

## PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is made and entered into effective this \_\_\_\_ day of \_\_\_\_\_, 2021 (the “Effective Date”), by and between the CITY OF COMMERCE CITY, a Colorado home rule municipality whose address is 7887 East 60th Avenue, Commerce City, Colorado (the “City”), and LOTUS ENGINEERING AND SUSTAINABILITY, LLC, a Colorado limited liability company whose principal business address is 1627 Vine Street, Denver, CO 80206 (“Contractor”).

WHEREAS, the City desires to retain the services of Contractor, and Contractor desires to provide services to the City.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, the sufficiency of which is acknowledged, the parties agree as follows:

### I. SERVICES.

A. Services. At the City’s direction, Contractor will provide environmental policy development, air quality monitoring, and water quality monitoring services for the City on a non-exclusive basis as set forth in Exhibit A – Scope of Services, and pursuant to Work Orders, as defined below, if applicable (“Services”). The terms and conditions of this Agreement shall apply to the performance of all Services under this Agreement, whether performed with or without a Work Order and notwithstanding the failure of any Work Order to incorporate this Agreement by reference. The 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. The City reserves the right to omit any of the Services identified in Exhibit A or any Work Order upon written notice to Contractor without penalty. Contractor acknowledges that this Agreement does not grant any exclusive privilege or right to supply Services to the City.

1. Work Order Services. A “Work Order” is an order agreed to by the City and Contractor to determine specific Services to be performed (including scope of Services, schedule, and total price) before the performance of Services. Work Orders may be in the form of Exhibit B but must include a specific reference to this Agreement. Work Orders must be executed and authorized as follows: (a) Division Manager (up to \$10,000.00); (b) Department Director (up to \$75,000.00); and (c) City Manager (up to and exceeding \$75,000.00).

2. Invoiced Services. Contractor may perform Services without a Work Order if the scope of Services and the total amount to be billed to the City for such Services are authorized and agreed to by the City before the performance of such Services. Services to be performed without a Work Order must be authorized as follows: (a) Division Manager (up to \$10,000.00); (b) Department Director (up to \$75,000.00); and (c) City Manager (up to and exceeding \$75,000.00).

B. Changes to Scope of Services. A change in the Scope of Services or Work Order 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 City is authorized to modify any term of this Agreement, either directly or implied by a course of action.

C. Controlling Terms. This Agreement will control if the terms and conditions of any exhibit, attachment, Work Order, or invoice conflict with the terms and conditions of this Agreement. Additional

terms and conditions not specifically relating to the Services (such as unnegotiated or form terms included in any Work Order, Invoice, or attachment), whether or not in conflict with this Agreement, are not agreed to by the City and are declared void and of no force or effect.

D. Contractor Representations; Standard of Care. Contractor represents that it has the requisite authority, capacity, experience and expertise to perform the Services in compliance with the provisions of this Agreement and all applicable laws. Contractor acknowledges that the City is relying on Contractor's expertise, skill, and knowledge, and that the Contractor's obligations and liabilities will not be diminished by reason of any approval or review by the City. Contractor further represents that the Services provided: (i) will be performed in accordance with the applicable professional standard of care of a reasonable professional that is performing the same or similar work, at the same time and locality and under the same or similar conditions faced by Contractor, and (ii) will be performed in a timely manner as required by the Agreement and performed and supervised by qualified personnel. Contractor further represents that all application software developed or implemented by Contractor under this Agreement, when used in accordance with its associated documentation, shall not infringe upon the rights or marks of a third party. Lastly, Contractor represents that it is not a party to nor subject to any agreement or order which would limit, prevent or restrict its performance of any Services.

E. Prosecution of the Services. Contractor shall be responsible for the professional quality, technical accuracy, and the coordination of all materials produced and other services furnished by the Contractor under this Agreement. Contractor will monitor, supervise, and otherwise control and be solely responsible for all persons or entities performing work on its behalf. All work, if related to construction, will be performed in accordance with the City's Engineering Standards and Specifications.

F. Correction of Errors. Contractor will correct any errors or omissions in its work and any work deemed unsatisfactory or unacceptable by the City promptly and for no additional compensation.

G. Subcontractors. Contractor will not engage subcontractors to perform any part of the Services, other than for the provision of goods, materials or supplies, without the City's express written consent.

H. Licenses & Permits. Contractor and each subcontractor will be responsible to obtain all required licenses and permits, including a City Contractor's license, if required. Contractor will pay any and all license and permit fees.

I. Format and Ownership of Deliverables.

1. Electronic format. Contractor will provide all reports, surveys, maps, plans, drawings or photographs, or any other materials that lend themselves to production in electronic format ("Deliverables") to the City in both hard copy and electronic formats acceptable to the City, unless otherwise directed by the City in writing. Contractor's failure to do so will constitute a material breach of this Agreement. Contractor will consult with the City to determine acceptable electronic formats before beginning the Services. All Deliverables and other tangible materials produced by Contractor pursuant to this Agreement will at all times be considered the property of the City. Deliverables which include spatial data that is intended for use within the City's GIS will be an Esri file geodatabase (.gdb), or a shapefile (.shp), or an AutoCAD drawing file (.dwg). All deliverables will contain a file describing coordinate systems used. Contractor will provide complete metadata (who, what, when, where, how) for all provided spatial data and related information, including but not limited to the following: file description, attribute descriptions, author and contact information (credit), and date created.

2. Digital images. Contractor will provide non-copyrighted, high resolution, illustrative, digital images of project site plans, elevations, renderings, photos, and other Deliverables, as directed by the

City, suitable for reproduction of and dissemination in marketing materials and at City Council hearings and public presentations. Contractor will affirm that the images do not violate copyright laws and will indemnify and hold harmless the City from liability for any expense, cost, loss or damage resulting from any claim of copyright infringement arising from the City's use of the images. All images provided will become the property of the City.

3. 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 City. 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 City all of its right, title, and interest in such work. The City 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.

J. Rate of Progress. Contractor's rate of progress is a material term of this Agreement. Contractor shall perform all Services in accordance with the schedule set forth in Exhibit A and any Work Order(s), as applicable. Contractor will complete all Services to the City's satisfaction by August 31, 2022. At the City's request, Contractor will provide a progress schedule for the performance of any Services subject to the City's approval.

K. Monitoring and Evaluation. The City reserves the right to monitor and evaluate the progress and performance of Contractor to ensure that the terms of this Agreement are being satisfactorily met in accordance with the City's and other applicable monitoring and evaluating criteria and standards. Contractor will cooperate with the City relating to such monitoring and evaluation.

L. Drugs, Alcohol and Workplace Violence; Compliance with Applicable Law. Contractor and its employees and agents, while performing the Services or while on City property for any reason during the Term, will adhere to the City's policies applicable to City employees regarding drugs, alcohol and workplace violence. Policies will be made available to Contractor upon request. Contractor will comply with all applicable federal, state and local laws, ordinances and regulations.

M. Non-Exclusivity. The City may engage the services of other persons for the provision of Services that could be performed under this Agreement. Contractor acknowledges that it is not entitled to perform any work except as assigned under this Agreement and is not guaranteed any amount of work.

## **II. COMPENSATION.**

A. Amount. As compensation for performance of the Services and any other obligations under this Agreement, the City will pay Contractor for work actually performed, in accordance with the rates set forth in Exhibit A and as may be set forth in Work Orders or invoices, provided such amounts set forth in any Work Order or invoice have been previously agreed to by the City pursuant to this Agreement. The compensation established by any Work Order or invoice shall include all of Contractor's costs and expenses to fully perform the Services and other obligations of this Agreement. The City will not consider or be obligated to pay or reimburse Contractor any other charges or fees and Contractor will not be entitled to any additional compensation or reimbursement.

B. Maximum Amount. The total amount of compensation paid under this Agreement shall not exceed a maximum aggregate amount of \$342,599.62 (including all years and any Services performed under this Agreement).

C. Invoices.

1. Submission. Contractor will submit invoices for all Services performed pursuant to a Work Order on a monthly basis and will submit invoices for Services performed without a Work Order promptly upon the completion of such Services. Invoices shall be submitted to the department or division that authorized the performance of Services for which the invoice is submitted, with a copy to the department or division that procured this Agreement.

2. Content. All invoices shall be in a format approved by the City and shall indicate that Services were performed under this Agreement. All invoices shall identify the specific Services performed for which payment is requested, including a description of the Services, the applicable rates, the applicable Work Order, if any, any costs for which Contractor seeks reimbursement, and the total amount that Contractor claims is due. Contractor will provide verification documentation as requested by the City.

3. Representation. By submitting an invoice, Contractor warrants that: (i) the work covered by previous invoices is free and clear of liens, claims, security interests or encumbrances, except for any interest created by retainage; and (ii) no work covered by the invoice is subject to an agreement under which an interest therein or an encumbrance thereon is retained by the seller or otherwise imposed by Contractor or any other person or entity. Contractor shall not include in its invoice any billing for defective work or for work performed by subcontractors or suppliers if it does not intend to pay the subcontractors or suppliers for such work.

D. Payment. The City will make payment to Contractor within thirty (30) days after receipt and approval of invoices submitted by Contractor. The City's obligation to make payment is contingent upon the Contractor's: (a) submission of a complete and accurate invoice; and (b) satisfactory performance of the Services and conditions of this Agreement. The City may withhold payment of any disputed amounts, and no interest will accrue on any amount withheld pending the resolution of the dispute.

E. IRS Form W-9. If not on file with the City, Contractor will provide to the City a current, completed Internal Revenue Service Form W-9 with or before Contractor's first invoice. Failure to submit a W-9 may result in delay or cancellation of payment under this Agreement.

F. Appropriation. This Agreement will neither constitute nor be deemed a multiple fiscal-year debt or financial obligation of the City based on the City's ability to terminate this Agreement. Contractor acknowledges that the City has made no promise to continue to budget funds beyond the current fiscal year and that the City has and will pledge adequate cash reserves on a fiscal-year by fiscal-year basis.

G. Changed Conditions. Contractor agrees that, by careful examination, it is satisfied as to the nature and location of the Services, the conformation of the ground, the character, quality, and quantity of the materials to be encountered, the character of equipment and facilities needed before beginning and for the Services, the general and local conditions, and all other matters, which can in any way affect the performance of the Services. Contractor specifically waives any claim for additional compensation for any changed condition arising out of any one or more of the following, unless such changed condition is caused in whole or in part by acts or omissions within the City's control: (1) a physical condition of the site of an unusual nature; (2) any condition differing materially from those ordinarily encountered and generally recognized as inherent in work or services of the character and at the location provided for in this Agreement; or (3) any force majeure.

### **III. TERM AND TERMINATION.**

A. Term. The term of this Agreement will be from the Effective Date until August 31, 2022 (“Term”), unless the Term is extended by validly executed written amendment.

B. Termination.

1. Generally. The City may terminate this Agreement without cause if the City determines that such termination is in the City’s best interest. The City will effect such termination by giving written notice of termination to Contractor, specifying the effective date of termination, at least fourteen (14) calendar days prior to the effective date of termination.

2. For Cause. If, through any cause, Contractor fails to fulfill its obligations under this Agreement in a timely and proper manner, violates any provision of this Agreement or violates any applicable law (“Breach”), the City may terminate this Agreement for cause immediately upon written notice of termination to Contractor. Contractor will not be relieved of liability to the City for any damages sustained by the City by virtue of any Breach, and the City may withhold payment to Contractor for the purposes of setoff until such time as the exact amount of damages due to the City from Contractor is determined. If Contractor challenges a termination for cause by the City and prevails, the termination for cause will be deemed to be a termination for convenience and will be effective fourteen (14) days from the date that the original written notice of termination for cause was given to Contractor and no further notice will be required.

3. Effect of Termination. The City will be liable to pay Contractor for Services performed as of the effective date of termination, but will not be liable to Contractor for anticipated profits. Unless otherwise instructed in writing, Contractor will immediately discontinue performance of the Services upon receipt of a notice of termination.

C. Contractor’s Remedies for Breach.

1. Contractor may terminate this Agreement for non-payment of sums due under this Agreement except where non-payment is pursuant to the City’s rights under this Agreement. Contractor will first provide the City written notice of Contractor’s intent to terminate and allow the City ten (10) days within which to make payment.

2. Pending resolution of any material breach by the City, Contractor may, in addition to any other remedies provided by law, discontinue performance of the Services without being in breach of this Agreement.

#### IV. **INDEMNITY.**

Contractor will be liable and responsible for any and all damages to persons or property caused by or arising out of the negligent or willful actions or omissions in the performance of the Services by Contractor, its employees, agents, or other persons acting under Contractor’s direction or control. Contractor will indemnify and hold harmless the City, its elected and appointed officials and its employees, agents and representatives (the “Indemnified Parties”), from any and all liability, claims, demands, actions, damages, losses, judgments, costs or expenses, including, but not limited to, attorney fees, which may be made or brought or which may result against any of the Indemnified Parties as a result or on account of the negligent, grossly negligent, willful and wanton, or intentional actions or omissions of Contractor and/or its employees, agents or representatives or other persons acting under Contractor’s direction or control. Contractor will include the provisions of this Section in any such subcontracts engaged to perform any part of the Services. The provisions set forth in this Section will survive the completion of the Services and the satisfaction, expiration or termination of this Agreement.

## V. **INSURANCE.**

A. Required Policies. Contractor will procure and keep in force the following insurance subject to the conditions below, for the duration of this Agreement:

1. Commercial General Liability Insurance. Comprehensive general liability insurance insuring against any liability for personal injury, bodily injury or death arising out of the performance of the Services with at least **One Million Dollars (\$1,000,000)** each occurrence.

2. Comprehensive Automobile Liability Insurance. Comprehensive automobile liability insurance insuring against any liability for personal injury, bodily injury or death arising out of the use of motor vehicles and covering operations on or off the site of all motor vehicles controlled by Contractor that are used in connection with performance of the Services, whether the motor vehicles are owned, non-owned or hired, with a combined single limit of at least **One Million Dollars (\$1,000,000)**.

3. Professional Liability Insurance. If Contractor is an architect, engineer, surveyor, appraiser, physician, attorney, accountant or other licensed professional, or if it is customary in the trade or business in which Contractor is engaged, or if the City otherwise deems it necessary, errors and omissions professional liability insurance insuring Contractor against any professional liability with a limit of at least **One Million Dollars (\$1,000,000.00)** per claim and annual aggregate.

4. Other Insurance. Workers' compensation insurance (unless Contractor provides a completed Declaration of Independent Contractor Status Form) and other insurance required by applicable law.

The limits of any insurance required by this Agreement will not limit Contractor's liability.

### B. Terms of Insurance.

1. Additional Insured. Except for the professional liability policy, if applicable, and workers' compensation policy, **all required insurance policies shall name the City as an additional insured** and will provide that the City, although named as an additional insured, will nevertheless be entitled to recovery under said policies for any loss occasioned to the City or its officers, employees or agents by reason of the negligence of Contractor or its officers, employees, agents, subcontractors or business invitees. The insurance policies will be for the mutual and joint benefit and protection of Contractor and the City. **Such policies will be written as primary policies not contributing to and not in excess of coverages the City may carry.**

2. Qualification; Deductible. Insurance required by this Section will be with companies qualified to do business in the State of Colorado and may provide for deductible amounts as Contractor deems reasonable for the Services, but in no event greater than **Ten Thousand Dollars (\$10,000.00)**, and Contractor will be responsible for the payment of any such deductible.

3. Cancellation. No such policies will be cancelable or subject to reduction in coverage limits or other modification unless previously approved by the City in writing.

4. Coverage Type. Contractor will identify whether the type of coverage is "occurrence" or "claims made." If the type of coverage is "claims made," which at renewal Contractor changes to "occurrence," Contractor will carry a twelve (12) month tail. Contractor will not do or permit to be done anything that will invalidate the policies.

5. Evidence of Coverage. Before commencing work under this Agreement, Contractor will provide certificates of insurance policies indicating that the City is an additional insured and, if necessary, all endorsements evidencing insurance coverage required by this Agreement. The City will not be obligated under this Agreement until Contractor provides acceptable such certificates of insurance and endorsements. If the Term extends beyond the period of coverage for any required insurance, Contractor will, at least ten (10) days before the expiration of any such insurance coverage, provide the City with new certificates of insurance and endorsements evidencing either new or continuing coverage.

C. Subcontracts. Contractor will include the insurance requirements of this Agreement in all subcontracts. Contractor will be responsible if any subcontractor fails to procure and maintain insurance meeting the requirements of this Agreement.

## **VI. SALES AND USE TAX.**

Unless specifically exempt, all materials provided and equipment used in the performance of Services within the City are subject to City Sales & Use Tax, including services performed on behalf of the City.

A. Contractor Responsible for Tax. Contractor is subject to the tax on all purchases, fabrication, manufacture or other production of tangible personal property used, stored, or consumed in performance of the Services.

B. Specific Industry Standard. The Specific Industry Standard for Construction and Contractors (Regulation 20-S.I.15) can be provided upon request by contacting the City's Finance Department, Sales Tax Division, at 303-289-3628, and is available on the City's website at <http://www.c3gov.com/DocumentView.aspx?DID=115>.

C. Equipment. Prior to or on the date Contractor locates equipment within the City to fulfill this Agreement, Contractor will file a declaration describing each anticipated piece of equipment the purchase price of which was two thousand five hundred dollars (\$2,500) or greater, stating the dates on which Contractor anticipates the equipment to be located within and removed from the boundaries of the City and stating the actual or anticipated purchase price of each such anticipated piece of equipment along with any other information deemed necessary by the City. When such declared equipment is located within the City for a period of thirty (30) days or less, Contractor may include sales and use tax calculated on one-twelfth (1/12) of the purchase price of such equipment in the contract amount, in compliance with Section 20-5-T of the Commerce City Sales & Use Tax Code. If Contractor fails to declare the equipment to the City prior to or on the date Contractor locates the equipment within the City, none of the sales and use tax due on the equipment will be allowed as a contract expense.

## **VII. COMPLIANCE WITH C.R.S. § 8-17.5-102; VERIFICATION OF LAWFUL PRESENCE.**

A. Certification. Contractor hereby certifies that, as of the date of this Agreement, it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement and that Contractor will participate in the E-verify Program or Department Program as defined in C.R.S. § 8-17.5-101 in order to confirm the eligibility of all employees who are newly hired to perform work under this Agreement.

B. Pre-Employment Screening. Contractor is prohibited from using either the E-verify Program or Department Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

C. Contractor Obligations. Contractor will not knowingly employ or contract with an illegal alien to perform work under this Agreement or contract with a subcontractor that fails to certify to Contractor that the subcontractor will not knowingly employ or contract with an illegal alien to perform work under this Agreement. If Contractor obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, Contractor will:

1. Notify the subcontractor and the City within three (3) days that Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

2. Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required pursuant to this subparagraph d the subcontractor does not stop employing or contracting with the illegal alien; provided, however, that Contractor will not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

D. Compliance with Investigation. Contractor will comply with any reasonable request by the Colorado Department of Labor and Employment (the “Department”) made in the course of an investigation undertaken by the Department pursuant to Article 17.5 of Title 8, C.R.S.

E. Violation. If Contractor violates this Section, the City may terminate this Agreement for breach of contract and Contractor will be liable for actual and consequential damages to the City.

## VIII. NOTICE.

Except for routine communications and invoices directed to a particular department at its regular business address, written notices required under this Agreement and all other correspondence between the parties will be directed to the following and will be deemed received when hand-delivered or three (3) days after being sent by certified mail, return receipt requested:

If to the City:

Domenic Martinelli, Environmental Planner  
Community Development  
City of Commerce City  
7887 E 60th Avenue  
Commerce City, CO 80022

If to Contractor:

Emily Artale, Co-Owner  
Lotus Engineering & Sustainability, LLC  
1627 Vine Street  
Denver, CO 80206

The parties may agree to delivery of notices via electronic mail.

## IX. GENERAL PROVISIONS.

A. Incorporation by Reference. Exhibit A to this Agreement and any Work Orders or invoices agreed to by the City are incorporated into this Agreement by reference.

B. Independent Contractor. **The relationship between Contractor and the City will be as independent contractors, and neither the City nor Contractor will be deemed or constitute an employee, servant, agent, partner, or joint venturer of the other. Contractor is obligated to pay federal and state income tax on any money earned pursuant to this Agreement, and neither Contractor nor Contractor’s employees, agents or representatives are entitled to workers’ compensation benefits, unemployment compensation benefits, sick and annual**



**leave benefits, medical insurance, life insurance, or pension or retirement benefits from the City.**

C. No Assignment. Contractor will not assign or transfer any rights, interests, or obligations under this Agreement without the City's prior written consent.

D. Governing Law; Jurisdiction and Venue; Recovery of Costs. This Agreement will be governed by the laws of the State of Colorado without regard to its conflicts of laws provisions. For all claims arising out of or related to this Agreement, Contractor consents to the exclusive jurisdiction of and venue in the state courts in the County of Adams, State of Colorado. Contractor waives any exception to jurisdiction because of residence, including any right of removal based on diversity of citizenship. The prevailing party in any litigation to resolve a dispute between the parties arising from this Agreement will be entitled to recover court costs and reasonable attorney fees from the non-prevailing party.

E. Governmental Immunity. No term or condition of this Agreement will be construed or interpreted as an express or implied waiver of any of the immunities, rights, benefits, protections, or other provisions of the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101, *et seq.*

F. No Third-Party Beneficiaries. Enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement will be strictly reserved to the parties. Any person other than the City and Contractor will be deemed to be only an incidental beneficiary under this Agreement.

G. No Waiver. The waiver of any breach of a term of this Agreement, including the failure to insist on strict compliance or to enforce any right or remedy, will not be construed or deemed as a waiver of any subsequent breach of such term; any right to insist on strict compliance with any term; or any right to enforce any right or remedy with respect to that breach or any other prior, contemporaneous, or subsequent breach.

H. Rules of Construction. Neither party will be deemed to have drafted this Agreement. This Agreement has been reviewed by all parties and will be construed and interpreted according to the ordinary meaning of the words used so as to fairly accomplish the purposes and intentions of all parties. No term of this Agreement will be construed or resolved in favor of or against the City or Contractor on the basis of which party drafted the uncertain or ambiguous language. Where appropriate, the singular includes the plural and neutral words and words of any gender will include the neutral and other gender. Paragraph headings used in this Agreement are for convenience of reference and will in no way control or affect the meaning or interpretation of any provision of this Agreement.

I. Severability. A holding by a court of competent jurisdiction that any term of this Agreement is invalid or unenforceable will not invalidate or render unenforceable any other term of this Agreement.

J. Acknowledgement of Open Records Act. Contractor acknowledges that the City is a public entity subject to the Colorado Open Records Act, C.R.S. § 24-72-201, *et seq.*, and this Agreement and any related documents are subject to public disclosure.

K. Authority. The parties represent and warrant that they have taken all actions necessary to legally authorize the undersigned signatories to execute this Agreement for the parties and to bind the parties to its terms. The signatories represent and warrant that each has legal authority to execute this Agreement for the party he or she represents and to bind that party to its terms.

L. Counterparts; Execution. This Agreement may be executed in any number of counterparts, each deemed to be an original, and, taken together will constitute one and the same instrument. Signature pages

may be executed via “wet” signature or electronic mark and the executed signature pages may be delivered using pdf or similar file type transmitted via electronic mail, cloud based server, e-signature technology or other similar electronic means.

M. Entire Agreement; Modification; Binding Effect. This Agreement contains the entire agreement of the parties relating to the subject matter of this Agreement and, except as expressly provided, may not be modified or amended except by validly executed written agreement of the parties. All prior and contemporaneous agreements and understandings, whether oral or written, are superseded by this Agreement and are without effect to vary or alter any terms or conditions of this Agreement. This Agreement will be binding upon, and will inure to the benefit of, the parties and their respective heirs, personal representatives, successors and assigns.

**[Remainder of this page intentionally left blank – signature page(s) follow(s).]**

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

**CITY OF COMMERCE CITY**

\_\_\_\_\_  
Roger Tinklenberg, Interim City Manager  
City Manager's Office

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Dylan A. Gibson, City Clerk

\_\_\_\_\_  
Matt Hader, Deputy City Attorney

Recommended for approval:

\_\_\_\_\_  
Domenic Martinelli, Environmental Planner  
Community Development

**LOTUS ENGINEERING AND  
SUSTAINABILITY, LLC**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name, Title

[must be notarized]

STATE OF [ ] )  
 ) ss.  
COUNTY OF \_\_\_\_\_)

The foregoing Agreement was acknowledged before me on \_\_\_\_\_, 201\_\_\_\_,  
by \_\_\_\_\_ (Name), \_\_\_\_\_ (Title),  
of \_\_\_\_\_.

Witness my hand and official seal.

My commission expires:\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

## **EXHIBIT A**

### **Scope of Services**

We present to the City of Commerce City (City) a phased scope of work based on the needs identified in the RFP. Phases I and II will take approximately six months each to complete; Phase III will take four months to complete. See the Project Timeline (attached) for further details. The tasks of the proposed project scope and the phase they fall in are as follows:

<b>Task</b>	<b>Phase I</b>	<b>Phase II</b>	<b>Phase III</b>
Task 1: Project Kick-Off and Work Plan	X		
Task 2: Develop a 2020 GHG Inventory	X		
Task 3: Develop a Vision of Organizational Sustainability	X		
Task 4: Develop Strategies and Policies for Community-Wide Sustainability and Health	X	X	
Task 5: Recommend Sustainability and GHG Reduction Strategies and Policies		X	
Task 6: Air Quality Services	X	X	X
Task 7: Water Quality Services	X	X	X
Project Management	Ongoing		

Note that all details on timing within tasks, below, presume that the contract will be signed at the beginning of March.

### **TASK 1: PROJECT KICK-OFF AND WORK PLAN**

Task 1 will ensure that the City and the Consultant team are in agreement on the process, timeline, and outcomes of the subsequent work. All of Task 1 will occur within Phase I within the first month of the project starting.

Specific subtasks include:

- Host a kick-off meeting with the project team and City staff. During the meeting, we will discuss:
  - The City's goals and intended outcomes of this work.
  - The scope of work and approach.
  - The timeline (including any internal City deadlines of which the project team should be aware).
  - The development of a work plan.

Please note, this meeting is expected to occur virtually due to COVID-related precautions.

- Develop a project work plan that will provide greater detail on subsequent tasks, subtasks, deadlines, and other pertinent items. The Consultant team will develop this document internally and will provide it to the City for one review and feedback.
- Finalize the project work plan.



**Timing:**

- Virtual kick-off week of March 1 or 8, 2021.
- Draft work plan submitted to Commerce City week of March 15, 2021.
- Work plan finalized week of March 22, 2021.

**Meetings:**

- Kick-off meeting.
- Subsequent meeting(s) to review work plan, as needed.

**Staffing:**

- Consultant Team required:
  - Lotus: Julia Newman, Rachel Meier, Emily Artale/Hillary Dobos.
  - AMBG: Abby Bohannon, Mayra Gonzales.
  - Pinyon: Dustin Collins, Caroline Byus.
- City Staff requested:
  - Domenic Martinelli.
  - Additional staff from Public Works and Community Development to participate in the kick-off meeting and review and provide feedback on the work plan (as needed).

**Deliverables:**

- Virtual project kick-off meeting.
- Draft and Final Work Plan.

**TASK 2: DEVELOP A 2020 GHG INVENTORY****Task 2A: 2020 GPC-Compliant GHG Inventory**

Task 2 includes the creation of a 2019 BASIC<sup>1</sup> GPC-compliant greenhouse gas (GHG) inventory for the community and accompanying documentation. All of Task 2 will occur within Phase I.

Specific subtasks include:

- Meet with City staff to kick-off the inventory and discuss specific needs related to this task.
- Customize the Lotus-derived data management and emission calculation spreadsheet for Commerce City. Key aspects of this tool include a summary of data sources; emission factors; emission calculations; and an emission summary. The tool is designed to be transparent and easily updated in-house for future years.
  - Non-GPC emission sources, such as avoided emissions from recycling and renewable energy, will also be included as information-only items.
  - A tab will be included that provides benchmarks for comparable communities.
- Conduct QA/QC review on collected data to ensure that it aligns with best practices and industry knowledge.
- Calculate emissions and complete the 2019 GPC-compliant inventory.
  - Consultants recommend completing a 2019 GHG inventory due to irregularities in the 2020 calendar year which could result in a less representative baseline year if 2020 is used.

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<sup>1</sup> A GPC inventory can be implemented at two levels: BASIC and BASIC+. We budgeted for a BASIC inventory based on the City's response to questions.

- Where possible, consultants will utilize data and information from other City-wide efforts, including that resulting from participation in the Xcel Energy Partners in Energy Program (if the City participates), to maximize efficiency during the process.
- Review all findings with the City during a meeting.
- Calculate key metrics for future comparison including, but not limited to, emissions by sector, emissions by source, emissions per capita, energy use intensity by building sector, residential electricity, and natural gas use per capita.

**Timing:**

- Inventory Kick-Off meeting: early March 2021.
- Data collection: March-June 2021.
- Data analysis and calculations: May-June 2021.
- QA/QC process: June-July 2021.
- Finalize inventory: July 2021.

**Meetings:**

- Kick-off meeting.
- Meetings to discuss data needs and assumptions (as needed, expected to be minimal).
- Meeting to review inventory findings.

**Staffing:**

- Consultant Team required:
  - Lotus: Julia Newman, Rachel Meier, Emily Artale/Hillary Dobos.
- City Staff requested:
  - Domenic Martinelli.
  - Additional staff from Public Works and Community Development to provide data and review findings (as needed).

**Deliverables:**

- Virtual inventory kickoff meeting.
- GHG inventory tool customized for community emissions.
- A 2019 GPC-compliant BASIC GHG inventory for community emissions with inputs and all accompanying data sources, including emails and original reports and spreadsheets.
- Zipped folder with all research and data.

**Task 2B: Model Business-As-Usual GHG Emissions through 2050**

In Task 4C, Lotus will forecast GHG emissions for Commerce City using a business-as-usual (BAU) projection that incorporates emission reductions and potentials for growth from known projects and data, including utility commitments, state-level goals and policies, and relevant incentives, programs, and initiatives that are likely to impact Commerce City. Lotus will model BAU emissions from the current inventory year until 2050, considering changes in exogenous factors such as population, emission factors, vehicle travel, new construction, etc. These modeled projections will show emissions on an annual basis. This model can be updated by the City at a later date.

Specific subtasks include:



- Collect data relevant to projections and assess the quality of said data. We recommend including medium to high-quality data and sources that make up a significant portion of GHG emissions.
- Model BAU emissions until 2050.
- Estimate the timing and degree of impact from key technologies and economic sensitivities to the BAU scenario.
- Provide a numerical and visual analysis of the changes from the baseline year to 2050.
- Prepare a short memorandum explaining potential emissions trends.

**Timing:**

- Data collection: June-July 2021.
- Calculations: July-August 2021.
- QA/QC: August 2021.

**Meetings:**

- Meetings to discuss data needs and assumptions (as needed, expected to be minimal).
- Presentation to City Council on the completion of Phase I items.

**Staffing:**

- Consultant Team required:
  - Lotus: Julia Newman, Rachel Meier, Emily Artale/Hillary Dobos.
- City Staff requested:
  - Domenic Martinelli.
  - Additional staff from Public Works and Community Development to provide data and review findings (as needed).

**Deliverables:**

- BAU model.
- Zipped folder with all research and data.
- Memo describing emissions trends.

**TASK 3: DEVELOP A VISION FOR ORGANIZATIONAL SUSTAINABILITY**

Task 3 will include engaging the City's internal stakeholders (i.e., City staff, Department heads, key decision-makers) to identify the key components of a vision for organizational sustainability and the energy efficiency, waste reduction, and water use strategies as it pertains to municipal facilities and operations (i.e., buildings, infrastructure, equipment, and fleet). All of Task 3 will occur within Phase I.

Specific subtasks include:

- Meet with the City's designated project representative to identify the City staff that should be involved in these conversations, as well as other logistics (i.e., scheduling, meeting space [in-person or virtual], etc.).
- Review current City policies and guidelines that relate to organizational sustainability and organizational processes. Gather information on how organizational sustainability is addressed in similar and neighboring communities.
- Host up to six informational interviews with City staff and leadership to determine what is currently being done to incorporate sustainability into the City's work and processes, where



there is a desire to do more, and what the key barriers are to weaving sustainability further into the organizational processes.

- Prepare one brief survey for City staff to gather feedback on current ideas/opportunities, challenges, and goals around sustainability, as well as how current staff see sustainability integrated into organizational policies and processes now and in the future.
- Host one focus group with key City staff (potentially including select department heads, elected officials, and managers) to determine:
  - How staff sees the City incorporating sustainability into current work and processes.
  - The values that currently drive the City organization.
  - The opportunities that staff see to incorporate sustainability into the organizational vision.
- Develop an initial list of policies and strategies for organizational sustainability based on the research and conversations with the City's representatives. Develop up to three potential vision statements on organizational sustainability for the City to consider adopting.
- Meet with the City's project representative and leadership to share the results of the informational interviews and focus group conversations, as well as gather feedback on the initial list of policies, strategies, and vision statements for organizational sustainability.
- Incorporate the City's feedback to develop the final list of organizational sustainability policies and strategies, as well as the final vision statement for organizational sustainability.
- Develop an Organizational Sustainability Vision, Policies, and Strategies memo detailing the policy recommendations and strategies for sustainability within municipal facilities and operations. Note we will provide the memo to the City for one round of edits.

**Timing:**

- Kick-off meeting for organizational sustainability: late March 2021.
- Research/review policies and peer communities: late March-April 2021.
- Informational interviews: late March-April 2021.
- Survey: late April 2021.
- Focus groups: early May 2021.
- Develop initial list of policies and vision statements: May-mid June 2021.
- Meet with City: late June 2021.
- Finalize list of policies: late June 2021.
- Develop memo: July 2021.

**Meetings:**

- Kick-off meeting.
- Meetings to perform informational interviews with City staff (up to six).
- Focus group meeting.
- Meeting to vet initial policies and recommendations list.
- Presentation to City Council on the completion of Phase I items (note, as we are able, we will provide updates on all Phase I items in a single City Council session).

**Staffing:**

- Consultant Team required:





- Lotus: Julia Newman, Rachel Meier, Emily Artale/Hillary Dobos.
- AMBG: Abby Bohannon, Mayra Gonzales.
- City Staff requested:
  - Domenic Martinelli.
  - Permanent and full time City Staff will be sent the survey with a request to respond.
  - Key department heads, managers, and elected officials will be invited to the focus group.
  - Key decision makers within the organization to attend the review meeting.

**Deliverables:**

- One internal sustainability kick-off meeting.
- Up to six informational interviews.
- One City staff survey.
- One focus group.
- One meeting with City leadership to vet initial policies, strategies, and vision.
- DRAFT and FINAL Organizational Sustainability Vision, Policies, and Strategies Memo.

**TASK 4: DEVELOP STRATEGIES AND POLICIES FOR COMMUNITY-WIDE SUSTAINABILITY AND HEALTH**

The timeline for this task is heavily dependent on the availability of stakeholders and the ability to gather public feedback; we anticipate that roughly 75 percent of this work will occur in Phase I and the remaining 25 percent will occur in Phase II.

**Task 4A: Engage Key Stakeholders**

Task 4A will include engaging City staff and the City's key stakeholders to determine the most applicable, relevant, and realistic policies and strategies for the City to improve community-wide health and environmental outcomes.

Specific subtasks include:

- Meet with the designated City project representative and other relevant staff to determine the individuals and organizations that should be represented in conversations regarding community health and environmental issues. Please note, we welcome the City's ideas on relevant parties to include, and also look forward to presenting the City with a list of recommended stakeholders, community advocates and organizers, and technical experts that may be relevant to include. We will also discuss the logistics of stakeholder engagement (i.e., timing, scheduling, location [virtual or in-person]) during this meeting.
- To engage the members of the public, community organizations, non-profits, and special districts, the consulting team will also establish a subset of the Stakeholder group that functions as an equity and environmental justice Advisory Board. This Advisory Board will be comprised of approximately 8 to 12 members.
  - These Advisory Board members will be selected following this kickoff meeting and consist of representatives from community organizations and nonprofits (e.g., Cultivando, Tri-County Public Health Department, Adams County Food Bank, Boys and Girls Club, Community Enterprise) and special districts (to be determined by the City). The final Advisory Board members may be selected



from these organizations, or from additional organizations (to be decided by the city and consulting team.)

- Host monthly Advisory Board meetings. These meetings will include a review of data collected throughout the project, help in formulating the final set of policy recommendations, forming implementation strategies, and shaping educational campaigns to ensure that they are inclusive of the needs of community stakeholders.
  - Due to concerns around COVID-19, Advisory Board meetings will be facilitated via Zoom, and participants will be provided a gift card in gratitude for their participation at the end of the Advisory Board process; participants must meet a minimum requirement for participation (to be determined) to receive the gift card.
- Conduct detailed research regarding community and environmental health and sustainability strategies that are being pursued in Commerce City's peer and neighboring communities. Additionally, we will conduct a detailed analysis of the City's current policies and programs that relate to community and environmental health and sustainability.
- Host up to eight informational interviews with key City staff, stakeholders, community members, special districts, and technical experts to understand the current challenges, barriers, opportunities, and goals in the community regarding improving community health and environmental outcomes.
- Host two iterative workshops with stakeholders and the Advisory Board to review community health priorities identified in the 2018 Community Health Assessment and develop a list of potential policies and strategies aimed at improving community health and environmental outcomes.
  - The first workshop will be focused on understanding the shared values and visions among participants regarding community and environmental health and sustainability, as well as the barriers and opportunities to improve community health and environmental health. Additionally, at this workshop we will share with stakeholders initial findings from the community engagement process (i.e., the community questionnaire in Task 4B).
  - The second workshop will include idea generation and brainstorming regarding specific policies and strategies Commerce City can consider adopting. We will share further results from the community outreach and engagement process (Task 4B) to ensure that the strategies and policies identified for Commerce City are relevant and desired by the community. Note, we assume these workshops will occur virtually due to COVID precautions. If it is possible and safe to meet in person at the time of the workshop, we will do so.
- Develop a matrix of initial strategies and policy recommendations for Commerce City to consider based on stakeholder and public feedback. The matrix will include initial details on the strategies and policies, including potential cost, complexity (i.e., staff time to implement), potential to reduce GHG emissions, and alignment with the City and stakeholders' values.
- Draft a brief memo detailing the process that was used to develop this initial list for City staff review (note, we will make one round of edits based on the City's feedback).

**Timing:**

- Determine Advisory Board members and Stakeholders: late March-early May 2021.
- Monthly Advisory Board meetings: Monthly starting at the end of April through the end of October 2021.
- Informational interviews: April-mid-May 2021.
- Research: March-July 2021.
- Stakeholder workshops: Mid-July, late-September 2021.
- Develop matrix of strategies: Mid- August-September 2021.
- Develop memo: September 2021.

**Meetings:**

- Kick-off meeting.
- Meetings to perform informational interviews with City staff and stakeholders (up to eight).
- Monthly Advisory Board Meetings (up to seven).
- Two stakeholder workshops.
- Presentation to City Council on the completion of Phase I items (note, as we are able, we will provide updates on all Phase I items in a single City Council session).
- Presentation to City Council on the completion of Phase II items (note, as we are able, we will provide updates on all Phase II items in a single City Council session).

**Staffing:**

- Consultant Team required:
  - Lotus: Julia Newman, Rachel Meier, Emily Artale/Hillary Dobos.
  - AMBG: Abby Bohannon, Mayra Gonzales.
- City Staff requested:
  - Domenic Martinelli.
  - Key department heads, managers, and elected officials will be invited to the informational interviews, Advisory Board meetings (as needed), and stakeholder workshops.

**Deliverables:**

- Virtual stakeholder engagement kick-off meeting.
- Up to eight informational interviews.
- Monthly advisory board meetings
- Two Stakeholder workshops.
- Initial community health and environmental sustainability strategies and policies list.
- Memo regarding the process to develop the initial community health and environmental sustainability strategies and policies.

**Task 4B: Engage the Commerce City Community**

Specific subtasks include:

- To ensure that individuals with time constraints are able to provide input, an online questionnaire will be created (in both English and Spanish). This questionnaire will seek to understand how individuals in Commerce City are currently interacting with the built environment around them (air quality, opportunities for physical activity, environmental conditions, access to healthy living opportunities) as well as gathering feedback on what they would like to see changed or protected.



- Throughout the project, the team will assess the data to ensure those participating are representative of the demographics of the greater Commerce City community.
- Small gift cards may be provided to participants in the survey to encourage greater participation. Alternatively, a “raffle” system may be used.
- To ensure data are representative, the consulting team will conduct direct focal outreach efforts with individuals and organizations who identify as belonging to underrepresented or marginalized communities, invite them to participate in the questionnaire, and conduct up to 15 1:1 key stakeholder or intercept interviews with these individuals, offering them a gift card as an appreciation for their time. During these focal outreach efforts, the consulting team and the City will identify stakeholders, and the consulting team will contact them up to three times (verbal or written) with an invitation to participate.
- Host three virtual community meetings (preferably using Zoom and at different times, to accommodate different schedules) to further engage residents of Commerce City; provide an alternative venue for feedback and comments; review findings from the initial data collection and questionnaire; and increase the visibility of and transparency into the project.
- Create engaging outreach materials to direct participants to the online questionnaire and raise awareness about the community meetings. We will create up to six pieces of engaging outreach materials for the City that include infographics for online use, printed fliers, example newsletter posts, a press release, and other items as determined by need. The consultant team will lead the distribution of outreach materials in partnership with the City and the Advisory Board. Where possible, we would like to work with the City to disseminate this outreach via existing City channels (e.g., social media pages, existing newsletters, etc.).
  - The Advisory Board, Commerce City, and other stakeholders will play a role in distributing these materials amongst their networks before the launch of the questionnaire and community meetings. Other methods to circulate these materials and information may include but are not limited to: Facebook Live events; radio spotlights on English and Spanish radio stations (e.g., 1150AM); bus stop advertisements; mailers; flyers at community events; and Next Door postings. To assist with potential technology issues, our team will start the Advisory Board meetings and monthly community meetings early to troubleshoot any issues with Zoom or otherwise, ensure that call-in information is available for individuals who might be more comfortable using a cellular phone and provide contact information for individuals who would rather voice their opinions via email.
    - Note, paid media advertisements and printing of outreach materials are not included in the budget.
- Advisory council meetings, community meetings, and any workshops planned throughout the process will include Spanish interpretation services as needed to ensure monolingual Spanish speakers have equal access to providing feedback throughout the process. Community meetings in particular will likely follow a Focus Group format, but other methods may be used, (e.g., World Cafe, Participatory Budgeting, or Citizen Science) depending on the identified needs of participants and the perceived benefit towards crafting policy recommendations, implementation strategies, and educational campaigns. If linguistic needs are identified other than Spanish, the Consulting Team will partner with the Denver-based Community Language Cooperative.

- The data collected from questionnaires and interviews will be analyzed through an equitable evaluation process, where the needs of individuals who identify as part of underrepresented or marginalized communities are at the forefront of the recommended strategies. This will come from a distillation of quantitative data collected through the questionnaire, as well as qualitative data collected through the community meetings, Advisory Board recommendations, and interviews.
- The combination of the Advisory Board input and data collected will be used to craft recommendations for a community education campaign: identifying areas of focus, determining what channels might be best for sharing the education campaign, and deciding how data will be collected to evaluate the effectiveness of the educational campaign.

#### **Timing:**

- Develop and Launch Community Questionnaire: late April-early May 2021.
- Analyze Community Questionnaire: Late August 2021.
- Develop Outreach Materials: April-August 2021.
- Community Meetings: June, July, August 2021.
- Focal Interviews and Outreach: June, July, August 2021.
- Draft Community Education Campaign Recommendations: October 2021.

#### **Meetings:**

- Three community meetings (alternative approach: two community meetings and two listening sessions with select community representatives).
- Meetings to review process, community survey, and outreach materials, as needed.

#### **Staffing:**

- Consultant Team required:
  - Lotus: Julia Newman, Rachel Meier, Emily Artale/Hillary Dobos.
  - AMBG: Abby Bohannon, Mayra Gonzales.
- City Staff requested:
  - Domenic Martinelli.
  - Key department heads, managers, and elected officials will be invited to the informational interviews and community meetings.

#### **Deliverables:**

- Three community meetings.
- Online questionnaire.
- Social media materials (e.g., electronic files for Facebook, Instagram, NextDoor).
- Marketing event materials (e.g., electronic files and printed materials, up to six discrete materials).
- Brief memo on data from the questionnaire.
- Policy recommendations, implementation strategies, and educational campaign recommendations will be included in the deliverables for Task 4A and Task 5.



## **TASK 5: RECOMMEND SUSTAINABILITY AND GHG EMISSION REDUCTION POLICIES**

Task 5 includes the development of the final list of sustainability and GHG emission reduction strategies that Commerce City can pursue to enhance community health and environmental sustainability outcomes. Task 5 will occur during Phase II.

### **Task 5A: Model GHG Emissions Reduction Strategies**

Task 5A will include modeling the key GHG emission reduction strategies identified by the community and the City's stakeholders. We present a consultant supplemented GHG emission reduction modeling effort, where we utilize the list of strategies developed by stakeholders and the community, along with Lotus' previous work, experience, and research, to present recommendations on strategy targets.

Specific subtasks for modeling emission reduction pathways:

- Collect data on community, utility, and state-level trends, goals, and incentives that may impact emissions over the coming years.
- Conduct a high-level modeling effort to determine GHG emission impacts from the City's list of potential strategies. Reduction potentials will be linked to the 2019 community wide GHG inventory and will include the BAU GHG emissions scenarios. Initially, Lotus will select targets related to the modeled strategies (i.e., participation levels, etc.).
- Meet with City staff and key stakeholders to share the results of the modeling effort. Discuss whether the targets selected are appropriate for the community and adjust as needed.

#### **Timing:**

- Collect Data: Mid-July 2021.
- Develop BAU: July 2021.
- Model Strategies: August-September 2021.
- Refine Targets based on City and stakeholder feedback: Late September 2021.
- Update Model with agreed-upon targets: Late September 2021.

#### **Meetings:**

- Meetings to review data and assumptions (as needed).
- Meeting to review the results of the modeling work and gather City staff feedback.

#### **Staffing:**

- Consultant Team required:
  - Lotus: Julia Newman, Rachel Meier, Emily Artale/Hillary Dobos.
- City Staff requested:
  - Domenic Martinelli.
  - Key department heads, managers, and elected officials will be invited to the modeling review meeting.

#### **Deliverables:**

- GHG emission reduction model and supporting documentation.
- Review with City staff and stakeholders (note: this could occur at stakeholder workshop 2).



## **Task 5B: Recommend Policies**

Specific subtasks include:

- Host one workshop with City staff and leadership to review the initial list of community health and environmental sustainability strategies and policies developed through the work in Task 4. We will share with participants the initial strategies and policies list, including the results of the GHG emission reduction model work and how the strategies and policies relate to broader City and stakeholder goals and values. During this conversation, we will ask City staff to evaluate these strategies and policies and provide feedback on the relevant strategies for the City to pursue, the priority level of selected strategies and policies, and other relevant feedback.
  - Note, we assume this workshop will occur virtually due to COVID precautions. If it is possible to meet in-person at the time of this workshop, we are happy to support that.
- Develop a final list of policies and strategies to improve community health and environmental health and sustainability outcomes.
- Analyze the cost estimates for the selected policies and strategies.
- Draft a report detailing the final recommended policies and strategies. Note we will provide this report as a Word document to the City for one round of revisions.
- Incorporate the City's feedback into a final report. Format the final report to be attractive and engaging for the reader.

### **Timing:**

- Meet with City to vet initial community health and environmental health and sustainability policies and recommendations: October 2021.
- Cost Analysis: October-early November 2021.
- Draft Recommendations: November-December 2021.
- Develop Final Recommendations Report: December 2021-January 2022.
- Update Final Recommendations Report with Additional AQ/WQ Policies and Strategies: May-June 2022.

### **Meetings:**

- One workshop with City staff and leadership to review policies and recommendations.
- Additional meetings, as needed, to discuss recommendations.
- Additional meetings, as needed, to discuss the cost analysis.
- Presentation to City Council on the completion of Phase II items (note, as we are able, we will provide updates on all Phase II items in a single City Council session).

### **Staffing:**

- Consultant Team required:
  - Lotus: Julia Newman, Rachel Meier, Emily Artale/Hillary Dobos.
  - AMBG: Abby Bohannon, Mayra Gonzales.
  - Pinyon: Dustin Collins, Caroline Byus.
- City Staff requested:
  - Domenic Martinelli.
  - Key department heads, managers, and elected officials will be needed to gather feedback on initial policies and recommendations.





**Deliverables:**

- One workshop with City staff and leadership to finalize the list of community health and environmental health and sustainability strategies.
- Cost analysis of selected strategies.
- Draft report on the selected policies and strategies.
- Final formatted report on the selected policies and strategies.

**TASK 6: AIR QUALITY**

Task 6 includes air quality tasks that will build upon Commerce City's previous efforts to strengthen air quality requirements, better inform the City of air quality technologies and strategies and continue to improve air quality in and around the City.

The specific aspects of air quality monitoring needed to support this work will be identified throughout the process of completing the below deliverables, and through conversations to better understand Commerce City's needs and goals; specific monitoring identified during the below tasks would be completed during a later Phase of the project. The scope and budget presented related to this work does not include the procurement, installation, and operation of air quality monitors during a later Phase I.

Specific air quality subtasks included during Phase I, Phase II, and Phase III of the project:

- An inventory of community-wide air quality impacts of concern. This inventory will include a compilation of emissions from existing air permits itemized by industry within and near Commerce City. Evaluated pollutants will include oxides of nitrogen (NOx), volatile organic compounds (VOC), particulate matter (PM), fine particulate matter (PM2.5), and methane (CH4). The inventory will highlight pollutants with emissions levels that are high compared to established State of Colorado permitting levels (i.e., minor, major, permit exempt), and recent Regulation 7 amendment requirements as well as clusters of emission sources that could present concerning localized impacts to residents.
  - The community-wide air quality impacts of concern inventory will be a compilation of emission sources with existing permit applications and will not include new emission calculations. Additionally, the inventory will include sources that are within Commerce City, and within a 5-mile radius of city limits to capture sources that could potentially be impacting the city.
- A community-wide air quality monitoring plan that considers the inventory developed in the first subtask by identifying those areas of concern and recommending where monitors should be located and what pollutants should be monitored. The monitor locations and pollutants will be chosen based on EPA, CDPHE, and other regulatory agency guidelines with consideration for the need to use the data in later quantitative analyses.
  - The air quality monitoring plan is expected to go through CDPHE review, and the timing of finalization of the plan will be dependent on agency timing. Any other plans or guidance documents that need agency or stakeholder consultation may be impacted similarly.





- An air quality monitoring plan will be developed, but it is assumed that air quality monitoring, including the procurement of equipment installation and operation, would take place in Phase III of this project. The quantity of monitors, types of equipment, monitoring durations, etc. will be determined while completing these air quality tasks.
- An air quality guidance report to identify specific strategies for reducing hazardous air pollutants (HAPs), particulate matter (PM), GHG's, and other significant health concern substances that are identified. This subtask will take into consideration work done on the previous subtasks to focus on the pollutants and/or geographic areas that may need improvement based on qualitative analysis and before any new monitoring.
- Development of Commerce City-specific thresholds for air quality significance, and screening for future projects and plans. The levels of emissions that potential projects and plans would compare to added air quality requirements and or mitigation will be developed with close consideration of Federal and State standards and health concerns. Levels of emissions that require analysis will be established for criteria pollutants, and relevant HAPs. Additionally, screening thresholds can be accomplished for ozone precursors to address the concern for ozone. For example, the EPA tool Modeled Emission Rates for Precursors (MERPS) could be utilized. Inclusion of a non-standard program/analysis like this would be discussed with the City prior to including it in these plans.
- Air quality modeling guidelines will be developed for projects that exceed the screening standards identified in the previous subtask. Modeling standards will include screening modeling with the current EPA accepted screen models, such as SCREEN3. The guidelines will indicate relevant parameters to input into SCREEN3 that may be different from EPA guidance. The modeling guidelines will give direction on using refined modeling, such as AERMOD, if screening thresholds established in previous subtasks are exceeded.
- An oil and gas air quality plan submittal standards document, that incorporate existing operating agreements, to set a standard for required oil and gas air quality plan documents. The document would include plan specifics such as guidance/requirements on targeted compounds, regulatory thresholds, sampling methodology, sampling duration, and sampling location.

#### **Deliverables and Timing:**

- Air quality deliverables would take place within the following estimated timing. Each task's timing is subject to change based on Commerce City priorities, length of time to obtain applicable data, length of time of City review, and other similar variables.
  - Community Wide Impacts Report - April and May 2021.
  - Air Quality Monitoring Plan - June, July, August 2021.
  - Thresholds Report - September, October 2021.
  - Oil and Gas Air Quality Submittal Guidance Plan - November, December 2021.
  - Air Quality Modeling Guidance Document - January, February 2022.
  - Air Quality Policy Recommendations - March, April 2022.
- Air quality monitoring, if requested by Commerce City, would take place in Phase III of this project under a separate scope and budget.

**Meetings:**

- Each task includes a kick-off meeting with Domenic Martinelli and other staff with air quality input.
- Other meetings as needed to discuss Commerce City feedback and finalization of each task.
- Presentation to City Council on the completion of Phase II items (note, as we are able, we will provide updates on all Phase II items in a single City Council session).

**Staffing:**

- Consultant Team Required:
  - Dustin Collins and Kaitlin Meszaros of Pinyon Environmental, and potentially other supporting staff and review staff as needed.
- City Staff Requested:
  - Domenic Martinelli, and others with air quality input.

**TASK 7: WATER QUALITY**

Task 7 includes the development of policies and plans associated with improving the water quality of rivers and streams in Commerce City. In order to develop a water quality improvement plan, it will be necessary to engage stakeholders to review contributions from several potential input sources that may affect water quality in the rivers and streams in the Commerce City area. In addition, it will be critical to understand upstream water quality to evaluate controlled inputs versus uncontrolled inputs that impact these water bodies.

Our team recognizes that Commerce City has ambitious goals to improve water quality in a manner that will facilitate economic growth and prosperity for all citizens of Commerce City. While we believe that we have included the elements that the city requested, the scope of work includes a broad list of services and it may be more economically feasible for our team to enter into discussions with the City to understand which of the Phase I tasks described in our proposal will provide the most beneficial and economical results. While an alternative approach may not directly address all elements in this scope, it may prove more beneficial to the city in the long-term to focus efforts on specific programs. Pinyon recommends that the evaluation of existing data be completed to understand data gaps. A water quality monitoring plan will then be completed to address those data gaps. Based on the additional data collected, Pinyon will then assist the city to understand which programs will provide the most favorable impact on local surface and groundwater. This may potentially reduce the number of plans and policies that need to be developed in the short-term, in favor of focusing efforts on areas of greatest impact during the initial stages of this contract and deferring lesser impactful strategies to a later date.

Data useful to developing a water quality improvement program are numerous; however, through discussions with Commerce City, it will be possible to narrow down the potential data collection efforts to those elements that are most critical to the city success of the program. Due to potential budget limitations and the time required to collect data relevant to developing policy recommendations, the water quality program efforts may require a phased approach. Based on our experience with similar work, the phased approach would include the following:



- Task 7A: Develop low impact development (LID) stormwater infrastructure guidelines and Best Management Practices (BMPs).
  - Development of LID guidelines for the City (this includes First, Second, and Third Creeks and the Core City) using BMP drawings or fact sheets that are publicly available from other entities. New BMP drawings will not be developed for this effort. The LID Guidance document is intended to be a supplement to the City's Storm Drainage Design Manual. The document will provide general guidance on where LID BMPs are applicable and recommendations on how they may be implemented into development. Graphics will be included depicting potential applications of LID BMPs.
  - Policy recommendations will inform future revisions to the stormwater design manual; preparation of a design manual is not included.
- Task 7B: Develop land use policy recommendations.
  - Pinyon will review the City's land use policy and document recommendations designed to improve water quality.
- Task 7C: Identify significant nonpoint and point sources.
  - Point and nonpoint pollutant sources will be identified to the extent possible using desktop analyses and available information. Findings will be documented in technical memorandum format. Fieldwork is not included.
- Task 7D: Develop long-term management strategies for the Creek Corridors.
  - The development of long-term management for creek corridors could require very specific data collection or evaluation requirements.
  - Costs reflected in the budget for this task will support development of a summary document that will likely require additional fine-tuning (not included in costs) based on data analysis to occur in later phases of the project. Pinyon will conduct a desktop evaluation using data available from South Adams County Water & Sanitation District, Mile High Flood District, and USGS, etc. to develop an initial outline of strategies and recommendations.
- Task 7E: Identify capital and green infrastructure projects to the extent possible using available data. It is likely that more data collection and analysis will be required to provide recommendations.
- Task 7F: Develop a water quality monitoring plan.

**Phase I (i.e., first six months):**

Ideally the Phase I tasks would include the following elements. Upon award, the project team will discuss priorities with the City to understand which elements are more critical to success and focus efforts in areas where the greatest impact can be realized. Specific subtasks relating to Phase I include:

- Evaluate whether the stream segments in Commerce City are included on the Water Quality Control Commission's 303(d) list for impaired waters.
- Inspect permitted and non-permitted discharges to surface water bodies.
- Evaluate currently available water quality data.



- Gather geospatial data including land uses, storm drainage infrastructure, rivers, streams, riparian buffer zones, and point-source discharges and develop maps for future analysis and recommendations.
- Evaluation of potential groundwater inputs affecting surface water.
- Mapping of wetlands and vegetation features.

If sufficient data is not available to formulate opinions and recommendations regarding Phase I tasks, Pinyon will discuss the options to implement Phase II data collection to help formulate a more substantial background for input to the plans.

Phase I Tasks have been presented consistent with the requirements in the RFP; however, tasks may be more efficiently completed in an alternative order. Discussions with the City will be used to finalize the best approach. Completion of the entirety of this scope may not be cost-effective for the city; however, it may be more cost-effective to choose select Phase I tasks that will achieve the most value and focus efforts on those tasks in the short-term.

### **Phase II Tasks (approximately six-month period)**

- Collection of data and analysis to support improvements and refinements to the water quality monitoring plan.
- Evaluation of upstream quality.
- Evaluation of precipitation-induced water quality contribution, particularly related to suspended solids that affect surface water clarity and color.
- Collect water chemistry data at various locations in the receiving streams and under varying conditions (seasonal, or precipitation vs. non-precipitation) including but not limited to chemical concentrations, pH, temperature, metals, suspended solids, and nutrients.
- Collect biological data (if needed) including aquatic life and wetlands areas.
- Deliverables for this task will include the analytical data reports, a summary report of the data will be completed in Phase III.

### **Phase III Tasks (approximately four months)**

- Reporting and implementation.
- Incorporation of stream habitat and riparian improvement and protection measures.
- Establishment of maintenance programs for BMPs.
- Establish a periodic monitoring program to evaluate the effectiveness of water quality improvement efforts.
- The deliverable for this task will include the final report which will include a summary of the data collected, policy recommendations, and infrastructure upgrade recommendations.

### **Timing:**

- LID Stormwater Infrastructure Guidelines: March-August 2021.
- Land Use Policy Recommendations: March-July 2021.
- Identify Significant Nonpoint and Point Sources: March-June 2021.
- Long-term Management Strategies for Creek Corridors: May-June 2022.
- Identify Capital and Green Infrastructure Projects: May-June 2022.
- Water Quality Monitoring Plan: May-June 2022.

### **Meetings:**

- To Be Determined.



- Presentation to City Council on the completion of water quality items (note, as we are able, we will combine this presentation with updates on all Phase I, Phase II, and Phase III work).

**Staffing:**

- Consultant Team required:
  - Caroline Byus, Scott Fanello, Bridget Mitchell, Jeremy Musson, and potentially other supporting staff and review staff as needed.
- City Staff requested:
  - Domenic Martinelli and other City staff from Public Works, as needed.

**Phase I Deliverables:**

- Memorandum presenting LID Stormwater Infrastructure Guidelines.
- Memorandum presenting land use policy recommendations.
- GIS map designating locations of sources.
- Memorandum outlining long-term management for the three creek corridors.
- A memorandum presenting potential capital and green infrastructure projects and rough order of magnitude costs.
- Water quality monitoring plan.

**Phase II Deliverables:**

- Laboratory reports of water quality data.

**Phase III Deliverables:**

- Final report summarizing data and final policy recommendations

**PROJECT MANAGEMENT**

Our team includes many exceptional Project Managers; Lotus is the prime for this project and will coordinate all project management efforts among the partnering teams. We will maintain complete and accurate records with respect to the services performed.

Specific subtasks:

- Regular check-in emails.
- Monthly phone call with the City.
- Monthly invoice reporting.

**Timing:**

- From contract signing to project completion.

**Meetings:**

- Monthly project phone calls.
- Updates to City Council of Phase I, Phase II, and Phase III work completed.

**Staffing:**

- Consultant Team Required:



- Lotus: Julia.
  - AMBG: Abby (as needed).
  - Pinyon: Dustin, Caroline (as needed).
- City Staff Requested:
  - Domenic Martinelli.

**Deliverable:**

- Monthly invoice reports.
- Monthly meetings.

## EXHIBIT B – SAMPLE WORK ORDER

### WORK ORDER

This Work Order and any exhibit or attachment are subject to and incorporates all terms and conditions of the Master Services Agreement dated [Click here to enter a date](#).

Contractor shall perform the following Services:

- 
- 
- 
- 
- Cost: \$ [Total Cost or Rate for Work Order](#)
- Completion Date: [Click here to enter a date or type number of days](#)

Contractor shall obtain approval from [Name](#) prior to any changes in scope.

**CONTRACTOR NAME**

**CITY OF COMMERCE CITY**

\_\_\_\_\_  
[Name](#), [Title](#)

\_\_\_\_\_  
[Name](#), [Title Based on Amount](#)  
[Select Department](#)

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

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

Recommended for approval:

\_\_\_\_\_  
[Name](#), [Title Based on Amount](#)  
[Select Department](#)





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Fax (303) 289-3661  
[www.c3gov.com](http://www.c3gov.com)

## EQUIPMENT DECLARATION

Company: \_\_\_\_\_

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

Address: \_\_\_\_\_

State and Zip: \_\_\_\_\_

**Note:** Construction equipment that was not otherwise subjected to the Commerce City sales or use tax, and which is located within the boundaries of the City of Commerce City for a period of thirty (30) consecutive days or less, will be subjected to the use tax of Commerce City on a prorated basis if the equipment is declared in advance. **If the equipment is not declared in advance or is located within the City for over thirty (30) consecutive days, the amount of tax due will be calculated on 100% of the original purchase price.**

The tax on Declared Equipment will be calculated using the following method: **The original purchase price of the equipment will be multiplied by a fraction, the numerator of which is one (1) and the denominator which is twelve (12); and the result will be multiplied by four and one-half percent (4.5%) to determine the amount of Use Tax payable to the City.** Example: thirty (30) days or less =  $\frac{1}{12}$  x purchase price of the equipment x 4.5%.

In order for a taxpayer to qualify for this exemption, the taxpayer must comply with the procedures described in Section 29-2-109(4) of the Colorado Revised Statutes by completing this form and remitting the tax due to the Finance Department of the City of Commerce City. **If the taxpayer does not file this form the exemption herein provided for will be deemed waived by the taxpayer.**

**A separate declaration form must be used for each individual piece of equipment.**

**Construction Equipment Declared:**

Description of Equipment and/or VIN number: \_\_\_\_\_

Purchase price of above equipment and date purchased: \_\_\_\_\_

Date equipment will enter the City: \_\_\_\_\_

Date equipment will be removed from the City: \_\_\_\_\_