

# AGREEMENT FOR SERVICES

IFB/RFP-XX-XXX; \_\_\_\_\_

**THIS AGREEMENT** is entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2023 by and between the Board of County Commissioners of the County of El Paso, State of Colorado (hereinafter referred to as the "County"), Pikes Peak Rural Transportation Authority ("PPRTA") and \_\_\_\_\_ (hereinafter referred to as the "Consultant").

**WHEREAS**, the County and PPRTA desire to engage the Consultant to provide the services described in Exhibit A, \_\_\_\_\_ (the "Project").

**NOW, THEREFORE**, the parties mutually agree as follows:

**1. Scope of Services.** The Consultant shall furnish all labor and materials to perform the services required for the complete and prompt execution and performance of all duties, obligations, and responsibilities for the Project, which are described or reasonably implied from Section 1 of Exhibit A, which is attached hereto and incorporated herein by this reference.

**2. Incorporated Documents.** The following documents are incorporated herein by reference and made a part of this Agreement: Invitation for Bids/Request for Proposal XX-XXX and related documents; \_\_\_\_\_

In the event of any conflicts between this Agreement and any referenced or attached documents, this Agreement shall control.

**3. Time of Performance.** The services of the Consultant are to commence and be completed (or end) by the dates set forth in Section 2 of Exhibit A, unless this Agreement is sooner terminated pursuant to paragraph 5.A. below. All time limits are of the essence in this Agreement.

**4. Method of Payment.** PPRTA will compensate the Consultant for services rendered in accordance with Section 3 of Exhibit A, subject to the availability of appropriated funds within the annual budget. The Consultant is responsible for paying all applicable income, Federal Insurance Contributions Act (FICA), Federal Unemployment Tax Act, or other taxes owed on compensation paid under this Agreement. The Consultant shall submit requests for payment in a form acceptable to the County and PPRTA and in conformance with the County's and PPRTA's policies. The Consultant shall provide such backup information for its payment requests as may be reasonably requested by the County and PPRTA. PPRTA shall have forty-five (45) days from receipt of any payment request to make payment to the Consultant.

## **5. Funding Availability**

A. On November 2, 2004, the voters of El Paso County, Colorado approved a ballot measure for a one (1%) percent sales and use tax to pay for certain transportation improvement projects throughout the City of Colorado Springs, Colorado and El Paso County, Colorado to be funded from the sales and use tax revenue generated for PPRTA projects. This amount is equal to or in excess of the contract sum of this Agreement. On November 6, 2012 the voters of El Paso County, Colorado approved the extension of the portion of the sales and use tax dedicated to funding regional transportation capital improvements projects. This expected revenue from such sales and use tax is expected to be equal to or in excess of the contract sum of this Agreement.

B. Financial obligations of PPRTA payable after the current fiscal year are contingent on appropriation or budgeting of funds for those obligations. Should the performance of this Agreement continue past the current fiscal year, the Consultant shall continue work in the new fiscal year, unless the Consultant is notified by the County or PPRTA in writing that sufficient funds are not available and have not been appropriated for continuance of the Consultant's performance under this Agreement into the new fiscal year. The Consultant shall not commence any work in the new fiscal year for which a new appropriation is required to make payment.

C. Any extension of this Agreement is contingent upon available funding and satisfactory performance by the Consultant, as determined by the County and PPRTA. It shall be the Consultant's responsibility to provide the County and PPRTA all requested Agreement changes and/or price adjustments at least 90 days prior to the expiration of the Agreement or the Agreement extension date. After review by the County and PPRTA of the Consultant's requested changes or price

adjustments, the County and PPRTA will enter into negotiations with the Consultant to determine if the requested Agreement changes and/or price adjustments are acceptable to the County and PPRTA. Negotiations must be completed sixty (60) days prior to expiration of the Agreement or the Agreement extension date. Failure of the County, PPRTA and the Consultant to agree upon the terms and conditions for the extension may result in resolicitation of the goods or services covered by the original Agreement. Continued performance by the Consultant outside of the Agreement term will be at the Consultant's risk.

## **6. General Terms and Conditions.**

A. Termination of Agreement. The County, PPRTA or the Consultant shall have the right to terminate this Agreement, with or without cause, by giving written notice to the other parties of such termination and specifying the effective date thereof, which notice shall be given at least the number of days set forth in Section 4 of Exhibit A prior to the effective date of such termination. In such event, all finished or unfinished documents, data, studies, and reports prepared by the Consultant pursuant to this Agreement shall become the property of the County and PPRTA. Unless expressly stated otherwise in the notice, Consultant shall provide no further services in connection with this Agreement after receipt of a notice of termination, and the Consultant shall proceed to cancel all existing orders and contracts that are chargeable to PPRTA under this Agreement. The Consultant shall be entitled to receive compensation in accordance with this Agreement for any satisfactory services completed pursuant to the terms of this Agreement prior to the date of receipt of the notice of termination, or such other stop-work date as may be specified in the notice. Notwithstanding the above, the Consultant shall not be relieved of liability to the County or PPRTA for damages sustained by virtue of any breach of this Agreement by the Consultant.

B. Pandemics. The Consultant shall abide by any local, state, and federal health orders in effect or instituted during the term of this Agreement. The Consultant is expected to implement any such changes effective immediately. Failure to abide by such requirements may result in termination of the Agreement.

C. Changes. The County, PPRTA or Consultant may, from time to time, request changes in the scope of services or compensation of the Consultant. Such changes that are mutually agreed upon between the County, PPRTA and Consultant shall be in writing, and upon execution shall become part of this Agreement. To be effective, all changes must be signed by the Consultant, the Board of County Commissioners and the Board of PPRTA, or by persons authorized by resolution to sign on behalf of the Board of the County or the Board of PPRTA.

D. Assignability or Subcontracting. Any assignment, transfer, or subcontracting of this Agreement is prohibited, unless written consent is obtained from the County and PPRTA.

E. Audit. The County and PPRTA and any of their duly authorized representatives shall have reasonable access to any books, documents, papers, and records of the Consultant which are pertinent to the Consultant's performance under this Agreement for the purpose of making an audit, examination, or excerpts. The Consultant shall provide any documentation necessary to prepare all reporting required of or by the County or PPRTA, and shall keep all books, documents, papers, and records which are pertinent to the Consultant's performance for a minimum period of three years, or such longer time as may be set forth in any Special Conditions or addendums to this Agreement.

F. Equal Employment Opportunity. While performing this Agreement, the Consultant shall not discriminate against any employee, subconsultant, or applicant for employment because of disability, race, creed, color, gender, sexual orientation, religion, age, national origin, or ancestry.

G. Ownership of Documents. All drawings, specifications, guidelines, and other documents prepared or received by the Consultant in connection with this Agreement shall be the property of the County and PPRTA.

H. Assignment of Copyrights. The Consultant assigns to the County and PPRTA the copyrights to all works prepared, developed, or created pursuant to this Agreement, including the rights to: 1) reproduce the work; 2) prepare derivative works; 3) distribute copies to the public by sale, rental, lease, or lending; 4) perform the works publicly; and 5) to display the work publicly. The Consultant waives its rights to claim authorship of the works, to prevent its name from being used in connection with the works, and to prevent distortion of the works.

I. Governing Law/Forum/Interpretation. This Agreement has been executed by the parties hereto on the day and year first above written and shall be governed by the laws of the State of Colorado. Venue for any civil action relating to this Agreement shall be in El Paso County. Both parties agree that the rule that ambiguities in a contract are to be construed

against the drafting party shall not apply to the interpretation of this Agreement. If there is any conflict between the language of this Agreement and any exhibit or attachment, the language of this Agreement shall govern.

Consultant shall comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Agreement. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this Agreement shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the Fourth Judicial District, El Paso County.

J. Compliance with Laws/Licenses and Permits. The Consultant shall comply with all applicable federal, state and local laws, ordinances, regulations, and resolutions. The Consultant shall be responsible for obtaining all licenses and permits necessary to perform the scope of services, at the Consultant's expense, unless specifically stated otherwise in this Agreement.

K. No Waiver of Rights. The County's or PPRTA's approval or acceptance of, or payment for, services shall not be construed to operate as a waiver of any rights or benefits to be provided under this Agreement. No covenant or term of this Agreement shall be deemed to be waived by the County or by PPRTA except in writing signed by the Board of County Commissioners and the Board of PPRTA or by persons authorized to sign by resolution of the County Board or the PPRTA Board, and any waiver of a right shall not be construed to be a waiver of any other right or to be a continuing waiver, unless specifically so stated.

L. Non-appropriation. Pursuant to Article X, Section 20 of the Colorado Constitution and C.R.S. § 29-1-110, as amended, the financial obligations of the County as set forth herein after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise available. This Agreement is automatically terminated on January 1st of the first fiscal year for which funds are not appropriated. The County shall give the Consultant written notice of such non-appropriation. Financial obligations of the County payable after the current Fiscal Year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available, pursuant to the Constitution for annual funding appropriation.

M. Conflict of Interest/Ethics. The Consultant shall refrain from providing services to other persons, firms or entities that would create a conflict of interest for Consultant with regard to providing services pursuant to this Agreement. The Consultant shall not offer or provide anything of benefit to any County or PPRTA official or employee that would place the official or employee in a position of violating the public trust in violation of Colorado Constitution Article XXIX, C.R.S. § 24-18-109, as amended.

The Consultant shall disclose any personal or private interest related to property or business within the County or PPRTA. Upon disclosure of any such personal or private interest, the County and PPRTA shall determine if the interest constitutes a conflict of interest. If the County or PPRTA determines that a conflict of interest exists, the County or PPRTA may treat such conflict of interest as a default and terminate this Agreement.

N. Remedies. In addition to any other remedies provided for in this Agreement, and without limiting its remedies available at law, the County and PPRTA may exercise the following remedial actions if the Consultant substantially fails to satisfy the duties and obligations in this Agreement. Substantial failure to satisfy the duties and obligations shall mean significant insufficient, incorrect, or improper performance, activities, or inactions by the Consultant. These remedial actions are as follows:

(1) Suspend Consultant's performance pending necessary corrective action as specified by the County and PPRTA without the Consultant's entitlement to an increase in price/cost or a time extension; and/or

(2) Withhold payment to the Consultant until the necessary services or corrections in performance are satisfactorily completed; and/or

(3) Deny payment for those services which have not been satisfactorily performed, or which, due to circumstances caused by the Consultant, cannot be performed, or if performed would be of no value to the County or PPRTA.

The foregoing remedial actions are cumulative and the County and PPRTA, in their sole discretion, may exercise any or all of them individually or simultaneously. The County and PPRTA shall provide written notice to Consultant of its exercise of any of the foregoing remedial actions.

O. Force Majeure. Neither the Consultant, the County, nor PPRTA shall be liable for any delay in, or failure of performance of, any covenant or promise contained in this Agreement, nor shall any delay or failure constitute default or give rise to any liability for damages if, and only to extent that, such delay or failure is caused by “force majeure.” As used in this Agreement, “force majeure” means acts of God, acts of the public enemy, unusually severe weather, fires, floods, epidemics, quarantines, strikes, labor disputes and freight embargoes, to the extent such events were not the result of, or were not aggravated by, the acts or omissions of the non-performing or delayed party.

P. Third-Party Beneficiaries. It is expressly understood and agreed that the enforcement of this Agreement and all rights of action relating thereto shall be strictly reserved to the County, PPRTA and the named Consultant. Nothing contained in this Agreement shall give or allow any claim or right of action whatsoever by any other third person.

Q. Survival of Terms and Conditions. Notwithstanding anything herein to the contrary, the parties understand and agree that all terms and conditions of the Agreement that anticipate continued performance, compliance, or effect beyond the termination date of the Agreement shall survive such termination date and shall be enforceable in the event of a failure to perform or comply.

R. Abilities, Qualifications, Experience, and Best Efforts. Notwithstanding anything to the contrary contained in this Agreement, the County, PPRTA, and Consultant agree and acknowledge that the County and PPRTA enter into this Agreement relying on the special and unique abilities of Consultant to perform the services and accomplish the tasks described. Consultant accepts the relationship of trust and confidence established between Consultant, the County, and PPRTA by this Agreement. Consultant covenants with the County and PPRTA to use its best efforts. Consultant shall further the interests of the County and PPRTA according to the County’s and PPRTA’s requirements and procedures, and according to the highest standards and quality prevailing among those who perform work of a similar nature.

S. Accuracy of Work. The Consultant represents, covenants, and agrees that its work will be accurate and free from any material errors.

T. Personally Identifiable Information (PII). If the Consultant or any of its Subconsultants will or may receive PII under this Agreement, Consultant shall provide for the security of such PII, in a manner and form acceptable to the County and PPRTA, including, without limitation, non-disclosure requirements, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections and audits. Consultant shall be a “Third-Party Service Provider” as defined in C.R.S. § 24-73-101(1) (i) and shall maintain security procedures and practices consistent with C.R.S. § 24-73-102 and C.R.S. § 24-73-103. In the event Consultant incurs a data breach whereby it is reasonably believed that any of County’s or PPRTA’s PII either could have been, or was compromised, then Consultant shall immediately notify the County and PPRTA in writing and shall abide by C.R.S. § 24-73-101 *et seq.*

**7. Insurance.** In part to assure the County and PPRTA that the Consultant is always capable of fulfilling the specified indemnification obligations, the Consultant must purchase and maintain insurance of the kind and in the minimum amounts specified below, unless indicated otherwise in Section 7 of Exhibit A.

A. The Consultant agrees to procure and maintain, at its own expense, for all services covered by this Agreement, the following policies of insurance:

(1) **Workers’ Compensation Insurance:** The Consultant will maintain workers’ compensation insurance covering the Consultant for the performance of all services under this Agreement in accordance with applicable state laws, and employer’s liability insurance. Coverage shall include a waiver of subrogation in favor of El Paso County and PPRTA.

Minimum Limits:

- Workers’ Compensation – statutory limits
- Employer’s Liability:
  - \$1,000,000 bodily injury for each accident

- \$1,000,000 each employee for disease
- \$1,000,000 disease aggregate

The requirements of this provision shall apply to the Consultant and to all subcontractors.

(2) Commercial General Liability: The Consultant will maintain commercial general liability insurance covering all operations by or on behalf of the Consultant on an occurrence basis against claims for bodily injury, property damage (including loss of use) and personal injury. Such insurance will have these minimum limits and coverages:

Minimum Limits:

- \$1,000,000 each occurrence
- \$2,000,000 general aggregate with dedicated limits per project site
- \$2,000,000 products and completed operations aggregate

Coverages:

- Products and completed operations coverage maintained for at least 2 years after completion of the project for construction contractors
- Contractual Liability
- Independent Contractors
- Defense in addition to the limits of liability
- Waiver of Subrogation
- Severability of Interests Provision

Additional Insured Endorsement (for on-going and completed operations) issued to El Paso County, Colorado, PPRTA and their officers, agents, and employees acting in the scope of their employment.

The requirements of this provision shall apply to the Consultant and to all subcontractors.

(3) Automobile Liability: The Consultant will maintain business auto liability coverage covering liability arising out of any auto (including owned, hired, and non-owned autos) used in connection with this Agreement. Such insurance will have these minimum limits and coverages:

Minimum Limit:

- \$1,000,000 Combined Single Limit Each Accident

Coverages:

- Specific Waiver of Subrogation
- MCS 90 for vehicles carrying hazardous materials
- Mobile (for on-going and completed operations) issued to El Paso County, Colorado, its officers, its agents, and its employees acting in the scope of their employment

The requirements of this provision shall apply to the Consultant and to all subcontractors.

(4) If indicated in Section 5 of Exhibit A, Errors and Omissions or Professional Liability Insurance with a minimum coverage amount as specified in Section 5 of Exhibit A, and for two years beyond the completion of all services under this Agreement.

B. The above-mentioned coverages shall be procured and maintained with insurers with an A- or better rating, as determined by Best's Key Rating Guide. All coverages shall be continuously maintained during the term of this Agreement or as noted above to cover all liability, claims, demands, and other obligations assumed by the Consultant.

C. Additional Insured status required above shall be primary and non-contributory with any insurance or self-insurance carried by the County or by PPRTA. The Consultant shall be solely responsible for any deductible losses under any policy required above.

D. The policies shall provide that the County and PPRTA will receive notice no less than 30 days prior to cancellation, termination, or non-renewal of the policies.

E. The Consultant shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to this Agreement by reason of its failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations, or types.

F. Failure on the part of the Consultant to procure or maintain policies providing the required coverages, conditions and minimum limits shall constitute a material breach of contract upon which the County or PPRTA may immediately terminate this Agreement.

G. The County and PPRTA reserve the right to request and receive a certified copy of any policy and any endorsement thereto.

#### **8. Insurance Certificates.**

A. The Consultant shall, prior to commencing services, deliver to the County and PPRTA Certificates of Insurance as evidence that policies providing any and all required coverages and limits are in full force and effect.

B. These certificates will serve as an indication to the County and PPRTA that the Consultant has acquired all necessary insurance; however, the County and PPRTA may require that certified copies of the insurance policies be submitted and may withhold payment for services until the applicable insurance policies are received and found to be in accordance with the Agreement.

C. Insurance limits must be indicated on each Certificate of Insurance. Each Certificate of Insurance shall be reviewed and approved by the County and PPRTA prior to commencement of services under the Agreement.

**9. Indemnification.** The Consultant shall indemnify and hold harmless the County and PPRTA and their respective elected and appointed officials, officers, employees, and agents from and against any and all losses, damages, liabilities, claims, suits, actions, or awards, including costs, expenses and attorney's fees, incurred or occasioned as a result of any negligent acts or omissions of the Consultant, or its principals, employees, agents, or subconsultants arising out of or in any way connected with the performance of services under this Agreement. The Consultant's obligation to indemnify pursuant to this paragraph, and to provide any extended insurance coverage where applicable, shall survive the completion of the scope of services, and shall survive the termination of this Agreement.

**10. Government Immunity.** Liability for claims for injuries to persons or property arising from the negligence of the County and PPRTA, their departments, boards, commissions committees, bureaus, offices, employees, and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§ 24-30-1501, *et seq.*, C.R.S. No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

**11. Prohibited Terms.** Any term included in this Agreement that requires the County or PPRTA to indemnify or hold Consultant harmless, requires the County or PPRTA to agree to binding arbitration, limits Consultant's liability for damages resulting from death, bodily injury, or damage to tangible property, or that conflicts with this provision in any way shall be void *ab initio*. Nothing in this Agreement shall be construed as a waiver of any provision of § 24-106-109, C.R.S.

**12. Independent Contractor.** The Consultant is an independent contractor. AN INDEPENDENT CONSULTANT IS NOT ENTITLED TO WORKER'S COMPENSATION BENEFITS AND IS OBLIGATED TO PAY FEDERAL AND STATE INCOME TAX ON ANY MONIES EARNED PURSUANT TO THE CONTRACT RELATIONSHIP. Notwithstanding any provision appearing in this Agreement, all personnel assigned by the Consultant to perform work under the terms of this Agreement shall be and remain at all times employees of the Consultant or employees of their respective employers for all purposes.

**13. Purchase by Other Governmental Agencies.** Each governmental unit which avails itself of this contract will establish its own contract, place its own orders, issue its own purchase orders, be invoiced therefrom and make its own payments

and issue its own exemption certifications as required by the Consultant. It is understood and agreed that El Paso County and Pikes Peak Rural Transportation Authority are not legally binding parties to any contractual agreement made between any other governmental unit and the Consultant as a result of this agreement.

14. **Notices.** Notices to be provided under this Agreement shall be given in writing and either delivered by hand or deposited in the United States mail with sufficient postage to the addresses set forth in Section 6 of Exhibit A.

15. **Extent of Agreement.** This Agreement represents the entire and integrated agreement between the County, PPRTA and the Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral. Any amendments to this must be in writing and be signed by the County, PPRTA, and the Consultant. If any portion of this Agreement is found by a court of competent jurisdiction to be void and/or unenforceable, it is the intent of the parties that the remaining portions of this Agreement shall be of full force and effect.

*[Remainder of page intentionally left blank. Signatures on following page.]*

**CONSULTANT:**

By: \_\_\_\_\_  
(signature)

Title: \_\_\_\_\_

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

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2023, by  
\_\_\_\_\_ [name of Contract Signer], as \_\_\_\_\_ of \_\_\_\_\_.

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

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

SEAL

**ATTEST: Clerk to the Board**

\_\_\_\_\_

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

**EL PASO COUNTY**

By: \_\_\_\_\_  
Chair, Board of County Commissioners  
(Or representative authorized by resolution)

Signed this \_\_\_\_ day of \_\_\_\_\_, 2023

**APPROVED AS TO LEGAL FORM:**

\_\_\_\_\_  
County Attorney's Office

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

**PIKES PEAK RURAL TRANSPORTATION  
AUTHORITY BOARD OF DIRECTORS**

By: \_\_\_\_\_  
Chair

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



**EXHIBIT A to Agreement between the County, PPRTA and \_\_\_\_\_.**  
IFB/RFP-XX-XXX; \_\_\_\_\_

**1. Scope of Services.** The Consultant hereby agrees to and accepts responsibility to perform the following services:

In the event of any conflicts between this Agreement and any attached solicitation documents, this Agreement shall control.

**2. Time of Performance.** The services of the Consultant shall commence (choose one):

- ☐ As of the date of this Agreement.
- ☐ As specified in a Notice to Proceed to be provided by the County.
- ☐ As of the following date: \_\_\_\_\_, \_\_\_\_\_.

The services of the Consultant shall be completed, or shall end, by \_\_\_\_\_, 20\_\_, at which time the County and PPRTA shall have the option to extend the Agreement for four additional one-year terms under the same terms and conditions of the original Agreement by issuance of an Extension Letter. Continuation of the Agreement beyond the initial period is a County and a PPRTA prerogative and not a right of the Consultant and will be exercised only when such continuation is clearly in the best interest of the County and PPRTA.

**3. Compensation.** PPRTA agrees to compensate the Consultant for the performance of services detailed in Section 1 above, Scope of Services, as follows (choose one):

- ☐ Lump sum due upon completion: \$ \_\_\_\_\_.
- ☐ Hourly rate: \$ \_\_\_\_\_/hour or as outlined in the attached document.
- ☐ Other: \_\_\_\_\_.

It is expressly understood and agreed that the total compensation to be paid to the Consultant under this Agreement, including any reimbursable expenses as described above, shall not exceed \$ \_\_\_\_\_.

**4. Notices of Termination.** Notices of termination shall be given at least thirty (30) days before the effective date of termination.

**5. Additional Insurance Requirements.**

☐ Protective Liability and Property Damage Insurance covering the liability of the County, including any employee, officer, or agent of the County, with respect to all operations under the Agreement by the Consultant or his subcontractors, shall be procured and maintained during the life of the Agreement. The limits of the County's Protective Liability Policy, to be provided by the Consultant, as described in Section 7, shall be increased to the same limits for the Consultant's Commercial General Liability Insurance. **Check box if required only.**

☐ Professional Liability Insurance is required. If Consultant's scope of work includes the performance of professional services, Consultant shall provide and maintain, for the statute of repose, Professional liability insurance covering any damages caused by an error or omission in performance of the professional services with the required minimum limits of One Million Dollars (\$1,000,000) each claim and Two Million Dollars (\$2,000,000) annual aggregate, and Consultant shall maintain such coverage for at least two (2) years from the termination of this Agreement. **Check box if required only.**

☐ **Umbrella Liability Insurance is required:** Commercial Umbrella/Excess Liability Insurance for bodily injury and property damage liability must sit over Consultant's primary Employer's Liability, Commercial General Liability and Commercial Automobile Liability with limits of: One Million Dollars (\$1,000,000) each occurrence and aggregate. Higher or Lower limits may be required or determined acceptable at the sole discretion of the County and PPRTA. **Check box if required only.**

☐ **Protected Information:** If Consultant's scope of work will include access to Confidential Information, such as PII, PHI, PCI, Tax Information, and CJI, Consultant shall maintain Cyber/ Network Security and Privacy Liability Insurance in an amount of not less than One Million Dollars (\$1,000,000) each occurrence; and Two Million Dollars (\$2,000,000) general aggregate to cover civil, regulatory and statutory damages, contractual damage, as well as data breach management exposure, and any loss of income or extra expense as a result of actual or alleged breach, violation or infringement of right to privacy, consumer data protection law, confidentiality or other legal protection for personal information, as well as confidential information of County. **Check box if required only.**

☐ **Pollution Liability:** If Consultant's scope of work includes any pollution liability exposure, Consultant must provide and maintain a separate Pollution Liability Insurance policy. Such insurance shall include coverage for the Hold-Harmless or Indemnification Clause contained in this Agreement. Coverage shall include Additional Insured status in favor of County, its agents and employees and a Waiver of Subrogation in favor of additional insured parties the policy shall be written with a limit of liability no less than One Million Dollars (\$1,000,000) each occurrence and aggregate. **Check box if required only.**

☐ **Crime Insurance:** If Consultant's scope of work includes Consultant or Consultant's employees' involvement with money or securities of County, Consultant shall provide and maintain Commercial Crime coverage for a loss arising out of or in connection with any fraudulent or dishonest act committed by employees of the Consultant, in an amount of not less than One Million Dollars (\$1,000,000) single limit. Commercial Crime Coverage shall include third party liability coverage and list County as a loss payee. **Check box if required only.**

☐ **Builders Risk:** The Consultant shall purchase and maintain All Risk Builder's Risk insurance upon the entire Project to One Hundred Percent (100%) of the insurable value thereof for the benefit of the Owner and the Consultant. Such insurance shall include any and all direct damage to all structures under construction (including temporary structures) and all materials, supplies, machinery, and equipment at the work site which are or will be incorporated in the work, which is caused by hazards such as but not limited to, the hazards of fire, lightning, wind, earthquake, flood, vandalism, malicious mischief, and other hazards included in a standard Extended Coverage Endorsement. **Check box if required only.**

☒ **Subrogation Waiver:** All insurance policies secured or maintained by Consultant in relation to this contract shall include clauses stating that each carrier shall waive all rights of recovery under subrogation or otherwise against the County, PPRTA, their agencies, institutions, organizations, officers, agents, employees, and volunteers. **REQUIRED.**

**Waiver of Workers' Compensation Insurance Requirements.** Check box for Sole Proprietors only.

☐ A Waiver of Workers' Compensation Insurance is required only when a Consultant is a sole proprietor and has no employees. This form must be requested from the Contracts & Procurement Division.

**6. Addresses for Notices.** The addresses for Notices are as follows:

To the County: El Paso County Contracts & Procurement Division  
15 East Vermijo Avenue  
Colorado Springs, Colorado 80903

To PPRTA: Pikes Peak Rural Transportation Authority  
15 S 7th Street  
Colorado Springs, CO 80905

AND

To the Consultant:

**7. Special Conditions.**

- ☐ No special conditions
- ☐ Special Conditions are as follows:

SAMPLE