A fountain was installed in Pond 1 in June 2005.

Ponds 2 through 5 are located on the west side of Purple Park between Pitkin Ave and McCaslin Blvd. They have never had any supplemental aeration however, due to the rapid water movement and turbulence created by the cascades and creek these four ponds likely receive enough oxygen and water movement as is.

Pond 5 has is a 6.2 acre-foot pond with 1.57 surface acres with system in the vault located next to the pond. This current system employs terminal point aeration.

Pond 6 is approximately a 5.6 acre-foot with 0.89 surface acres located southwest of the intersection of Pitkin Ave and Rock Creek Parkway. This pond has never had any subsurface aeration.

Pond 7 is approximately a 0.79 surface acre pond located northwest of the intersection of Indiana Street and Rock Creek Parkway. This pond also has a non-functional system in the vault located next to the pond. This current system also employs a diffuser line system. The pond maintains very low water levels.

Pond 8, Riverbend Pond is approximately 1.42 surface acre pond located north of the intersection of Indiana Street and East Riverbed Street. During the summer of 2002 the aeration system in Pond 8 was renovated to a terminal point system and is currently operational. In 2004, the pit where the pump is housed was flooded and a new pump was placed and elevated off the pit floor.

Pond 9, Bowes Storage is approximately 3 acre-feet and has 0.52 surface acres. It is located southwest of the intersection of East Karval Place and South Pitkin Ave. This pond has an operation terminal head subsurface aeration system. In 2004, three of the four terminal point bubblers were replaced with upgraded components.

Pond 10, Flor Storage, is a 3.26 surface acre stormwater detention facility located just north of Rock Creek (Coalton Road) and East of Indiana Street.

Pond 11, 88th Street Storage is actually 3 ponds approximately 1.03 surface acres located west of 88th Street between S Riverbend Lane and Shamrock Drive.

Pond 12, 88th Street Detention, is an approximate 0.09 surface acres storm water detention pond located on 88th Street southwest of the 88th Street Bridge over U.S. Highway 36.

Pond 13, Foothills Storage, is a storm water detention pond approximately 0.88 surface acres located on the east side of Rock Creek Parkway and north of Honey Creek Lane.

Pond 14, Knolls Storage, is a series of 3 storm water detention ponds approximately 1.05 surface acres located east of Rock Creek Parkway and south of Honey Creek Lane. These ponds are directly north of the Horizons Apartment Complex.

Pond 15, Parkway Storage is a 10.6 acre-foot stormwater detention facility encompassing 1.86 surface acres located northwest of the intersection of Coalton Road and Rock Creek Parkway. This pond is north of the Safeway shopping complex.

Pond 16, Coalton Storage is a 0.51 surface acre stormwater detention pond located to the southwest of the intersection of Coalton Road and Indian Street.

Pond 17, Community Pond East is a 0.84 surface acre stormwater detention pond located northwest of the intersection of Rock Creek Circle and West Yarrow Circle.

Pond 18, Community Pond West is a 0.85 surface acre stormwater detention pond located southwest of the intersection of Rock Creek Circle and South Torreys Peak Drive.

Pond 19, East Storage Facility is a 0.82 surface acre stormwater detention pond located east of the Saddlebrooke Complex at the end of Enterprise Street.

The Following chart shall be used to identify each of the Town’s 19 ponds:

1	Ponds 1 through 5 are all connected by a recirculation pump and “creek” system. Pond 1 is located north of the intersection of Rock Creek Parkway and McCaslin Boulevard. The ponds are numbered sequentially as the water flows from Pond 1 to 5.
2	
3	
4	
5	
6	Below parking lot off Pitkin Avenue, south of Rock Creek Parkway
7	Just off of Rock Creek Parkway after Pitkin Avenue
8	North of Riverbend Street
9	North of Pitkin Avenue and Riverbend Street
10	Wetland habitat near the east end of Community Park
11	88 th Street and Rock Creek Parkway

12	88 th Street and Rock Creek Parkway
13	South of Enterprise Street
14	Three ponds located in the open space south of wastewater treatment plant
15	Behind Safeway, west of Rock Creek Parkway
16	Southwest corner of Coalton Road and Indiana Street
17	West of Castle Peak Avenue and Rock Creek Circle
18	East of Castle Peak Avenue and Rock Creek Circle
19	Saddlebrook Neighborhood

SERVICE REQUIREMENTS

The ponds mentioned above shall be managed in a clean, odor-free manner and maintained in accordance with sound lake/pond management practices.

The number of site visits conducted each month shall depend on the time of year, weather and environmental circumstances. The Contractor shall conduct weekly site visits for the months of May through September, with at least two visits per month in March, April, October, and November, and at least one visit per month in January, February, and December. **It shall be the responsibility of the Contractor to insure acceptable water quality at all times.**

GENERAL QUALITY REQUIREMENTS

The Contractor shall insure that submerged aquatic plants are controlled to the extent that they do not interfere with the recreational use of the pond (fishing, etc.). Submerged aquatic plants that are allowed to reach the surface will be considered unacceptable by Superior. In addition, the Contractor shall maintain an average thirty percent (30%) of submerged aquatic plants that will provide acceptable habitat conditions for the fish populations in the pond (where applicable). The Contractor shall also insure that in the event herbicide applications are necessary to control submerged aquatic plants, that no more than one third (1/3) of the pond water volume is treated per application.

The Contractor shall insure that algae (filamentous and planktonic) are controlled. Historically, filamentous algae has been an on-going problem that can overtake the pond water column in a matter of days, given favorable water conditions (high water temperature, length of daylight hours, etc.). It is considered unacceptable for algae to occupy twenty percent (20%) or more of the pond water volume.

The Contractor shall insure that floating aquatic plants (duckweed, etc.) are controlled throughout the pond. Floating aquatic plants that appear shall be considered unacceptable by Superior. Cattail growth will be monitored and chemically pruned as necessary to prevent uncontrolled excessive regrowth.

QUALITY CONTROL

Superior will assign a Parks and Open Space representative to act as the contact person and to monitor the quality of maintenance performed at the ponds. The Contractor shall be given the phone number of Superior’s contact person to be used in the event of an emergency. The Contractor shall

also supply phone numbers to Superior to be used in the event of an emergency. The Contractor shall respond within twenty-four (24) hours following the notification of an emergency situation.

Superior's representative will have the authority to direct the Contractor to redo or perform Additional Work according to the rates established in the Contract. The Contractor shall be aware that any costs related to re-treatment will be borne by the Contractor. In the event that the Town's representative deems the Work being performed to be deficient or unsatisfactory, the Contractor will be notified of any deficient or unsatisfactory Work by telephone, facsimile transmission, or other agreed-upon method of the deficient Work and will have forty-eight (48) hours in which to correct the deficiency, excluding weekends and holidays.

CHEMICAL APPLICATION

Chemicals applied by the Contractor to Superior property shall be applied by trained and licensed staff per Division of Plant Industry, Colorado Department of Agriculture. Copies of certifications must be submitted with the Bid.

The Contractor shall notify Superior within forty-eight (48) hours prior to any algaecide application and two (2) weeks prior to any aquatic herbicide application. In the event an aquatic herbicide application is warranted, the Contractor shall be responsible for notifying the public and posting at the pond. Prior to any pesticide or chemical application, the Contractor shall submit a list of pesticides and other materials to be used for the purposes of pond maintenance to Superior, as well as accompanying MSDS sheets. In addition, the Contractor shall submit to Superior a pesticide application record (as provided in Exhibit "C") for any pesticide or other product used in the pond. Such application shall be forwarded to Superior no later than forty-eight (48) hours following application.

At the time of aquatic herbicides/algaecides treatment, Contractor shall place yellow flags around the pond where the application is made and a banner containing pertinent information (time, date, material applied, precautions, etc.) shall be attached to a minimum one flag. A sample banner shall be supplied by the Town upon Contractor request.

WORK HOURS AND SCHEDULING

Maintenance of the property shall occur between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday, excluding weekends and holidays. The Contractor may request a variance in work hours so long as the request is received at least twenty-four (24) hours in advance of the date being requested.

SITE VISITS, INSPECTIONS, WATER QUALITY MONITORING

The Contractor shall provide site visits, inspections and water quality monitoring including the following items:

- Monitoring and assessing aquatic weed and algae growth.
- Water samples shall be monitored, collected and analyzed by the Contractor for clarity.
- Periodic water samples shall be collected by the Contractor and run through field or lab analyses to establish levels of key water quality characteristics.
- Contractor shall conduct monitoring to keep current with the changes in community's water biodiversity.
- Contractor shall conduct other tests as needed with direction from Town contact

including: chlorophyll A, algae count and predominant species, ammonia, Water Quality Index and specific conductance.

- Monitoring, inspection, and basic maintenance of aeration systems and fountains shall be covered by the Contractor under the agreement.

BACTERIAL BIOAUGMENTATION

- Bacterial bioaugmentation and necessary treatments shall be conducted by the Contractor.
- Contractor shall put the following ponds on a periodic inoculation schedule to receive specific strains of laboratory cultured bacteria to accelerate the decomposition of organic matter and to consume nitrates and phosphorous:
 - Pond 2
 - Pond 8
 - Pond 9
- The specific ponds inoculated may change as water quality conditions vary or as priorities change as determined by the Town contact. Contractor shall inform Town contact if changes occur.

AERATION

Contractor shall review the aeration of ponds on an as needed basis. Proposals for aeration systems or upgrades to ponds shall be drafted and presented by the Contractor for any pond that could benefit from the addition of aeration or aesthetic display aerators or fountains. Monitoring, inspection, and basic maintenance of aeration systems and fountains shall be covered by the Contractor under this Agreement.

GENERAL INFORMATION

The pond water levels will be maintained by Superior.

STATUS REPORTS

The Contractor shall provide to Superior a monthly status report of all Work performed at the ponds. **The report shall be provided to the Town of Superior no later than the second Tuesday of every month.** This report shall include:

- Monthly overall pond water quality conditions.
- Water quality conditions to include, but not be limited to: pH, temperature (C), dissolved oxygen (mg/l), specific conductance (mmhos/cm), ammonia (mg/l), algae count (ml) and predominant species and chlorophyll a (ug/l).
- All pesticide and other biological applications.
- All mechanical and cultural operations performed.
- All other Work performed.
- The Contractor shall also provide an annual report of overall water quality conditions from all ponds to include, but not be limited to:
 - Monthly breakdown of overall water quality conditions.
 - Bar graph illustrating annual water quality conditions (dissolved oxygen, etc.).
 - List of all pesticide and other applications.

EXHIBIT "B"
SCHEDULE OF CHARGES

POND	COST PER YEAR
1- Purple Park	
2- Purple Park	
3- Purple Park	
4- Purple Park	
5- Purple Park	
6- Purple Park	
7- Purple Park	
8- Riverbend Pond	
9- Bowes Reservoir	
10- Flor Storage	
11- 88 th St Storage	
12- 88 th St Detention	
13- Foothills Storage	
14- Knolls Storage	
15- Parkway Storage	
16- Coalton Pond	
17- Community Pond East	
18- Community Pond West	
19- East Storage Facility	
Total Cost Per Year	

EXHIBIT "C"
SCHEDULE OF CHARGES FOR ADDITIONAL WORK
All prices to include application and/or installation.

ITEM	COST
Material	
Copper Sulfate (\$/lb)	
Citrine Plus granular (\$/lb)	
Citrine Plus liquid (\$/gal)	
Aquathol K liquid (\$/gal)	
Aquathol Super K (\$/lb)	
Hydrothol 191 liquid (\$/gal)	
Hydrothol granular (\$/lb)	
Reward (\$/gal)	
Rodeo (\$/gal)	
Renovate (\$/gal)	
SONAR (\$/gal)	
Beneficial Bacteria Cultured (\$/gal)	
Beneficial Bacterial Concentrate (\$/gal)	
Air Filter (\$/ea)	
Carbon Vanes (set of 4) for ¾ hp pump	
Carbon Vanes (set of 4) for 1 hp pump	
Maintenance Kit for ¾ hp pump	
Maintenance Kit for 1 hp pump	
¾ hp Pump	
1 hp Pump	
Diffuser Heads	
Lead keel feeder tubing (\$/ft)	
Staff	
Administrative time (\$/hr)	
Field Technician (\$/hr)	
Qualified Supervisor for Pesticide Application (\$/hr)	
Test	
Temperature (field)	
pH (field)	
Dissolved oxygen (field)	
P/PO ₄ (lab)	
N/NO ₃ (lab)	
Turbidity (field)	

**SECTION III
PROSPECTIVE CONTRACTOR'S CERTIFICATE REGARDING EMPLOYING OR
CONTRACTING WITH ILLEGAL ALIENS**

(FOR SERVICES CONTRACTS ONLY)

FROM: _____
(Prospective Contractor)

TO: Town of Superior
124 East Coal Creek Drive
Superior, CO 80027

Project Name _____

As a prospective contractor for the above-identified bid, I (we) do hereby certify that, as of the date of this certification, I (we) do not knowingly employ or contract with an illegal alien and that I (we) have 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 basic pilot program administered by the United States Department of Homeland Security.

Executed this _____ day of _____, 2017.

Prospective Contractor _____

By: _____

Its: _____
Title

(Insert the Individual, Corporate or Partnership Certificate as appropriate)

SECTION IV

SAMPLE AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT is made and entered into this ____ day of _____, 2017, by and between the Town of Superior, 124 East Coal Creek Drive, Superior, Colorado 80027, a Colorado municipal corporation (the "Town"), and _____, an independent contractor with a principal place of business at _____, Colorado _____ ("Contractor") (each individually a "Party" and collectively the "Parties").

WHEREAS, the Town requires professional services; and

WHEREAS, Contractor has held itself out to the Town as having the requisite expertise and experience to perform the required professional services.

NOW, THEREFORE, for the consideration hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

I. SCOPE OF SERVICES

A. Contractor shall furnish all labor and materials required for the complete and prompt execution and performance of all duties, obligations, and responsibilities which are described or reasonably implied from the Scope of Services set forth in **Exhibit A**, attached hereto and incorporated herein by this reference.

B. A change in the Scope of Services shall not be effective unless authorized as an amendment to this Agreement. If Contractor proceeds without such written authorization, Contractor shall be deemed to have waived any claim for additional compensation, including a claim based on the theory of unjust enrichment, quantum merit or implied contract. Except as expressly provided herein, no agent, employee, or representative of the Town is authorized to modify any term of this Agreement, either directly or implied by a course of action.

II. TERM AND TERMINATION

A. This Agreement shall commence on the Effective Date, and shall continue until Contractor completes the Scope of Services to the satisfaction of the Town, or until terminated as provided herein.

B. Either Party may terminate this Agreement upon 30 days advance written notice. The Town shall pay Contractor for all work previously authorized and completed prior to the date of termination. If, however, Contractor has substantially or materially breached this Agreement, the Town shall have any remedy or right of set-off available at law and equity.

III. COMPENSATION

In consideration for the completion of the Scope of Services by Contractor, the Town shall pay Contractor \$_____. This amount shall include all fees, costs and expenses incurred by Contractor, and no additional amounts shall be paid by the Town for such fees, costs

and expenses. Contractor shall not be paid until the Scope of Services is completed to the satisfaction of the Town.

IV. PROFESSIONAL RESPONSIBILITY

A. Contractor hereby warrants that it is qualified to assume the responsibilities and render the services described herein and has all requisite corporate authority and professional licenses in good standing, required by law. The work performed by Contractor shall be in accordance with generally accepted professional practices and the level of competency presently maintained by other practicing professional firms in the same or similar type of work in the applicable community. The work and services to be performed by Contractor hereunder shall be done in compliance with applicable laws, ordinances, rules and regulations.

B. The Town's review, approval or acceptance of, or payment for any services shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

C. Because the Town has hired Contractor for its professional expertise, Contractor agrees not to employ subcontractors to perform any work under the Scope of Services.

V. OWNERSHIP

Any materials, items, and work specified in the Scope of Services, and any and all related documentation and materials provided or developed by Contractor shall be exclusively owned by the Town. Contractor expressly acknowledges and agrees that all work performed under the Scope of Services constitutes a "work made for hire." To the extent, if at all, that it does not constitute a "work made for hire," Contractor hereby transfers, sells, and assigns to the Town all of its right, title, and interest in such work. The Town may, with respect to all or any portion of such work, use, publish, display, reproduce, distribute, destroy, alter, retouch, modify, adapt, translate, or change such work without providing notice to or receiving consent from Contractor.

VI. INDEPENDENT CONTRACTOR

Contractor is an independent contractor. Notwithstanding any other provision of this Agreement, all personnel assigned by Contractor to perform work under the terms of this Agreement shall be, and remain at all times, employees or agents of Contractor for all purposes. Contractor shall make no representation that it is a Town employee for any purposes.

VII. INSURANCE

A. Contractor agrees to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by Contractor pursuant to this Agreement. At a minimum, Contractor shall procure and maintain, and shall cause any subcontractor to procure and maintain, the insurance coverages listed below, with forms and insurers acceptable to the Town.

1. Worker's Compensation insurance as required by law.

2. Commercial General Liability insurance with minimum combined single limits of \$1,000,000 each occurrence and \$1,000,000 general aggregate. The policy shall be applicable to all premises and operations, and shall include coverage for bodily injury, broad form property damage, personal injury (including coverage for contractual and employee acts), blanket contractual, products, and completed operations. The policy shall contain a severability of interests provision, and shall include the Town and the Town's officers, employees, and contractors as additional insureds. No additional insured endorsement shall contain any exclusion for bodily injury or property damage arising from completed operations.

3. Professional liability insurance with minimum limits of \$1,000,000 each claim and \$1,000,000 general aggregate.

B. Such insurance shall be in addition to any other insurance requirements imposed by law. The coverages afforded under the policies shall not be canceled, terminated or materially changed without at least 30 days prior written notice to the Town. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage. Any insurance carried by the Town, its officers, its employees or its contractors shall be excess and not contributory insurance to that provided by Contractor. Contractor shall be solely responsible for any deductible losses under any policy.

C. Contractor shall provide to the Town a certificate of insurance as evidence that the required policies are in full force and effect. The certificate shall identify this Agreement.

VIII. INDEMNIFICATION

Contractor agrees to indemnify and hold harmless the Town and its officers, insurers, volunteers, representative, agents, employees, heirs and assigns from and against all claims, liability, damages, losses, expenses and demands, including attorney fees, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement if such injury, loss, or damage is caused in whole or in part by, the act, omission, error, professional error, mistake, negligence, or other fault of Contractor, any subcontractor of Contractor, or any officer, employee, representative, or agent of Contractor, or which arise out of a worker's compensation claim of any employee of Contractor or of any employee of any subcontractor of Contractor. Contractor's liability under this indemnification provision shall be to the fullest extent of, but shall not exceed, that amount represented by the degree or percentage of negligence or fault attributable to Contractor, any subcontractor of Contractor, or any officer, employee, representative, or agent of Contractor or of any subcontractor of Contractor. If Contractor is providing architectural, engineering, surveying or other design services under this Agreement, the extent of Contractor's obligation to indemnify and hold harmless the Town may be determined only after Contractor's liability or fault has been determined by adjudication, alternative dispute resolution or otherwise resolved by mutual agreement between the Parties, as provided by C.R.S. § 13-50.5-102(8)(c).

IX. ILLEGAL ALIENS

A. Certification. By entering into this Agreement, Contractor hereby certifies that, at the time of this certification, it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement and that Contractor will participate in either the E-Verify Program administered by the United States Department of Homeland Security and Social Security Administration or the Department Program administered by the Colorado Department of Labor and Employment to confirm the employment eligibility of all employees who are newly hired to perform work under this Agreement.

B. Prohibited Acts. Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement, or enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.

C. Verification.

1. If Contractor has employees, Contractor has confirmed the employment eligibility of all employees who are newly hired to perform work under this Agreement through participation in either the E-Verify Program or the Department Program.

2. Contractor shall not use the E-Verify Program or Department Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

3. If Contractor obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien who is performing work under this Agreement, Contractor shall: notify the subcontractor and the Town within 3 days that Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien who is performing work under this Agreement; and terminate the subcontract with the subcontractor if within 3 days of receiving the notice required pursuant to subsection 1 hereof, the subcontractor does not stop employing or contracting with the illegal alien who is performing work under this Agreement; except that Contractor shall not terminate the subcontract if during such 3 days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien who is performing work under this Agreement.

D. Duty to Comply with Investigations. Contractor shall comply with any reasonable request by the Colorado Department of Labor and Employment made in the course of an investigation conducted pursuant to C.R.S. § 8-17.5-102(5)(a) to ensure that Contractor is complying with the terms of this Agreement.

E. Affidavits. If Contractor does not have employees, Contractor shall sign the "No Employee Affidavit" attached hereto. If Contractor wishes to verify the lawful presence of newly hired employees who perform work under the Agreement via the Department Program, Contractor shall sign the "Department Program Affidavit" attached hereto.

X. MISCELLANEOUS

A. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Boulder County, Colorado.

B. No Waiver. Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by the Town shall not constitute a waiver of any of the other terms or obligation of this Agreement.

C. Integration. This Agreement constitutes the entire agreement between the Parties, superseding all prior oral or written communications.

D. Third Parties. There are no intended third-party beneficiaries to this Agreement.

E. Notice. Any notice under this Agreement shall be in writing, and shall be deemed sufficient when directly presented or sent pre-paid, first class United States Mail to the party at the address set forth on the first page of this Agreement.

F. Severability. If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

G. Modification. This Agreement may only be modified upon written agreement of the Parties.

H. Assignment. Neither this Agreement nor any of the rights or obligations of the Parties hereto, shall be assigned by either Party without the written consent of the other.

I. Governmental Immunity. The Town and its officers, attorneys and employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities or protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to the Town and its officers, attorneys or employees.

J. Rights and Remedies. The rights and remedies of the Town under this Agreement are in addition to any other rights and remedies provided by law. The expiration of this Agreement shall in no way limit the Town's legal or equitable remedies, or the period in which such remedies may be asserted, for work negligently or defectively performed.

K. Subject to Annual Appropriation. Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the Town not performed during the current fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated, and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date first set forth above.

EXHIBIT A
SCOPE OF SERVICES

Contractor's Duties

During the term of this Agreement, Contractor shall perform the following duties, as directed by the Town:

- Contractor shall
- Contractor shall
- Contractor shall

Contractor's Deliverables

In performance of the duties described above, Contractor shall deliver the following items to the Town, during the timeframes established by the Town:

-

NO EMPLOYEE AFFIDAVIT

[To be completed only if Contractor has no employees]

1. Check and complete one:

I, _____, am a sole proprietor doing business as _____. I do not currently employ any individuals. Should I employ any employees during the term of my Agreement with the Town of Superior (the "Town"), I certify that I will comply with the lawful presence verification requirements outlined in that Agreement.

OR

I, _____, am the sole owner/member/shareholder of _____, a _____ [specify type of entity – *i.e.*, corporation, limited liability company], that does not currently employ any individuals. Should I employ any individuals during the term of my Agreement with the Town, I certify that I will comply with the lawful presence verification requirements outlined in that Agreement.

2. Check one.

I am a United States citizen or legal permanent resident.

The Town must verify this statement by reviewing one of the following items:

- *A valid Colorado driver's license or a Colorado identification card;*
- *A United States military card or a military dependent's identification card;*
- *A United States Coast Guard Merchant Mariner card;*
- *A Native American tribal document;*
- *In the case of a resident of another state, the driver's license or state-issued identification card from the state of residence, if that state requires the applicant to prove lawful presence prior to the issuance of the identification card; or*
- *Any other documents or combination of documents listed in the Town's "Acceptable Documents for Lawful Presence Verification" chart that prove both Contractor's citizenship/lawful presence and identity.*

OR

I am otherwise lawfully present in the United States pursuant to federal law.

Contractor must verify this statement through the federal Systematic Alien Verification of Entitlement ("SAVE") program, and provide such verification to the Town.

Signature

Date

