

TRADE CONTRACTOR AGREEMENT IFB-XX-XXX; _____

THIS AGREEMENT is made this _____ day of _____, 2024, by and between the Board of County Commissioners of the County of El Paso, State of Colorado (the "County"), the Pikes Peak Rural Transportation Authority ("PPRTA"), and _____ ("Contractor").

In consideration of the mutual covenants, agreements, conditions and undertakings hereinafter specified, the County, PPRTA and Contractor agree as follows:

Section 1. Scope of Work. Contractor shall perform all work in accordance with **Exhibit A**, which is attached hereto and incorporated by this reference, including furnishing all supervision, labor, equipment and materials therefor (the "Project").

Section 2. Agreement Documents. The Agreement Documents, which comprise the entire agreement and contract between the County, PPRTA and Contractor, consist of this Agreement, Exhibit A, Exhibit B (General Conditions of the Agreement); Invitation for Bid XX-XX; documents submitted by the Contractor in response to IFB-XX-XXX; Bid Form, Request for Proposals, Schedule, Performance and Payment Bond, Notice of Award, Notice to Proceed, general conditions, special conditions, measurement, payment, and technical specifications and drawings, and any modifications, change orders or other such revisions properly authorized after the execution of this Agreement.

Section 3. Agreement Price. PPRTA has appropriated the money necessary to fund this Project in the current fiscal year. PPRTA shall pay the Contractor in current funds for the performance of the work, subject to any additions and deletions, by written change order, the total sum not to exceed _____ Dollars (\$ _____) (the "Original Agreement Amount"). Notwithstanding anything to the contrary contained in this Agreement, a change order or other form of directive by the County or PPRTA requiring additional compensable work to be performed, which causes the aggregate amount payable under this Agreement to exceed the amount appropriated for the Original Agreement Amount, will not be valid unless the Contractor is given written assurance by the County via an Amendment and/or a Contract Modification Order (CMO) shall be included as supporting documentation, that lawful appropriations have been made by PPRTA to cover the cost of the additional work.

Section 4. 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 Contractor 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.

Section 5. PPRTA 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, CO and El Paso County, CO to be funded from the sales and use tax revenue generated for PPRTA projects. On November 6, 2012 and on November 8, 2022, 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, Contractor may continue work in the new fiscal year, unless Contractor is notified by the County or PPRTA in writing that sufficient funds are not available and have not been appropriated for continuance of Contractor's performance under this Agreement into the new fiscal year.

c. Optional Extension Term: The prices quoted in this Solicitation shall prevail during the specified term of the Agreement, at which time the County and PPRTA shall have the option to extend the Agreement for four (4) additional one-year periods. Continuation of the Agreement beyond the initial period is a County and PPRTA prerogative and not a right of the Contractor and will be exercised only when such continuation is clearly in the best interest of the County and PPRTA. Any renewal of, or change orders to this Agreement are contingent upon available funding and satisfactory performance by the Contractor, as determined by the County and PPRTA. It shall be the Contractor's responsibility to provide the County Representative (with a copy to the Contracts and Procurement Division) all requested Agreement changes and/or price adjustments at least 90 days prior to the expiration of the Agreement or Agreement renewal date for consideration. After review by the County and PPRTA of the Contractor's requested changes or price adjustments, the County and PPRTA will enter into negotiations with the Contractor to determine if the requested Agreement changes and/or price adjustments are acceptable to the County and PPRTA. Negotiations must be completed ninety (90) days prior to expiration of the Agreement or Agreement renewal date. Failure of the County, PPRTA and the Contractor to agree upon the terms and conditions for the renewal may result in resolicitation of the goods or services covered by the original Agreement. Continued performance by the Contractor outside of the Agreement term will be at the Contractor's risk.

Section 6. Times and Methods of Payment.

a. Progress payments shall be made in proportion to services rendered and shall be due and owing within thirty (30) days of Contractor's submittal of a monthly invoice. If the County or PPRTA object to any invoices submitted by Contractor or required documentation is missing, the County or PPRTA will so advise Contractor in writing giving the reason within fourteen (14) days of receipt of such invoice.

b. If PPRTA fails to make payments due Contractor within sixty (60) days after receipt and acceptance of Contractor's invoice and required documentation, Contractor may, after giving seven (7) days' written notice to PPRTA and the County, suspend services under this Agreement until Contractor's outstanding bills have been paid in full.

Section 7. Retainage. An amount up to or equal to five percent (5%) of all progress payments shall be retained by PPRTA until the Project is completed satisfactorily and finally accepted by the County.

Section 8. Final Payment. PPRTA shall make final payment, including release of retainage, to Contractor when the Project is complete and finally accepted by the County and PPRTA.

Section 9. Final Acceptance. Final acceptance of the Project shall follow inspection and approval of Contractor's performance by the County and PPRTA, along with inspection by appropriate governmental officials pursuant to local, state and federal requirements, if necessary. The County and PPRTA shall have the right and authority to determine the acceptability of Contractor's performance for conformity with this Agreement, which determination shall be conclusive and binding upon Contractor. Final acceptance by the County and PPRTA is subject to the provisions of this Agreement and C.R.S. § 38-26-107, as amended, and in no manner affects or releases applicable warranties or guarantees with Contractor or Suppliers for the Project.

The Project, when presented to the County and PPRTA for final acceptance, shall be delivered free from any and all claims or encumbrances whether then in existence or later established by law, statute, ordinance or otherwise. No claim or encumbrance against the Project or the Project site shall be outstanding or otherwise unsettled at the time of final acceptance. The right to assert any claim or encumbrance against the Project, after final acceptance by the County and PPRTA and final payment to Contractor, is hereby waived by Contractor on behalf of itself and any subcontractor, laborer, materialman, equipment supplier, manufacturer or other person.

Section 10. Commencement and Completion of Performance. The services called for shall commence on the date of Agreement execution by all Parties and as outlined in Section 2 of Exhibit A and shall be completed in **XX** Working Days. The Agreement term will end on _____, 20___. Contractor shall commence any work requested by the County within **XX (XX)** days of notification, either through the applicable Notice to Proceed(s) or by issuance of this Agreement by the County. In the event Contractor fails to commence work within this time period, the County and PPRTA may take over the work and prosecute the same to completion. The date of beginning and the

time for completion of the work are essential conditions of this Agreement. Contractor shall proceed with the work at such rate of progress to ensure full completion within the Agreement time. It is expressly understood and agreed by and between the County, PPRTA and Contractor that the Agreement time for the completion of the work described herein is a reasonable time, taking into consideration the average climatic and economic conditions and other factors prevailing in the locality of the work during the period such work is to be performed. If Contractor shall fail to complete the work within the Agreement time, or extension of time granted by the County and PPRTA, then Contractor shall pay to the County and PPRTA the amount of _____ Dollars (\$____) as liquidated damages and not as penalty, for each calendar day that Contractor shall be in default after the allowable Working Days have expired.

Section 11. Termination.

a. This Agreement may be terminated in whole or in part in writing by any party in the event of substantial failure by any other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided, that no such termination may be affected unless the other party is given:

- i. not less than ten (10) calendar days' written notice of intent to terminate, and
- ii. an opportunity for consultation with the terminating party prior to termination.

b. This Agreement may be terminated in whole or in part in writing by the County or PPRTA for the convenience of either entity.

c. Upon receipt of a termination action pursuant to paragraphs a. or b. above, Contractor shall promptly discontinue all services affected (unless the notice directs otherwise), and the County and PPRTA may take over the work and prosecute the same to completion by agreement with another party or otherwise.

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

Section 12. Taxes, Licenses, Permits and Regulations. In all operations connected with the Project, Contractor shall pay all fees, charges and taxes imposed by law and shall obtain all licenses and permits necessary for completion of the Project, paying all fees therefore, unless otherwise specified by the County and PPRTA. The County and PPRTA shall assist Contractor to determine which licenses and permits are required for completion of the Project.

The County is exempt from Colorado state sales and use taxes on materials to be permanently incorporated in the work. Accordingly, taxes for which the County is exempt shall not be included in any amounts payable to the Contractor under this Agreement. The County shall, upon request, furnish Contractor with a copy of its Certificate of Tax Exemption. Contractor and subcontractors shall apply to the Colorado Department of Revenue, Sales Tax Division, for an exemption certificate and purchase the materials tax free. Pursuant to C.R.S. §39-26-114(1)(a)(XIX), Contractor and subcontractors shall be liable to the State of Colorado for exempt taxes paid due to failure to apply for exemption certificates or for failure to use said certificates. Contractor shall comply with all laws, ordinances, codes, rules and regulations of all governmental authorities, whether local, state or federal, relating to the performance of work on the Project and, particularly, in complying with those laws concerning the environment, workers' compensation, safety and health, state labor and materials, and equal employment opportunity.

Section 13. Indemnification. The Contractor shall, to the fullest extent permitted by law, defend, indemnify and hold harmless the County and PPRTA, their respective elected and appointed officials, officers, employees, and agents, and their insurers, and employees, from and against all liability, claims, demands, suits, actions or proceedings of any kind, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement, including workers' compensation claims, in any way resulting from or arising from the services rendered by the Contractor, its employees, agents or subcontractors, or others for whom the Contractor is legally liable, under this Agreement; provided, however, that the Contractor need not indemnify or save harmless the County or PPRTA, their elected and appointed officials, officers, employees, and agents, from damages resulting from the

negligence of the County's or PPRTA's elected and appointed officials, officers, employees, and agents, and their insurers, and employees. The County and PPRTA cannot and by this Agreement do not agree to indemnify, hold harmless, exonerate or assume the defense of the Contractor or any other person or entity whatsoever, for any purpose whatsoever.

The Contractor shall indemnify, save, and hold harmless the County and its elected and appointed officials, officers, employees, and agents (collectively, "Indemnified Parties"), against any and all costs, expenses, claims, damages, liabilities, court awards and other amounts (including attorneys' fees and related costs) incurred by any of the Indemnified Parties in relation to Contractor's failure to comply with §§24-85-101, et seq., C.R.S., or the Accessibility Standards for Individuals with a Disability as established by the Governor's Office of Information Technology (OIT) pursuant to Section §24-85-103 (2.5), C.R.S.

The Contractor shall, to the fullest extent permitted by law, defend, investigate, handle, respond to, and provide defense for and defend against, any such liability, claims or demands, at the sole expense of the Contractor, or, at the option of the County and PPRTA, agrees to pay the County and PPRTA or reimburse the County and PPRTA for the defense costs incurred by the County and PPRTA in connection with any such liability, claims or demands. The Contractor shall, to the fullest extent permitted by law, defend and bear all other costs and expenses related thereto, including court costs and attorney fees, whether or not any such liability, claims or demands alleged are groundless, false or fraudulent.

This indemnification provision is intended to comply with C.R.S. § 13-21-111.5(6), as amended, and shall be read as broadly as permitted to satisfy that intent.

Section 14. Insurance. The Contractor agrees to procure and maintain, during the life of this Agreement, a policy or policies of insurance against all liability, claims, demands and other obligations assumed by the Contractor, pursuant to Section 1 of Exhibit A. Such insurance shall be in addition to any other insurance requirements imposed by this Agreement or by law. The Contractor shall not be relieved of any liability, claims, demands or other obligations assumed, pursuant to Section 1 of Exhibit A, by reason of its failure to procure and maintain, during the life of this Agreement, insurance in sufficient amounts, durations or types.

The Contractor shall procure and maintain, during the life of this Agreement, for itself and any subcontractor, the minimum insurance coverages listed below. Such coverages shall be procured and maintained with forms and insurers acceptable to the County and PPRTA. All coverages shall be continuously maintained to cover all liability, claims, demands, and other obligations assumed by the Contractor, pursuant to this Agreement. In the case of a claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

a. Workers' Compensation Insurance to cover obligations imposed by applicable laws for any employee engaged in the performance of the work under this Agreement, and Employers Liability Insurance with minimum limits of One Million Dollars (\$1,000,000) each accident, One Million Dollars (\$1,000,000) disease-policy limit, and One Million Dollars (\$1,000,000) disease-each employee. Evidence of qualified self-insured status may be substituted for the workers' compensation requirements of this Paragraph.

b. Commercial General Liability Insurance to be written with a limit of liability of not less than One Million Dollars (\$1,000,000) for all damages arising out of bodily injury, personal injury (including coverage for employee and contractual acts), including death, at any time resulting therefrom, arising out of any one occurrence, and not less than Two Million Dollars (\$2,000,000) general aggregate for all damages arising out of bodily injury, including death, at any time resulting therefrom, during the policy period. This policy shall also include coverage for blanket contractual and independent contractor risks.

The limits of Commercial General Liability Insurance for broad-form property damage (including products and completed operations) shall be not less than One Million Dollars (\$1,000,000) for all damages arising out of injury to or destruction of property in any one occurrence, and not less than Two Million Dollars (\$2,000,000) for all damages arising out of injury to or destruction of property, including the County's and PPRTA's property during the policy period.

The Commercial General Liability Insurance policy shall include coverage for explosion, collapse and underground hazards. The policy shall contain a severability of interests provision.

c. Comprehensive Automobile Liability Insurance with minimum combined single limits for bodily injury and property damage of not less than One Million Dollars (\$1,000,000) each occurrence, and One Million Dollars (\$1,000,000) aggregate with respect to each of the Contractor's owned, hired and non-owned vehicles assigned to or used in performance of the Agreement. The policy shall contain a severability of interests provision.

The policy required by Paragraph b. above shall be endorsed to include the County and PPRTA, whether private or governmental, their officers and employees, and any other person(s), company(ies) or entity(ies) deemed necessary by the County and PPRTA as additional insureds. The Contractor shall be solely responsible for any deductible losses under any policy required herein.

Every policy required above shall be primary insurance, with the exception of Workers' Compensation, and any insurance carried by the County and PPRTA, their officers, their employees or their consultants shall be excess and not contributory insurance to that provided by the Contractor. No additional insured endorsement to the policy required by this Agreement shall contain any exclusion for bodily injury or property damage arising from completed operations.

The certificate of insurance provided by the Contractor shall be completed by the Contractor's insurance agent as evidence that policies providing the required coverages, conditions and minimum limits are in full force and effect and shall be reviewed and approved by the County and PPRTA prior to commencement of the Agreement. No other form of certificate shall be used. The certificate shall identify this Agreement and the coverages afforded under the policies. The completed certificate of insurance shall be sent to:

El Paso County
Attn: Contract Specialist
15 East Vermijo Avenue
Colorado Springs, Colorado 80903

It is the affirmative obligation of the Contractor to notify the County and PPRTA, as provided in this Agreement, a copy of the notice, within two (2) business days of the cancellation or substantive change to any insurance policy required under this Agreement, and failure to do so shall constitute a breach of this Agreement.

Failure on the part of the Contractor to procure or maintain policies providing the required coverages, conditions and minimum limits shall constitute a material breach of Agreement upon which the County and PPRTA may immediately terminate this Agreement or, at their discretion, the County and PPRTA may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the County and PPRTA shall be repaid by the Contractor to the County and PPRTA upon demand, or the County and PPRTA may offset the cost of the premiums against any monies due to the Contractor from the County and PPRTA.

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

The parties hereto understand and agree that the County and PPRTA, their officers and employees, are relying on and do not waive or intend to waive by any provision of this Agreement the monetary limitations (presently Three Hundred Eighty-Seven Thousand Dollars (\$387,000) for any injury to one person in any single occurrence, and One Million Ninety-Three Thousand Dollars (\$1,093,000) for any injury to two or more persons in any single occurrence; except that, in such instance, no person may recover in excess of Three Hundred Eighty-Seven Thousand Dollars (\$387,000), which amounts shall be adjusted by an amount reflecting the percentage change over a four-year period in the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for Denver-Boulder-Greeley, All Items, All Urban Consumers, or its successor index, or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as from time to time amended, or otherwise available to the County and PPRTA, their officers or employees.

Section 15. Performance and Payment Bond. Contractor shall provide to the County and PPRTA, prior to commencement of performance, a Performance and Payment Bond acceptable to the County and PPRTA in the full amount of _____ Dollars (\$ _____), including provisions for any adjustment thereof in accordance with the terms of this Agreement. Contractor shall obtain such bond on the County's and PPRTA's behalf, separate and apart from any similar bonds or surety or warranty agreements entered into independently between the County and PPRTA and any manufacturer or supplier.

Section 16. 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.

Section 17. Prohibited Terms. Any term included in this Agreement that requires the County or PPRTA to indemnify or hold Contractor harmless, requires the County and PPRTA to agree to binding arbitration; limits Contractor'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.

Section 18. Warranties and Guarantees. Contractor hereby represents, warrants and guarantees to the County and PPRTA all workmanship, equipment and materials on or made a part of the Project and its structures for a period of one (1) year from and after the date of final acceptance of the work by the County and PPRTA, as provided by this Agreement.

Section 19. Subcontractors. All Agreements between Contractor and subcontractors shall conform explicitly to all applicable provisions of this Agreement. In all events, Contractor shall be responsible and held liable for any bonding, insurance, warranties, indemnities, progress payments and completion of performance of or to such subcontractors. Upon receipt of progress and final payments from PPRTA, Contractor shall disburse the same immediately to subcontractors without any requirement of the County to supervise the same. The County or PPRTA may, but shall not be obligated to, require Contractor to furnish lien waivers for the work performed or materials furnished by subcontractors or materialmen prior to payment of progress payments or final payment. No contractual relationship shall exist between the County and PPRTA and any subcontractor because of the subletting of any part of the Project work.

Section 20. Change Order. There shall be no increase in price or change in the scope of work described herein without a written change order issued by the County and PPRTA along with the County's and PPRTA's written assurance that lawful appropriations have been made by the County and PPRTA to cover the cost of any additional work or materials described in the change order and an Amendment has been completed.

Section 21. Amendment. This Agreement may be amended from time to time by agreement between the parties hereto. No amendment, modification or alteration of this Agreement shall be binding upon the parties hereto unless the same is in writing and approved by the duly authorized representatives of each party hereto.

Section 22. Work Rules.

a. Contractor shall perform all work hereunder in keeping with the rules and regulations that the County and PPRTA may promulgate at any time for the safe, orderly and efficient conduct of all operations.

b. The County and PPRTA shall have the right to require of Contractor the immediate removal from the Project of any employee of Contractor or of his subcontractors who, in the discretion of the County and PPRTA, is not qualified to perform the work assigned to him, is guilty of improper conduct, or is not working in harmony with the other trades.

c. Nothing contained in this Agreement shall constitute Contractor as being an employee of the County or PPRTA, nor shall any employment relationship between the County, PPRTA and Contractor be created by the terms hereof.

d. Contractor is responsible for the safety of any of its materials, tools, possessions and rented items stored on the job site, and for protection of the Project, and shall hold the County and PPRTA and their authorized representatives harmless from any damage or loss incurred thereto.

e. Contractor shall promptly pay in full for any and all damage caused to the Project site by Contractor or by any subcontractor or other person or entity of any nature furnishing materials, equipment, machinery, supplies, labor, skilled services or instruments for whose actions Contractor is responsible hereunder.

f. No material, equipment, tools, supplies or instruments, other than those belonging to or leased by Contractor, will be removed from the Project site by Contractor without the prior written approval of the County and PPRTA.

g. Contractor agrees to report immediately to the County and PPRTA, in writing, any and all property damage and/or personal injury that occurs on the Project site during the course of Contractor's performance.

Section 23. Assignment. Contractor shall not, at any time, assign any interest in this Agreement or the other Agreement Documents to any person or entity without the prior written consent of the County and PPRTA. The terms of this Agreement shall inure to and be binding upon the successors and assigns of the parties hereto.

Section 24. Nondiscrimination. The Contractor will take affirmative action to not refuse to hire, to discharge, to promote or demote, to harass during the course of employment, or to discriminate in matters of compensation, terms, conditions, or privileges of employment against any employee, subcontractor, or applicant for employment because of race, color, sex, sexual orientation, gender identity, gender expression, age, religion, disability, national origin or ancestry, as provided by Colo. Rev. Stat. § 24-34-402 (1)(a). Contractor agrees to comply with all applicable Federal and State statutes and regulations concerning non-discrimination.

Section 25. Severability. If any term, section or other provision of this Agreement shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such term, section or other provision shall not affect any of the remaining provisions of this Agreement.

Section 26. Waiver. No waiver by either party of any right, term or condition of this Agreement shall be deemed or construed as a waiver of any other right, term or condition, nor shall a waiver of any breach hereof be deemed to constitute a waiver of any subsequent breach, whether of the same or of a different provision of this Agreement.

Section 27. Personally Identifiable Information (PII). If the Contractor or any of its Subcontractors will or may receive PII under this Agreement, Contractor 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. Contractor 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 Contractor incurs a data breach whereby it is reasonably believed that any of County's and PPRTA's PII either could have been, or was compromised, then Contractor shall immediately notify the County in writing and shall abide by C.R.S. § 24-73-101 *et seq.*

Section 28. Remedies. None of the remedies provided to any party under this Agreement shall be required to be exhausted or exercised as a prerequisite to resort to any further relief to which such party may then be entitled. Every obligation assumed by, or imposed upon, either party hereto shall be enforceable by any appropriate action, petition or proceeding at law or in equity. In addition to any other remedies provided by law, this Agreement shall be specifically enforceable by either party. This Agreement shall be construed in accordance with the laws of the State of Colorado, and particularly those relating to governmental contracts. The duties and obligations imposed by this Agreement and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties,

obligations, rights and remedies otherwise imposed or available by law, including, but not limited to, tort remedies. The Contractor agrees that the economic loss rule as set forth in the *Town of Alma v. Azco Construction, Inc.*, 10 P.3d 1256 (Colo. 2000) shall not serve as a limitation on the County's or PPRTA's right to pursue tort remedies in addition to other remedies it may have against the Contractor. Such rights and remedies shall survive the acceptance of the Work or any termination of this Agreement. Contractor further specifically waives all the provisions of Chapter 8 of Article 20 of Title 13, Colorado Revised Statutes, regarding defects in the Work under this Agreement.

Section 29. Accessibility. The Contractor shall comply with and the work product provided under this Agreement shall be in compliance with all applicable provisions of §§24-85-101, et seq., C.R.S., and the Accessibility Standards for Individuals with a Disability, as established by OIT pursuant to Section §24-85-103 (2.5), C.R.S. Contractor shall also comply with all State of Colorado technology standards related to technology accessibility and with Level AA of the most current version of the Web Content Accessibility Guidelines (WCAG), incorporated in the State of Colorado technology standards.

Section 30. 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 Contractor. 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 Contractor as a result of this agreement.

Section 31. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall constitute an original, but all of which shall constitute one and the same document.

Section 32. Entirety. This Agreement constitutes the entire agreement between the parties concerning the subject matter herein, and all prior negotiations, representations, Agreements, understandings or agreements pertaining to such matters are merged into and are superseded by this Agreement.

{REMAINDER OF PAGE LEFT BLANK – SIGNATURES ON NEXT PAGE}

	CONTRACTOR:
	By: _____

	[<i>name/title</i>]
STATE OF _____)	
)ss.	
COUNTY OF _____)	
 The foregoing instrument was acknowledged before me this ____ day of _____, 2024, by _____ <i>[name of Contract Signer]</i> , as _____ of _____.	
My commission expires: _____.	
	_____ Notary Public
S E A L	
ATTEST: Clerk to the Board	EL PASO COUNTY
_____	By: _____
Date: _____	Chair, Board of County Commissioners (Or representative authorized by resolution)
APPROVED AS TO LEGAL FORM:	PIKES PEAK RURAL TRANSPORTATION AUTHORITY BOARD OF DIRECTORS
_____ County Attorney's Office	By: _____
Date: _____	Chair

EXHIBIT A to Agreement between the County, PPRTA and _____.
IFB-XX-XXX; _____

1. Scope of Services. The Contractor 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 Contractor shall commence (choose one):

- ☐ As of the date of this Agreement.
- ☐ As specified in a Notice to Proceed(s) to be provided by the County.
- ☐ As of the following date: _____, 20__, (this is a working day Agreement and shall be completed within ____ working days).

The services of the Contractor shall be completed, in XX Working Days. The Agreement 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 Contractor 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 Contractor for the performance of services detailed in Section 1 above, Scope of Services, as follows (choose one):

- ☐ Phased payments for completed work: Phase I - \$ _____; Phase II - \$ _____; Phase III - \$ _____.
- ☐ Hourly rate: \$ _____/hour or as outlined in the attached document.
- ☐ Lump sum payment upon completion: \$ _____.
- ☐ Other:

It is expressly understood and agreed that the total compensation to be paid to the Contractor under this Agreement 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 Contractor or its 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 Contractor, as described in Section 7, shall be increased to the same limits for the Contractor's Commercial General Liability Insurance. **Check box if required only.**

☐ Professional Liability Insurance is required. If Contractor's scope of work includes the performance of professional services, Contractor 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 Contractor 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 Contractor'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 County. **Check box if required only.**

☐ Protected Information: If Contractor's scope of work will include access to Confidential Information, such as PII, PHI, PCI, Tax Information, and CJI, Contractor 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 Contractor's scope of work includes any pollution liability exposure, Contractor 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 Contractor's scope of work includes Contractor or Contractor's employees' involvement with money or securities of County, Contractor 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 Contractor, 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 Contractor 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 County, PPRTA, and the Contractor. 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 Contractor in relation to this Agreement shall include clauses stating that each carrier shall waive all rights of recovery under subrogation or otherwise against the County, PPRTA, and their respective 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 Contractor 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 Contractor:

7. Special Conditions.

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

EXHIBIT B to Agreement between the County, PPRTA and _____.
IFB-XX-XXX; _____

GENERAL CONDITIONS OF THE AGREEMENT