



# Parks & Open Space

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DATE: June 26, 2024

TO: Commissioner Claire Levy  
Commissioner Marta Loachamin  
Commissioner Ashley Stolzmann

FROM: Therese Glowacki, Director  
Sharla Benjamin, Project Manager

SUBJECT: Waiver of Bid Requirements for WSP USA Inc.

PROJECT: IRFP No. 4080-24; Boulder County Cardinal Mill  
Water Treatment System Design and Installation Project

## BACKGROUND:

This Bid Waiver request is to continue working with an existing Contractor, WSP USA Inc., who is currently under contract with Boulder County Parks and Open Space (BCPOS) for water quality monitoring services at Cardinal Mill. The Scope of Work in this proposal was substantial enough to warrant a new Contract, and will operate, under BCPOS Supervision, in parallel to the existing Contract.

## REQUEST:

The Cardinal Mill property was purchased in 2003, and a Brownfields Project was implemented in 2005 that installed a toe drain at the base of the mill among other improvements. Colorado Department of Public Health & Environment (CDPHE) attached a Certification to Discharge #COG318106 to the outlet of the toe drain, "New Cardinal Mill to: Coon Track Creek." BCPOS performed the required monitoring through the use of Continuing Services Contractors. In 2021, CDPHE revised the permits and the updated Certification #COG318106 was issued on 11/15/2021, effective 1/1/2022, and substantially modified the permit limitations and monitoring requirements for this location.

In order to meet final limits for Potentially Dissolved Cadmium, Potentially Dissolved Copper, Potentially Dissolved Lead, and Potentially Dissolved Zinc, the permit certification included a compliance schedule. Included in this compliance schedule is the due date of 1/1/2025 for achieving final compliance with discharge limits.

The project described by BCPOS IRFP No. 4080-24 (Attachment A1 and A2) and the proposal from WSP USA Inc. (Attachment B) is intended to meet the due date of 1/1/2025 for achieving final compliance with the COG318106 discharge limits. Since this is not enough time to obtain County permits on a non-emergency schedule, discussions with Boulder County Community Planning & Permitting are underway that could lead to an approved temporary treatment

system installation in 2024. A permanent treatment system installation in the future will need to follow normal County permit procedures.

The Scope of Work described in Attachments A1, A2 and B includes three Tasks in order to install and operate a temporary water quality treatment facility by the permit due date. WSP USA Inc. has only provided costs for Task 1 at this time, and will give a detailed proposal for Tasks 2 and 3 once 50% Design in Task 1 has been achieved.

1. 2024 Design of the Treatment System, proposed cost \$397,916.00
2. 2024 Installation of the Treatment System (referenced in the Attachment B Enclosure A Schedule (page 12), costs not yet provided)
3. 2024 and 2025 Operation, Maintenance and Optimization of the Treatment System (referenced in the Attachment B Enclosure A schedule (page 12), costs not yet provided)

**JUSTIFICATION:**

BCPOS previously attempted to bid out this project to the six Engineering Consultants currently under Contract. No proposals were received, and feedback from this attempt led to a split of the original Scope of Work into two different projects. This Bid Waiver is for the Sole Source project, while a competitive bid for parallel work is being advertised now with proposals due mid-July. Due to the extremely tight schedule and the familiarity of WSP USA Inc. with the site and the permit, BCPOS chose to solicit a Sole Source bid from their global mining team (including resource geologists, aquatic biologists, mine planners, and cultural scientists).

Staff is concerned that if this Bid Waiver is not approved, the time that would be needed to bring a new Consultant to the same level of understanding as WSP USA Inc. would put the County substantially past the due date for the temporary solution implementation. The urgency of this Project is further necessitated by the imposing fines the County faces starting 1/1/2025. The fines amount to \$61,000.00 per each day the County is non-compliant with the permit.

BCPOS has requested a permit compliance schedule modification from CDPHE, but to obtain any consideration of assistance from the State will first require substantial County investment of effort and funds with the clear intent of meeting the current compliance schedule as noted.

As a County, we have also requested federal monetary assistance for this project (Congressionally Directed Spending (CDS \$767,329), however, that assistance, if approved will not start until October 1, 2024. The Cost Share provided by the County was projected to be \$929,519 and will include part of the temporary treatment system installation which BCPOS anticipates starting prior to October 1, in August or September of 2024.


**ANNUAL BUDGET:**


The cost for these services, anticipated to begin in 2024 and to be completed by December 31, 2025, will be not to exceed the amount of \$397,916.00 for Task 1 as specified in IRFP No. 4080-24.


**BOCC ACTION REQUESTED:**


Approve the Bid Waiver as requested in favor of WSP USA Inc., to be addressed as a new contract, in the amount, not to exceed \$397,916.00.


**APPROVALS**


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Therese Glowacki, Director


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Date


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Courtney Gabriel, Procurement Manager

 \_\_\_\_\_  
Date

 \_\_\_\_\_ – *Receipt acknowledged by the Clerk to the Board of County Commissioners*

 \_\_\_\_\_  
Chair, Board of County Commissioners

 \_\_\_\_\_  
Date

ATTEST:  \_\_\_\_\_  
Clerk to the Board of County Commissioners