



**REQUEST FOR PROPOSAL  
(RFP)  
OWNER'S REPRESENTATION SERVICES**

**February 22, 2023**

Prepared by:

Amber Greene, Library Director  
agreene@eatonco.org  
132 Maple Ave  
Eaton, CO 80615  
970-673-7988

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## 1.0 GENERAL INFORMATION

### 1.1. INTRODUCTION AND PROPERTY DESCRIPTION

The Eaton Public Library (the Library) is requesting proposals from qualified service providers for Owner's Representation services. Firms submitting a response to the RFP will be asked at a minimum to state their understanding/experience and offer their methodology for meeting the criteria noted in this RFP. The shortlisted finalists will then be requested to participate in an interview.

#### Background

The Eaton Public Library is a member library of the High Plains Library District and is governed by a local library board of trustees appointed by the Town of Eaton board. The Library is funded through a 3.249 mill levy, which is administered through the Town of Eaton, and provides services within the Weld RE-2 school district boundaries to a population of 10,000 residents.

In December, 2022 the Town of Eaton Board approved capital projects totaling \$963,500 to expand the library's outreach services, update facilities, improve accessibility and support youth learning.

#### Services Description:

Owner's Representation services for 2023 capital projects including:

- Art mural: selection and installation of a children's mural in the storytime room
- Generator: installation and annual maintenance of a gas-powered generator to provide back-up electrical power in case of outages
- ADA Improvements: update building facility to meet ADA requirements for mobility, signage, etc.
- Bathroom remodel: update public restrooms with new lighting, fixtures, etc.
- Outreach vehicle: purchase outreach bookmobile and provide long-term storage
- Kiosk: install kiosk at Galeton location to provide check-out and return of library materials
- Outdoor children's area: build outdoor educational space for family programming, storytimes, meals and recreation
- Basement repair and remodel: repair water damage and update basement for secondary staff work and storage area
- Installation of Storywalks: install one Storywalk at a local park and one Storywalk on the Great Wester Trail
- Other: additional budget for capital improvement projects as they arise

### 1.2 CONTACTS

**Owner:** Amber Greene, Library Director  
132 Maple Ave  
Eaton, CO 80615  
970-673-7988

***Notice: Direct contact with the Client, the Board, or other related parties, may cause this candidate's removal from the RFP process.***

### 1.3 SCHEDULE OF EVENTS

The anticipated schedule below outlines milestones for the project:

DATE	TIME	EVENT
Wednesday, February 22, 2023	n/a	RFP Issued
Wednesday, March 8, 2023	5:00 p.m.	Deadline for receipt of questions
Wednesday, March 15, 2023	5:00 p.m.	Responses to questions issued
<b>Wednesday, March 22, 2023</b>	<b>5:00 p.m.</b>	<b>RFP Due - Deadline for submission of proposals from Consultants</b>
Monday, March 27, 2023	TBD	Interviews of firms
Week of Monday, April 3, 2023	n/a	Preferred Consultant announced

#### 1.4 QUALIFICATIONS FOR OWNER'S REPRESENTATIVE

- 1.4.1 Team members proposed must meet the following minimum requirements
- 1.4.1.1 Licensed General Contractor or minimum 15 years relevant experience as a general contractor or,
  - 1.4.1.2 Licensed Civil Engineer or minimum 15 years relevant experience as a civil engineer or,
  - 1.4.1.3 Licensed Architect or minimum 15 years' experience as a design professional.
  - 1.4.1.4 The successful candidate must be able to apply innovative and effective management techniques and must have complete knowledge of corporate and construction industry practice, process, standards and their impact on project activities. Qualified owner's representatives will be able to provide references on projects of similar scale.
- 1.4.2 Preference will be given to firms meeting the following
- 1.4.2.1 Established as a business for five years in the State of Colorado.
- 1.4.3 Firm must carry the following Insurance requirements
- 1.4.3.1 Workers' Compensation insurance as required by the Labor Code of the State of Colorado and Employers Liability Insurance. Employer's Liability Limits include ONE MILLION DOLLARS (\$1,000,000) for disease policy limit, disease of each employee, and each accident.
  - 1.4.3.2 General Liability insurance with minimum combined single limits of ONE MILLION DOLLARS (\$1,000,000) each occurrence and ONE MILLION DOLLARS (\$1,000,000) aggregate. The policy shall include the Owner, its officers and its employees, as additional insured's, with primary coverage as respects Owner, its officers and its employees, and shall contain a severability of interests provision.
  - 1.4.3.3 Comprehensive Automobile Liability insurance with minimum combined single limits for bodily injury and property damage of not less than ONE HUNDRED AND FIFTY THOUSAND DOLLARS (\$150,000) per person in any one occurrence and FIVE HUNDRED THOUSAND DOLLARS (\$500,000) for two or more persons in any one occurrence, and auto property damage insurance of at least FIFTY THOUSAND DOLLARS (\$50,000) per claim, with respect to each of Consultant's, hired or non-owned vehicles assigned to or used in performance of the services. The policy shall include Owner, its officers and its employees, as additional insured's, with primary

coverage as respects Owner, its officers and its employees, and shall contain a severability of interests provision. If the Consultant has no owned automobiles, the requirements of this paragraph shall be met by each employee of the Consultant providing services to Owner under this contract.

1.4.3.4 Professional Liability coverage with minimum combined single limits of ONE MILLION DOLLARS (\$1,000,000) each claim and ONE MILLION DOLLARS (\$1,000,000) aggregate. Professional liability insurance is required for subcontractors of Consultant only if such subcontractor is providing architectural, engineering or other professional services subject to state licensure.

## 1.5 PROPOSAL INSTRUCTIONS

- A. Pages in the proposal shall be typed with the maximum number of pages of proposal information (excepting cover sheet, index sheet, blank pages, table of contents, and other supplemental proposal forms required or requested) to be limited to 40 pages numbered in sequential order.
- B. **Submit PDF ELECTRONIC COPIES of the Proposal via EMAIL to [agreene@eatonco.org](mailto:agreene@eatonco.org) indicating in the subject field it is a response to this RFP, addressed to the Client.**
- C. No Proposing Firm may submit more than one proposal. Multiple submissions under different names will not be accepted from one firm, Joint Venture, or association.
- D. Each respondent must comply with the submission requirements as outlined. Submittals that fail to comply with the requirements as specified may be deemed non-responsive and such determination will result in no further consideration of that respondent or the respondent's submittals by the Client. At any stage, the Client reserves the right to terminate, suspend or modify this selection process; reject any or all submittals at any time; and waive any informalities, irregularities or omissions in submittals, as the best interests of the Client may require.

## 1.6 PROPOSAL REQUIREMENTS

**Proposals must include, but are not limited to, the following items:**

### **Part 1 – Cover Letter**

Brief cover letter expressing interest. Identify years in business in the cover letter.

### **Part 2 – Project Experience**

- A. Present at least two projects completed in the last four years. Provide portfolio sheets including:
  - 1. Project location
  - 2. Project size in square feet
  - 3. Project completed construction value
  - 4. Project construction start and completion date
  - 5. Method of construction delivery
  - 6. Project Description
  - 7. Staff directly involved with the project.

8. Owner, Contractor, and Architect contact information, email and telephone

### **Part 3 – Project Team & Staff**

- A. Provide an overview of your proposed team and their experience.
- B. Organization Chart; Provide an organization chart graphically indicating how your firm would staff and structure the proposed team. Clearly identify the main point of contact.
- C. Qualifications Matrix: Provide a matrix identifying the five projects identified under project experience along and the team members. Identify the team members that actively worked on the project. Also include relevant qualifications on the matrix such as LEED, PMP Certification, Licenses etc.
- D. Resumes of team members.
  1. Identify their role
  2. Identify team member credentials
  3. Identify their LEED Accreditation Status
  4. Identify relevant credentials such as Licensed General Contractor, Licensed Engineer, Certified Project Manager or other relevant experience
  5. Identify professional affiliations

### **Part 4 – Qualifications Q&A**

1. Describe your firms approach and philosophies to projects.
2. Describe your firms approach to communication with the ownership team members and consultants.
3. Describe how your firm engages the community in projects.
4. Describe the tools your firm uses to effectively develop and manage the projects budgets.
5. Describe the tools your firm uses to effectively develop and manage the projects schedules.
6. Describe your firms experience managing a portfolio of projects and what lessons were learned.
7. Provide description of any lawsuits or claims including status and resolutions.
8. Describe a recent experience at a library that was positive or negative and describe why.
9. Describe how changes in libraries will affect designs and construction.

### **Part 5 – Fee Proposal**

1. Provide fees.
2. Provide an hourly rate sheet for team members proposed.
3. Clearly identify reimbursables as a separate line item. Include a description of what is included and excluded as a reimbursable.
4. Define any clarifications or exclusions related to the fees proposed.

## **1.7 QUESTIONS, INQUIRIES, AND AMENDMENTS REGARDING THIS RFP**

Questions and inquiries regarding the RFP should be directed in writing only to Amber Greene at [egreene@eatonco.org](mailto:egreene@eatonco.org) by the date aforementioned. The Client will issue a response to all questions by email. Questions should not be submitted to the Board or other parties, doing so may cause this candidate's removal from the RFP process.

## **1.8 PROPOSING FIRMS TO FULLY INFORM THEMSELVES**

Proposers are required to fully inform themselves of all project conditions which may impact their proposal and the Client's requirements prior to submitting a proposal. Proposers should become acquainted with the nature and extent of the services to be undertaken and make all necessary examinations, investigations and inspections prior to submitting a proposal. Firms proposing are responsible for examining and determining for themselves the location and nature of the proposed work, the amount and character of the labor and materials required, and the difficulties which may be encountered. If requested in advance the Client will provide the Firm proposing access to the site to conduct such examinations as each Proposing Firm deems necessary for submission of a proposal. The Proposing Firm is to consider federal, state and local Laws and Regulations that may affect cost, progress, performance or furnishing of the Work.

The Client will not consider any claims arising from failure to take such actions.

## **1.9 EVALUATION & SELECTION CRITERIA**

The Client reserves the right to reject any or all responses to this RFP. Final selection of the short-listed candidates will be on the basis of their apparent ability to best meet the overall expectations of the Client, as determined solely by the Client.

The Eaton Public Library reserves the absolute right to conduct investigations as it deems necessary for the evaluation of any proposal and to establish the experience, responsibility, reliability, references, reputation, business ethics, history, qualifications and financial ability of the firm responding. The purpose of such investigation is to determine that the candidate has the ability, experience, resources and reputation necessary to perform the work and to support all warranties in accordance with the contract documents.

## **1.10 RIGHT OF REJECTION**

The Client reserves the right to accept or reject any or all responses to this RFP and to enter into discussions and/or negotiations with one or more qualified Proposing Firms, if such action is in the best interest of the Client. The Client has the right, in its sole and absolute discretion, to select the proposal or proposals that the Client determines best meets its needs.

The Client will have sole determination of which proposal is in the Client's best interest. The Owner further reserves the right to cancel or amend this Request for Proposals at any time and will notify all recipients accordingly.

## **1.11 MODIFICATION AND WITHDRAWAL OF PROPOSAL**

- A. Withdrawn proposals may be resubmitted up to the time designated for the receipt of proposals due date/time provided that they are then fully in conformance with the RFP.
- B. If, within twenty-four hours after proposals are opened, any company that provides written notice to the Client and promptly thereafter demonstrates to the reasonable satisfaction of Client that there was a material and substantial mistake in the preparation of its proposal, that company may withdraw its proposal. Thereafter, that company will be disqualified from further bidding on the Work.

## **1.12 COST OF PROPOSALS**

Expenses incurred in the preparation of proposals in response to this RFP are the Proposing Firm's sole responsibility. The Client assumes no responsibility for payment of any expenses incurred by any Proposing Firm as part of the RFP process.

## **1.13 RIGHTS OF OWNER**

- A. Professional Service Provider hereby releases, discharges and agrees to hold harmless the Eaton Public Library, its directors, members, administrators, officers, employees, agents and contractors. The Professional Service Provider also holds harmless the Eaton Public Library, its trustees, administrators, officers, employees and agents, and any third-parties who provide any information to the Eaton Public Library, as well as any assignees, from any and all claims for damages for libel, slander, defamation, invasion of privacy, false light, interference with business expectancy or any other claim based on any investigation of the background, references, credentials, history, experience and abilities of the Professional Service Provider.
- B. The Owner reserves the right (a) to terminate the Request for Proposals process at any time; (b) to reject any or all proposals; and (c) to waive formalities and minor irregularities in the proposals received.
- C. The Owner further reserves the right to conduct a pre-award survey and reference checks of any firm under consideration to confirm any of the information furnished by the firm or to require other evidence of managerial, financial, technical and other capabilities, the positive establishment of which is determined by the Owner to be necessary for the successful performance of the contract.



**2.0 ATTACHMENTS**

**2.1 PROPOSAL FORM FOR OWNERS REPRESENTATIVE**

(Please use additional sheets as necessary.)

**COMPANY NAME:** \_\_\_\_\_

**COMPANY ADDRESS:** \_\_\_\_\_

**PHONE:** \_\_\_\_\_ **FAX:** \_\_\_\_\_

**CONTACT PERSON NAME:** \_\_\_\_\_

**CONTACT PERSON PHONE:** \_\_\_\_\_

**CONTACT PERSON EMAIL:** \_\_\_\_\_

1. I Acknowledge that the "Sample Agreement" attached to this RFP has been reviewed and is agreed to as shown. \_\_\_\_\_(YES/NO). Do you request amendments to the "Agreement". \_\_\_\_\_(YES/NO) Please list them if yes.
2. Acknowledgment that the submitting agent meets or exceeds insurance requirements as outlined in the RFP. \_\_\_\_\_(YES/NO)
3. The undersigned Proposer declares and stipulates that this proposal is made in good faith, without collusion or connection with any other person or persons bidding for the same Work, and that it is made subject to all the terms and conditions of the Request for Proposal and associated documents, all of which have been examined by the undersigned. \_\_\_\_\_(YES/NO)
4. The submission of the proposal constitutes an agreement, and shall not be withdrawn after the proposal opening for a period of forty-five days.
5. The Proposer hereby acknowledges receipt of answers to questions. \_\_\_\_ (YES/NO)

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

\*\*\* End of Proposal Form \*\*\*

## 2.2 EXHIBIT B: SCOPE OF SERVICES

### Owner's Representation Services.

#### General

1. Set up and manage Project Management Online Software including shared documents, contacts and calendar.
2. Be available to give presentations to the boards, commissions, civic groups, government officials and funding agencies.
3. Primary role is to provide oversight and coordination of the project from EPL's perspective to effectively balance costs, time and quality.
4. Work with the team to refine the scope of work to be within EPL's budget. Upon EPL's approval of the design schematics and budget, the design team will prepare the necessary architectural and other design development documents. Owner's Representative will review design with respect to compliance with agreed-upon project objectives.
5. Represent the EPL at regular project meetings and provide advice that will help facilitate economical, efficient and desirable development and construction procedures. Track project related issues, assign responsibility and track follow-through.
6. Act as liaison between the project team members and assist in the obtaining of building permits, other governmental approvals, authorizations and sign-off's as necessary for the design, construction and operations of the project.
7. Prepare periodic updates for EPL's approval.
8. Generate master budget. Establish a process by which all changes can be priced, submitted, reviewed and added or subtracted from the project cost. Review and submit, with recommendations, all requests for payment under vendor agreements, provided that all such payments shall be subject to EPL approval. Coordinate with EPL's finance and accounting departments on related budget and financial matters.
9. Meet with fire departments, cable, power and phone companies to progress design and construction.
10. Submit to the EPL suggestions or changes that could improve the design or reduce costs.
11. Provide interpretation of plans and specifications.
12. Develop a communication organization chart for communication flow and decision making.
13. Coordinate with EPL's legal counsel on legal aspects of the project and major project-related decisions.
14. Maintain electronic files for the EPL.
15. Review the options for project delivery methods based on program needs and recommend an approach.

## 2.3 EXHIBIT C: SAMPLE AGREEMENT

### AN AGREEMENT BY AND BETWEEN OWNER'S NAME AND \_\_\_\_\_ FOR PROJECT MANAGEMENT/OWNER'S REPRESENTATION SERVICES

#### 1.0 PARTIES

THIS AGREEMENT (the "Agreement") is made and entered into on Month Day, Year by and between Eaton Public Library, a library district duly organized and validly existing pursuant to the provisions of Part 1 of Article 90 of Title 24 of the Colorado Revised Statutes (hereinafter "Owner"), and COMPANY., a Colorado corporation (hereinafter "Consultant"), with Owner and Consultant sometimes individually referred to as "party" or collectively referred to as the "parties."

The respective addresses of the parties are as follows:

#### OWNER

Owner's Name  
Address  
City, State Zip

#### CONSULTANT

Company  
Address

This Agreement shall set forth the respective duties, rights and obligations of the parties with respect to the following described project:

**Description:** On-call Owner's Representation services for future projects. The scope, quantity and delivery method of the services are unknown at this time and the number and nature will vary greatly based upon future circumstances.

#### 2.0 RECITALS AND PURPOSE

- 2.1 The Owner desires to engage the Consultant for the purpose of Project Management/Owner's Representative Services in connection with the Project.
- 2.2 The Consultant represents that it has the special expertise and background necessary to provide the Owner with the services.

#### 3.0 SCOPE OF SERVICES

- 3.1 The Consultant agrees to provide the Owner with the specific professional services as set forth in Exhibit "A" attached hereto and incorporated herein by reference (Services).
- 3.2 The Consultant agrees to furnish the best skill and judgment and to cooperate with the Architect, Engineers, and the General Contractor in furthering the interests of the Owner.

#### 4.0 COMPENSATION

- 4.1 The Owner shall pay the Consultant for services under this agreement per the amounts set forth as Total Fees and Reimbursables in Exhibit "B" attached hereto and incorporated herein by this reference. Expenses shall be reimbursed in accordance with the schedule set forth in Exhibit "B". Such amounts shall be inclusive of all costs of whatsoever nature associated with the Consultant's efforts, including but not limited to salaries, benefits, expenses, overhead, administration, profits, and outside consultant/subcontractor fees. The scope of services and payment therefore shall only be changed by a mutually authorized written amendment to this Agreement.
- 4.2 The Consultant shall submit monthly a detailed invoice to the Owner outlining the percentage services that are complete by phase and reimbursable expenses incurred.

4.3 The Owner shall pay the invoice within thirty (30) days of receipt unless the work or the documentation therefore are unsatisfactory. Payments made after thirty (30) days may be assessed an interest charge of one and one half percent (1.5%) per month unless the delay in payment resulted from unsatisfactory work or documentation therefore.

4.4 Any payment obligations of Owner for fiscal years after the year in which this Agreement is executed shall be subject to and contingent upon annual budgeting and appropriation by the Owner.

## **5.0 PROJECT REPRESENTATION**

5.1 The Owner designates Name, as the responsible Owner staff member to provide direction to the Consultant during the conduct of the project.

5.2 The Consultant designates NAME. as its designated representative. The Owner may rely upon the guidance, opinions, and recommendations provided by the Consultant and its subcontractors, subject to all conditions, limitations, and requirements of this Agreement.

## **6.0 TERM**

6.1 The Consultant's services under this Agreement shall commence upon the execution of this Agreement by the Owner and be completed by the Consultant no later than Month Day, Year. The term of this Agreement may be shortened or extended, but only by written amendment executed by Owner and Consultant, subject to the termination rights set forth in Section 13.

## **7.0 INSURANCE**

7.1 The Consultant shall procure the minimum insurance coverages listed below. All coverages shall be continuously maintained to cover all liability, claims, demands, and other obligations assumed by the Consultant pursuant to this Agreement. In the case of any claims-made policy, the necessary insurance to cover retroactive dates and extended reporting periods shall be procured by the Consultant to maintain such continuous coverage.

7.1.1 Workers' Compensation insurance as required by the Labor Code of the State of Colorado and Employers Liability Insurance. Employer's Liability Limits include ONE MILLION DOLLARS (\$1,000,000) for disease policy limit, disease of each employee, and each accident.

7.1.2 General Liability insurance with minimum combined single limits of ONE MILLION DOLLARS (\$1,000,000) each occurrence and ONE MILLION DOLLARS (\$1,000,000) aggregate. The policy shall include the Owner, its officers and its employees, as additional insured's, with primary coverage as respects Owner, its officers and its employees, and shall contain a severability of interests provision.

7.1.3 Comprehensive Automobile Liability insurance with minimum combined single limits for bodily injury and property damage of not less than ONE HUNDRED AND FIFTY THOUSAND DOLLARS (\$150,000) per person in any one occurrence and FIVE HUNDRED THOUSAND DOLLARS (\$500,000) for two or more persons in any one occurrence, and auto property damage insurance of at least FIFTY THOUSAND DOLLARS (\$50,000) per claim, with respect to each of Consultant's, hired or non-owned vehicles assigned to or used in performance of the services. The policy shall include Owner, its officers and its employees, as additional insured's, with primary coverage as respects Owner, its officers and its employees, and shall contain a severability of interests provision. If the Consultant has no owned automobiles, the requirements of this paragraph shall be met by each employee of the Consultant providing services to Owner under this contract.

7.1.4 Professional Liability coverage with minimum combined single limits of ONE MILLION DOLLARS (\$1,000,000) each claim and ONE MILLION DOLLARS (\$1,000,000) aggregate. Professional liability insurance is required for subcontractors of Consultant only if such subcontractor is providing architectural, engineering or other professional services subject to state licensure.

7.2 A certificate of insurance shall be completed by the Consultant's insurance agent(s), and by agents of any subcontractor providing services through Consultant, as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect, and shall be subject to review and approval by the Owner prior to commencement of any services under the contract. The insurer shall give Owner notification of any termination by refusal to renew the policy or of any change in coverage of the policy in the manner provided by law, or, if none, at least thirty (30) days prior to such termination or change.

## **8.0 INDEMNIFICATION & LIMITATION OF LIABILITY**

8.1 The Consultant agrees to indemnify and hold harmless the Owner, and its officers and its employees, from and against any liability, demands, and expenses, including reasonable court costs and attorney fees, on account of any injury, loss, or damage, which arise out of or are in any manner connected with the work to be performed under this Agreement, if such injury, loss, or damage is caused by, or is claimed to be caused by the negligent act, error or omission or other fault of the Consultant or any officer or employee of the Consultant or any subcontractor of Consultant, or any other person for whom Consultant is directly responsible. The obligations of this Section 8 shall not extend to any injury, loss, or damage which is caused solely by the act, omission, or other fault of the Owner or parties under the Owner's control.

8.2 Owner agrees to the fullest extent permitted by law, to limit the liability of the Consultant to the Owner for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, including attorney's fees and costs and expert witness fees and costs, so that the total aggregate liability of the consultant to the Owners Shall not exceed the value of the contract amount for the Project per the attached exhibits. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law. Additional limits of liability may be made available for an additional fee. This clause supersedes anything to the contrary stated within this agreement.

8.3 It is the intention of the parties that this Agreement shall not be construed as a contractual waiver of any immunities or defenses provided by the Colorado Governmental Immunity Act, Section 24-10101 and following, Colorado Revised Statutes.

## **9.0 QUALITY OF WORK**

9.1 Consultant's professional services shall be in accordance with the prevailing standard of practice normally exercised in the performance of professional services of a similar nature in the Colorado Area.

## **10.0 INDEPENDENT CONTRACTOR**

10.1 Consultant and any persons employed or retained by Consultant for the performance of work hereunder shall be independent contractors and not agents or employees of Owner. Any provisions in this Agreement that may appear to give the Owner the right to direct Consultant as to details of doing work or to exercise a measure of control over the work mean that Consultant shall follow the direction of the Owner as to end results of the work only. Consultant is not entitled to receive from Owner any benefits, including without limitation workers' compensation or unemployment compensation. The Consultant is obligated to pay all federal, state and local income tax or other applicable tax on any moneys earned or paid pursuant to this Agreement. Nothing herein shall create or be construed as creating a partnership, joint venture or agency relationship between the Parties, and no party shall have the authority to bind the other in any respect.

## **11.0 WORK PRODUCT/CONFIDENTIALITY**

11.1 Any and all information disclosed to the Consultant by the Owner in connection with this Agreement will be held confidential by the Consultant and will not be disclosed to any other party without the express consent of Owner. All reports, plans, drawings, computer input and output, analyses, data, electronic files and written material of any kind generated in the performance of this Agreement or development specifically for the project are all and shall remain the sole and exclusive property of the Owner. All such materials shall be promptly provided to the Owner upon request therefore and at the time of termination of this Agreement, without further charge or expense to the Owner other than approved reimbursable expenses for reproduction thereof. Consultant shall not provide copies of any such material to any other party without the prior written consent of the Owner. The parties agree that the report and any other documents prepared hereunder are solely for the use of the Owner, and no other entity is entitled to rely on the reports or other documents that the Consultant prepares.

## **12.0 ASSIGNMENT**

12.1 Consultant shall not assign, subcontract, nor delegate this Agreement or any portion thereof, or any monies due or to become due hereunder without the Owner's prior written consent.

## **13.0 TERMINATION**

13.1 This Agreement may be terminated by either party for material breach or default of this Agreement by the other party not caused by any action or omission of the other party by giving the non-terminating party written notice at least thirty (30) days in advance of the termination date, with a right to cure. Termination pursuant to this subsection shall not prevent either party from exercising any other legal remedies which may be available to it.

13.2 In addition to the foregoing, this Agreement may be terminated by the Owner for its convenience and without cause of any nature by giving written notice to the consultant at least seven (7) days in advance of the termination date. In the event of such termination, the Consultant will be paid for the reasonable value of the Services rendered to the date of termination, not to exceed the total amount set forth in Exhibit B and any additional sums approved by amendment, and upon such payment, all obligations of the Owner to the Consultant under this Agreement will cease and terminate. The consultant shall also be compensated for project shut down costs actually incurred. Termination pursuant to this Subsection shall not prevent either party from exercising any other legal remedies which may be available to it.

## **14.0 INSPECTION**

14.1 The Owner and its duly authorized representatives shall have access to any books, documents, papers, and records of the Consultant and its subcontractors that are related to this Agreement for the purpose of making audit, examination, excerpts, and transcriptions.

## **15.0 DISPUTE RESOLUTION**

15.1 If a dispute arises out of or relates to this Agreement or its breach, the parties shall endeavor to settle the dispute first through good faith negotiations.

- a. Mediation. Mediation. If the dispute cannot be settled through good faith negotiations within thirty (30) days after the earliest date on which one party notifies the other party in writing of its desire to attempt to resolve such dispute or claim through negotiations, the parties shall endeavor in good faith to settle the dispute by mediation through selection of a mutually agreeable mediator. In the event the parties are unable to agree upon a mediator, then they shall submit the matter to the Judicial Arbitrator Group, Denver, Colorado for mediation. Such mediation will be conducted within sixty (60) days following either party's written request therefor.
- b. Arbitration. If neither direct discussions nor mediation successfully resolves the dispute, the parties agree that Arbitration shall be used to resolve the dispute pursuant to the Colorado Uniform Arbitration Act. A written demand for arbitration by either party shall be filed with the other party to the Agreement within a reasonable time after the dispute or claim has arisen, but in no event after the applicable statute of limitation for a legal or equitable proceeding has run. The award of the arbitrator shall be final.

## **16.0 COMPLIANCE WITH LAWS**

16.1 Consultant shall be solely responsible for compliance with all applicable federal, state, and local laws, including the ordinances, resolutions, rules, and regulations of Owner; for payment of all applicable taxes; and obtaining and keeping in force all applicable permits and approvals.

## **17.0 INTEGRATION AND AMENDMENT**

17.1 This Agreement represents the entire Agreement between the parties and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the parties.

## **18.0 WARRANTIES**

18.1 The Consultant makes no warranties relating to schedules or completion dates, budgets, the cost of the work or the project, the work performed by contractors, or any other warranties, express or implied, that are not expressly set forth in this Agreement. The Consultant shall have no liability for any errors or omissions

in the construction documents or any defect in the services attributable to the Consultant's use of and or good faith reliance upon the construction documents or any other information furnished by or on behalf of Owner or Architect to the extent permitted by law.

**19.0 BINDING EFFECT**

19.1 This Agreement shall be binding upon the heirs, personal representatives, successors and permitted assigns of the parties hereto.

**20.0 CONTROLLING LAW**

20.1 This Agreement is being executed and is to be performed in the State of Colorado and shall be enforced and construed according to the laws of the State of Colorado.

**21.0 WAIVER**

21.1 The failure of either party to require strict performance of or the waiver by either party of any provision hereof shall not be construed as a consent to or waiver of any other breach of the same or any other provision.

**22.0 SEVERABILITY**

22.1 If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or illegal, such provision shall have no effect and the remaining provisions shall remain applicable.

**23.0 APPROPRIATION**

23.1 No provision of this Agreement shall be construed or interpreted: i) to directly or indirectly obligate Owner to make any payment in any year in excess of amounts appropriated for such year; ii) as creating a debt or multiple fiscal year direct or indirect debt or other financial obligation whatsoever within the meaning of Article X, Section 6 or Article X, Section 20 of the Colorado Constitution or any other constitutional or statutory limitation or provision; or iii) as a donation or grant by Owner to or in aid of any person, company or corporation within the meaning of Article XI, Section 2 of the Colorado Constitution.

**24.0 NOTICES**

24.1 Any notices required or permitted under this Agreement shall be deemed given when personally delivered, in writing, or when deposited in the United States certified mail, postage prepaid, and addressed to the persons identified in Section 5.0 above.

**25.0 TIME**

25.1 Time is of the essence. Deadline and completion dates are material and significant to the Owner.

**26.0 ILLEGAL IMMIGRANT**

26.1 Throughout the term of this Agreement, Consultant will not: (i) knowingly employ or contract with an illegal alien who will perform work under this Agreement; or (ii) enter into a contract with a subconsultant that fails to certify to Consultant that the subconsultant does not knowingly employ or contract with an illegal alien to perform work under this Agreement.

26.1.1 Consultant has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement through participation in either the E-Verify Program or the Colorado Department of Labor and Employment verification program. As used in this provision: (i) the term "E-Verify Program" means the electronic employment verification program created in Public Law 104-208, as amended and expanded in Public Law 108-156, as amended, and jointly administered by the United States Department of Homeland Security and the Social Security Administration, or its successor program; and (ii) the term "Colorado Department of Labor and Employment verification program" means the program established by Section 8-17.5-102(5)(c), C.R.S.

26.1.2 Consultant is prohibited from using E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

26.1.3 If Consultant obtains actual knowledge that a subconsultant performing work under this Agreement knowingly employs or contracts with an illegal alien, Consultant will: (i) notify such subconsultant and

Owner within three (3) days that Consultant has actual knowledge that the subconsultant is employing or contracting with an illegal alien; and (II) terminate the subcontract with the subconsultant if within three (3) days of receiving the notice required pursuant to this Section the subconsultant does not stop employing or contracting with the illegal alien; except that Consultant will not terminate the contract with the subconsultant if during such three (3) days the subconsultant provides information to establish that the subconsultant has not knowingly employed or contracted with an illegal alien.

- 26.1.4 Consultant will comply with any reasonable request by the Colorado Department of Labor and Employment made in the course of an investigation that the Colorado Department of Labor and Employment undertakes or is undertaking pursuant to the authority established in Subsection 8-17.5-102(5), C.R.S.
- 26.1.5 If Consultant violates any provision of this Agreement pertaining to the duties imposed by Subsection 8-17.5-102, C.R.S., or this Section, Owner may terminate this Agreement for a breach of the contract.

**27 JOINT DRAFTING**

27.1 The parties agree that this Agreement was jointly drafted, and that both had opportunity to negotiate its terms and to obtain the assistance of counsel in reviewing its terms prior to execution. Therefore, this Agreement shall be construed neither against nor in favor of either party, but shall be construed in a neutral manner.

**28 FORCE MAJEURE**

28.1 The owner shall not and does not hold Consultant responsible for damages or for delays in performance caused by force majeure, acts of God, or other acts or circumstances beyond the control of the Consultant, or that could not have been reasonably foreseen and prevented including, but not limited to, fire, weather, floods, earthquakes, epidemics, war, riots, terrorism, strikes and unanticipated site conditions.

OWNER:  
Owner's Name  
Address  
City, State Zip

CONSULTANT:  
Company  
Address

By: \_\_\_\_\_  
Name, Title

\_\_\_\_\_  
Date

By: \_\_\_\_\_  
Name, Title

\_\_\_\_\_  
Date



**EXHIBIT A**  
**Scope of Services**

Provide project management and oversight of the following capital projects:

- Art mural: selection and installation of a children’s mural in the storytime room
- Generator: installation and annual maintenance of a gas-powered generator to provide back-up electrical power in case of outages
- ADA Improvements: update building facility to meet ADA requirements for mobility, signage, etc.
- Bathroom remodel: update public restrooms with new lighting, fixtures, etc.
- Outreach vehicle: purchase outreach bookmobile and provide long-term storage
- Kiosk: install kiosk at Galeton location to provide check-out and return of library materials
- Outdoor children’s area: build outdoor educational space for family programming, storytimes, meals and recreation
- Basement repair and remodel: repair water damage and update basement for secondary staff work and storage area
- Installation of Storywalks: install one Storywalk at a local park and one Storywalk on the Great Wester Trail
- Other: additional budget for capital improvement projects as they arise

**EXHIBIT B**

**Owner’s Representation**

Professional Service Fees – Owner’s Representation	\$0,000
Anticipated Reimbursables -	\$0,000