



El Paso County
Contracts and Procurement
15 East Vermijo Avenue
Colorado Springs, Colorado 80903
INVITATION FOR BID #IFB-23-058
COVER SHEET

Release Date	April 26, 2023
Solicitation Number	IFB-23-058
Solicitation Title	CONSTRUCTION OF THE HIGHWAY 105A PROJECT
Services to be performed for	El Paso County - Department Public Works- Engineering Department
Responses will be received until	2:00 P.M., MST, Tuesday, May 23, 2023 Electronically through the Rocky Mountain E- Purchasing System
For additional information please contact	Becky Schaffstein, CPPB, Lead Procurement Specialist Email: beckyschaffstein@elpasoco.com 719-520-6392
Documents included in this package	Invitation for Bid Cover Sheet Executive Summary Specifications Special Terms and Conditions General Terms and Conditions Response Submittal Requirements Attachments

The undersigned hereby affirms that (1) he/she is a duly authorized agent of the Contractor, (2) he/she has read all terms and conditions and technical specifications which were made available in conjunction with this solicitation and fully understands and accepts them, (3) that the offer is being submitted on behalf of the Contractor in accordance with any terms and conditions set forth in this document, and (4) that the Contractor will accept any awards made to it as a result of the offer submitted herein for a minimum of ninety calendar days following the date of submission. Offers must contain, in blue ink, a manual signature of an authorized agent of the Contractor or a verifiable electronic time and date stamped signature in the space provided on all appropriate signature lines in this solicitation. **Typed names as signatures are not allowed.**

PRINT OR TYPE YOUR INFORMATION

Company Name: _____	Fax: _____
Address: _____	City/State/Zip: _____
Contact Person: _____	Title: _____
Email: _____	Phone: _____
Authorized Representative's Signature: _____	Date: _____
Printed Name: _____	Title: _____
Email: _____	Phone: _____

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OFFICIAL SOLICITATION DOCUMENTS: El Paso County officially distributes solicitation documents through the Rocky Mountain E-Purchasing System and the County's website. **Copies of solicitations obtained from any other source are not considered official copies.** Only those Contractors who obtain solicitation documents from the Rocky Mountain E-Purchasing System or El Paso County website will be in receipt of officially posted and relevant information regarding solicitations issued by El Paso County. The County cannot be held responsible for incorrect information, nor can it attest to the accuracy of information found on websites other than the Rocky Mountain E-Purchasing System or the County's website.

PURPOSE OF SOLICITATION: El Paso County is soliciting bids from qualified, experienced, professional Contractors to furnish all materials, labor, and equipment necessary for **Construction of the Highway 105A Project**, which generally includes widening Hwy 105 from two lanes to four lanes from just east of Jackson Creek Pkwy to Lake Woodmoor Drive with full depth reconstruction of Hwy 105 and associated drainage improvements.

There will be Federal, State (CDOT), El Paso County and PPRTA oversight of the project.

This Project is subject to Davis Bacon requirements. There is a **7% DBE goal** associated with construction of this project as well as **2,200 hours of On-The-Job Training (OJT)**.

TERM OF CONTRACT: The awarded contract is a Working Day Contract. The services called for shall commence on the date of contract execution by all Parties and **shall be completed within three hundred and ninety (390) Working Days**. The contract term, based on the contract execution, contract extensions, and working days, is anticipated to begin on June 21, 2023 and end on December 31, 2025 and shall be defined in the Agreement. A Limited Notice to Proceed will be provided to the Contractor from the County's Project Manager prior to the Notice to Proceed for the purpose of ordering certain materials for the project that may require substantial lead time prior to delivery to the site, permitting and other non-construction tasks. Construction Work shall commence, and the time count shall begin, upon receipt of the Notice to Proceed from the County's Project Manager. Notwithstanding, it shall be understood and agreed that any required warranty period, if applicable, which exceeds this term shall remain in full force for the duration of the warranty period.

OPTION TO EXTEND FOR TWO YEARS (MAINTAINING SAME PRICES): The prices quoted in this Solicitation shall prevail for the duration of the contract term. The County shall have the option to extend the contract for two (2) additional one (1) year periods, provided, however, that the Contractor will maintain the same prices that were awarded during the initial contract. Continuation of the contract beyond the initial period is a County prerogative and not a right of the Contractor. This prerogative will be exercised only when such continuation is clearly in the best interest of the County.

NON-APPROPRIATION. Pursuant to C.R.S. § 29-1-110, as amended, the financial obligations of the County and PPRTA as set forth herein after the current fiscal year are contingent upon funds for the purpose being appropriated, budgeted and otherwise available. The awarded agreement will automatically terminate 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.

SCHEDULE OF ACTIVITIES: The following activities and dates tentatively outline the process to be used to solicit Contractor responses and to review each Contractor Response.

April 26, 2023	Release Invitation for Bid
May 8, 2023 @ 11:00 a.m.	RECOMMENDED Pre-Bid Meeting
May 8, 2023 from 1:00 p.m. – 3:00 p.m.	Examination of Site
May 11, 2023 @ 3:00 p.m.	Deadline for Submitting Questions
May 23, 2023 @ 2:00 p.m.	Response Submission Deadline
June 2023	Issue Notice of Intent to Award
June 21, 2023 (estimated)	Contract Award

PRE-BID MEETING: A pre-bid meeting will be held as shown above in the Schedule of Activities, at 3275 Akers Drive, Colorado Springs, CO 80922. A representative of the Contractor is encouraged to attend this meeting in order to become familiar with the Specifications.

EXAMINATION OF SITE IS RECOMMENDED: To ensure competitive responses, the County's Contracts and Procurement Division has scheduled a site visit for all interested parties to attend at the date and time outlined in the Schedule of Activities above. Participants will meet on the southwest corner of Hwy 105 and Knollwood Drive (north of Kum & Go). It is highly recommended that the Contractor attend this site visit with County personnel. No other opportunities will be provided to the Contractors to meet with County personnel. The County will not provide any additional allowances to the Contractor based on the Contractor's lack of knowledge of site conditions.

EXAMINATION OF CONTRACT DOCUMENTS IS RECOMMENDED The Contractor is advised to carefully examine the requirements outlined in the drawings and Specifications. It is not the intent of the specifications to cover each and every detail. Any problems that may arise must be promptly reported to the County and will be subject to the decision of the County. The bidder is expected to carefully examine the size and scope of the proposed work prior to submitting its bid. The Bidder certifies that it has examined the location of the proposed Work and is familiar with the drawings and the specifications and all contract documents related thereto, and the local conditions at the place where the Work is to be done. The Bidder should carefully check all the quantities and understand that the County will not be responsible for any errors or omissions on the part of the Bidder in making their bid.

RESPONSE TO QUESTIONS: Questions which arise during the Response preparation period regarding issues around this Solicitation, purchasing and/or award should be directed electronically, via the Rocky Mountain E-Purchasing system, to Becky Schaffstein, CPPB, Lead Procurement Specialist, Contracts and Procurement Division, El Paso County. The Contractor submitting the question(s) shall be responsible for ensuring that the question(s) is received by the date and time listed above in the Schedule of Activities for submitting the question(s).

El Paso County is soliciting bids from qualified, experienced, professional Contractors to furnish all materials, labor, and equipment necessary for **Construction of the Hwy 105A Project**, which generally includes widening Hwy 105 from two lanes to four lanes from just east of Jackson Creek Pkwy to Lake Woodmoor Drive with full depth reconstruction of Hwy 105 and associated drainage improvements.

The County of El Paso, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (79 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this solicitation, disadvantaged business enterprises (DBE) will be afforded full and fair opportunity to submit bids in response to this solicitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for any award.

The Project is being funded through the following sources: Federal/State (CDOT Project No. STA 105A-014; 19734) and Pikes Peak Rural Transportation Authority (PPRTA). There will be Federal, State (CDOT), El Paso County and PPRTA oversight of the project.

This Project is subject to Davis Bacon requirements. There is a **7% DBE goal** associated with construction of this project as well as **2,200 hours of On The Job Training (OJT)**.

The construction contract is a working day contract and construction shall be completed in **three-hundred and ninety (390) working days**.

I. BACKGROUND

Existing Hwy 105 is one lane in each direction with curb and gutter and owned and maintained by El Paso County. Improvements to the Hwy 105 corridor are being designed and constructed in phases, with Project A encompassing the first phase. The Town of Monument has jurisdiction southwest of Hwy 105 and Lake Woodmoor Drive, and CDOT's CO-105 begins just west of Jackson Creek Pkwy.

Dirty Woman Creek is located north of the Hwy 105A project limits and lies within a designated floodplain. The Hwy 105A project limits are not within the floodplain. A portion of the project limits are within Preble's Meadow Jumping Mouse (PMJM) habitat.

Utility and Environmental clearances have been obtained, and the Project has conditional right-of-way (ROW) clearance. As of the date of the advertisement for bids, there are "no work zones" in effect. These will remain in effect until otherwise communicated to the Contractor in writing. See ROW Plan No Work Exhibit for locations. Possession of the property and removal of the no work zones is anticipated prior to award and/or mobilization; however, an additional 30-60 calendar days may be required after award for possession of all property.

II. REQUIRED DOCUMENTATION

Failure to provide required information may deem your submittal non-responsive. Submittals must contain, in blue ink, a manual signature of an authorized agent of the Contractor or a verifiable electronic time and date stamped signature in the space provided on all appropriate signature lines in this solicitation. **Typed names as signatures are not allowed.**

1. Contractor Information Form
2. Proprietary / Confidential Statement
3. Exhibit 1 – Lobbying Certification

4. Exhibit 2 – Non-Collusion Affidavit
 5. Exhibit 3 – Minimum Insurance Requirements
 6. Exhibit 4 – Debarment Certification
 7. Completed and signed Cover Sheet
 8. Addendum(s) Acknowledgement, if applicable
 9. Submission Form
 10. Completed W9
 11. Universal Entity Identifier (UEI) Number
 12. Proof of SAM.gov eligibility (documentation of good standing)
 13. Bid Form - Contractor shall use the Bid Form attached to this IFB or as amended via addendum(s). Other forms/formats will not be accepted.
 14. Work Plan and Schedule - Schedules submitted for this bid shall assume a contract award per the IFB Schedule of Activities.
 15. CDOT Forms
 - CDOT Form 606 - Anti-Collusion Affidavit
 - CDOT Form 1413 - Bidders List
 - CDOT Form 1414 - Anticipated DBE Participation Plan
- Upon notification of the Intent to Award to the apparent selected Bidder, the Contractor must comply with the following checklist within the timelines identified (shown in chronological order):
- CDOT Form 605 - Contractors Performance Capability Statement
 - 4:00 PM the day after Notification of Intent to Award
 - CDOT Form 621 - Assignment of Antitrust Claims
 - 4:00 PM the day after Notification of Intent to Award
 - CDOT Form 1416 - Good Faith Effort Report
 - 4:00 PM the day after Notification of Intent Award
 - CDOT Form 1415- Commitment Confirmation
 - 4:00 PM the 3rd day after Notification of Intent Award
16. Additional Attachments, if applicable

III. SCOPE OF WORK

The proposed Hwy 105A Project consists of widening and full depth reconstruction of Hwy 105, new curb and gutter, two retaining walls, intersection improvements, and new underground drainage system from just east of Jackson Creek Pkwy to Lake Woodmoor Drive, a new roundabout at the Knollwood Drive / Village Ridge Point intersection, and a full spectrum water quality and detention pond.

PMJM habitat mitigation will be required. The County has acquired the property on the northwest corner of Hwy 105 and Lake Woodmoor Drive, referred to as “the Mitigation Property” for the mitigation. *Under no circumstances* shall the Contractor or its subcontractors enter the Mitigation Property beyond the limits of disturbance designated in the construction plans. The only exceptions shall be as described in the project special provisions.

All work shall be performed within El Paso County right-of-way and easements (“EPC ROW”) acquired for the Project. Staging and stockpiles shall be within EPC ROW unless written permission is obtained from property owner(s).

Significant utility relocation will be required during construction of the Project. Close collaboration and/or coordination with affected utility providers and their contractors will be required. Utility providers within the project limits include but may not be limited to: Black Hills Energy (gas), Comcast (fiber optic), Force Broadband (fiber optic), Lumen/CenturyLink (fiber optic & telephone), Mountain View Electric Association (electric), Stratus IQ (fiber optic), Unite Private Networks (fiber optic), Verizon Business (fiber optic), and Woodmoor Water and Sanitation District No. 1 (potable water, non-potable water and sanitary sewer).

Commercial businesses, the LDS Church and the Monument Academy Elementary School are north and adjacent to Hwy 105. Traffic during school drop-off and pickup of students will be significant. The Contractor shall provide access and accommodate all traffic at all times.

Construction of the Monument Academy (MA) Recirculation Plan project will be located on the MA school property. Construction of a queuing lane behind the school will begin in late May 2023. Construction of a queuing lane in front of the school will begin upon completion of the future Hwy 105A retaining wall along and south of the MA property. Close coordination and communication with MA and its contractor will be required.

Final design and construction of the Monument Junction development is proceeding at Jackson Creek Pkwy (JCP) and Hwy 105. The developer is tasked with widening Hwy 105 to the south to accommodate for a second westbound left turn lane on Hwy 105 to southbound JCP in addition to other improvements within CDOT and TOM jurisdictions. There will be overlap of improvements and project limits at the JCP/Hwy 105 intersection. The construction schedule for the developer's work at JCP is unknown at this time. Close coordination and communication with the developer and its contractor regarding construction overlap and schedule will be required.

Construction Management (CM) services, inspections and materials testing for quality assurance will be provided by Wilson and Co. on behalf of El Paso County.

A. TECHNICAL REQUIREMENTS

These bid specifications incorporate the documents entitled "STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION", Colorado Department of Transportation, State of Colorado (2022), the "Pikes Peak Region Asphalt Paving Specifications" (version 6, March 28, 2022) and the "El Paso County Engineering Criteria Manual" (October 2020) as if physically attached and bound herein. The bid specification documents also incorporate the document entitled "COLORADO STANDARD PLANS, COLORADO DEPARTMENT OF TRANSPORTATION, M&S STANDARDS PLANS LIST" (July 31, 2019), as if physically attached and bound herein.

Each Bidder / Contractor shall be responsible for procuring sufficient copies of the Colorado Department of Transportation STANDARD SPECIFICATIONS", the "COLORADO STANDARD PLANS - M&S STANDARDS", and the "EL PASO COUNTY ENGINEERING CRITERIA MANUAL", for use in proposing and construction of the Project.

The Colorado Department of Transportation Standard Specifications for Road and Bridge Construction, 2022, controls construction of this Project. The special provisions supplement the Standard Specifications and take precedence over the Standard Specifications and Construction Plans. When specifications or special provisions contain both English units and SI units, the {English} units apply and are the specification requirement. All methods of procedures, materials, control or work, materials, and basis of measurements not herein covered will comply with the Standard Specifications for Road and Bridge Construction, Department of Transportation, State of Colorado, 2022.

Asphalt materials and activities shall be in accordance with the "Pikes Peak Region Asphalt Paving Specifications" unless otherwise noted in the Project Special Provisions.

Construction signage shall follow the federal "MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES", latest edition (MUTCD).

The El Paso County Engineering Criteria Manual and the Pikes Peak Region Asphalt Paving Specifications can be downloaded from: <https://publicworks.elpasoco.com/policies-manuals/>

B. PROJECT SPECIAL PROVISIONS

NOTE: This section is attached as a separate document.

C. CDOT STANDARD SPECIAL PROVISIONS

NOTE: This section is attached as a separate document.

D. CONTRACTOR RESPONSIBILITIES

The successful Contractor shall:

- be considered and shall remain an independent Contractor throughout the term of any contract awarded pursuant to this Solicitation.
- be solely responsible for scheduling and coordinating work of the subcontractor, suppliers, and other individuals or entities performing or furnishing any of the work under direct or indirect contract with the successful Contractor.
- provide and assume full responsibility for all services, materials, equipment, labor, transportation, and incidentals necessary for performance, start up, and completion of the services outlined in this Solicitation.

1. **Project Management:** The Contractor shall identify a Project Manager who will work directly for and support the County Project Manager in the management and administration of the Project. The Contractor's Project Manager shall be responsive on a daily basis Monday through Friday for the duration of the Project. The Contractor shall also identify an Assistant Project Manager capable of filling in for the Project Manager in the event that the Project Manager is not available due to travel, illness, or other event that will be longer than one week in length. The County Project Manager will be the primary point of contact for the County, however daily coordination and communications shall occur between the Contractor and the Project Inspector.

Schedules: Provide a baseline schedule broken out by tasks for work, availability of materials, equipment & labor, etc. to maximize construction efficiency. Schedules shall include start date, key tasks, project milestones, phasing, completion date etc. and shall be as comprehensive as practicable. Contractor shall also provide a 3-week lookahead at least three days before the weekly progress meetings.

CDOT Forms: The following forms shall be submitted after award within the timelines identified (shown in chronological order):

- a. CDOT Form 205- Sublet Permit Application - Two weeks prior to subcontractor commencing any work on project,
 - b. CDOT Form 1337- Contractor Commitment to Meet OJT Requirements - Prior to Pre-Construction meeting,
 - c. CDOT Form 1425- Supplier List - Prior to Pre-Construction meeting,
 - d. CDOT Form 1418- Monthly Payment Summary - At each progress payment,
 - e. CDOT Form 1420- DBE Participation Plan Modification Request - As needed with each progress payment,
 - f. CDOT Form 1419- DBE Participation Report - At final payment.
2. **Invoicing:** The Contractor shall be responsible for invoicing the County. Invoices shall not reference more than one contract or purchase order. Invoices may not be submitted more frequently than once a month, and payment is Net 45 after receipt of invoice and ALL required backup documentation. ***The Contractor shall submit all listed information/documents/forms with their invoice.*** The Contractor shall submit invoices which shall contain, at a minimum, the following detailed information:
 - Contract #
 - Issued Purchase Order #
 - Invoice #

- Invoice date
- Timeframe covered by Invoice
- Type and amount of labor and materials used for Invoice time period
- Dollar amount in unit price, extended price, and total value of Invoice
- Invoice shall be signed by Contractor
- CDOT Form 1418 and/or Form 1419
- Certified payroll and DBE tracking in B2G and LCP tracker
- Updated and accurate baseline schedule

The County reserves the right to withhold / delay payment until all required information and paperwork are submitted.

3. **Superintendent:** The successful Contractor shall employ a competent superintendent who shall be the primary representative for the Contractor and all communications given to, and all decisions made by, the superintendent shall be binding to the Contractor. Notwithstanding, the superintendent shall be, at all times, an employee of the Contractor under its sole direction and not an employee or agent of the County.
4. **Pre-Construction Conference:** Prior to work commencing on the Project, a Pre-Construction Conference will be held at the El Paso County Department of Public Works, 3275 Akers Drive, Colorado Springs, CO, 80922. It is anticipated that the Notice to Proceed shall be issued by the Contracts & Procurement Division prior to the date of the Pre-Construction Conference.
5. **Legal Relations & Responsibility to The Public:** The Contractor shall keep fully informed of all Federal, State, and Local laws, ordinances, and regulations and all orders and decree of Bodies or tribunals having any jurisdiction or authority, which may in any manner affect those engaged or employed on the Work or which in any way affect the conduct of Work, or Contractor's ability to perform the Work. Contractor shall always observe and comply with such laws, ordinances, regulations, orders, and decrees, and shall protect and indemnify the County of El Paso, and their representatives, to include employees, agents, consultants, and subcontractors of each, against any claim or liability arising from or based on the violations of any such law, ordinance, regulations, order, or decree, whether by itself or its employees.
6. **Construction Requirements:** After Work has started under a contract award, the Contractor shall maintain a sufficient work force, machinery, and materials, on site at all times to ensure a smooth progression of Work and a timely completion of the Project within the allotted time. Contractor shall be required to maintain rigid control of all materials, which must comply with the specifications as stated. Contractor shall assure that Work is not done, nor equipment parked, in areas outside the construction boundaries.
7. **Surveying:** All surveying for the project shall be provided by the Contractor. CADD files are included with this IFB for information only and without warranty against deficiencies of any kind. Use of the CADD files are provided as a courtesy and does not entitle the Contractor to compensation for damages or loss which could be attributed to such use. The awarded Contractor will be required to sign a Standard Electronic Document Release Provision form upon award.
8. **Character of Workers, Methods, & Equipment:** The Contractor shall at all times employ sufficient labor and equipment to properly perform the Work per this solicitation. All workers shall have sufficient skill and experience to properly perform the Work assigned them. All equipment, which is proposed to be used on the Work, shall be of sufficient size and in such mechanical conditions as to meet the requirement of the Work. If in the opinion of the El Paso County Engineer, employees and/or a certain type of equipment are not producing the Work required by the contract, the Contractor shall discontinue the use of said employees and/or equipment, when notified in writing.

9. **Load Restrictions & Truck Routes:** Haul routes shall be planned, prior to bidding, observing load limits on bridges or roadways, existing roadway conditions, and Federal, State, and Local governmental regulations regarding truck traffic and truck routes. The Contractor shall comply with all legal load restrictions in hauling of materials on public roads.
10. **Inspections: Quality control (QC), including but not limited to, materials testing is the Contractor's responsibility.** El Paso County (EPC) or its consultant shall provide Construction Management (CM) services and will conduct materials testing for quality assurance (QA). Any QA testing performed by EPC, or their consultant does not relieve the Contractor of their QC testing responsibilities.
11. **As-Built Plans:** The Contractor, in coordination with EPC and its CM consultant shall keep a detailed marked-up plan set which records all changes to the construction plans. The Contractor shall turnover the marked-up plan set to the County at the end of the project or upon request by the County.
12. **Utilities:** The Contractor shall coordinate all utility removals, resets, adjustments, or other work as necessary to construct the Project and maintain utility service with each affected utility company. The Work shall require full cooperation between the Contractor and the utility companies. Utility relocations during construction will be required. Contractor shall be responsible for coordinating the utility relocations to ensure that no delays or required rework occurs because of the utility relocations. The Contractor and its subcontractors shall not interfere or hinder the progress or completion of the work being performed by the utility providers and their contractors and consultants at or near the site.
13. The Contractor shall be required to maintain rigid control of all materials which must comply with the specifications as stated. All materials not conforming to the requirements of the specifications at the time they are used shall be considered unacceptable.
14. Upon failure on the part of the Contractor to comply with any order of the County Engineer made under the provisions of this article, the County Engineer will have authority to cause unacceptable work to be remedied or removed and replaced, and unauthorized work to be removed, and to deduct the costs from any monies due or to become due to the Contractor.

E. RETAINAGE, PAYMENT, AND ACCEPTANCE

1. Partial payment will be made no more frequently than once a month, for Work satisfactorily completed, and accepted by the County Engineer, as the Work progresses. Said payments will be based upon an invoice submitted by the Contractor, and if necessary, a written estimate prepared by the County's Inspector of the value of Work performed and materials furnished and placed in accordance with the contract. The County shall retain 5% of the amount estimated as payable, exclusive of mobilization and payments for materials on hand, to a maximum of 5% of the original contract amount, until successful completion and acceptance by the County of the entire contracted Work. The County Project Manager will approve and process payment requests. Then the balance less all previous payments shall be paid after appropriate Notice of Final Payment has been published by the County Contracts & Procurement Division.
2. The County reserves the right to not approve payment wherein the service claimed on the invoice is not, in the County's sole opinion, satisfactory or cannot be adequately verified by the County. If the County must supply services and/or contract with another Contractor for the services contracted hereunder, due to Contractor's inability to perform as required, the cost will be charged back to the Contractor.

3. Upon notice from the Contractor of presumptive completion of the entire contracted Work, the County Project Manager will make an inspection. If all the Work provided per the contract is found to have been satisfactorily completed, the County Engineer will make final acceptance and shall notify the Contractor in writing of this acceptance. The Department of Public Works will submit a Notice of Substantial Completion to the Contracts & Procurement Division, from which a Notice of Final Payment will be published by Contracts & Procurement. Retainage cannot be released nor final payment made prior to the release date listed in the Notice of Final Payment.
4. Final payment will be made after the Contractor has indicated in writing its acceptance of such final payment as full and complete, has released El Paso County from all claims arising from the prosecution of all Work under the contract, and after Notice of Final Payment has been published by the County Contracts & Procurement Division.

IV. RESPONSE FORMAT

Failure to respond in the required format or failure to provide required information may deem your submittal non-responsive.

To facilitate an effective review process, responses must be submitted on 8.5" x 11" paper, with a minimum font of 10, and all pages should be numbered in the following manner: page ____ or ____ pages, with a maximum of fifty (50) pages. All acronyms in the response must be defined.

Attachments/Exhibits included in this solicitation, that require signature and/or are a required document to be returned with your Responses shall be included as an exhibit to your Responses and will not be included in the page limit. Requested items in the appendices will not be included in the page limit. Schedules may be submitted on 11" x 17" sheets and are counted as one page.

Submittals should be prepared simply and economically providing a straightforward, concise description of the Contractor's ability to perform the requirements of this Solicitation.

ELECTRONIC SUBMISSION OF OFFERS: El Paso County will only accept electronic bid Responses submitted through the Rocky Mountain E-Purchasing system. A Submittal Log will be posted after the County has had an opportunity to review and verify the submittals offered to the County.

The original Offer must be received before the due date and time through an electronic package transmitted through the Rocky Mountain E-Purchasing system. The Contractor is responsible for ensuring its Response is posted by the due date and time outlined in the solicitation document.

If the submittal arrives late, it will not be included in the electronic lockbox.

The Solicitation Opening for IFB-23-058 will take place VIA TELECONFERENCE on May 23, 2023 @ 2:00PM utilizing the call-in information below:

Participant-guest login:

1. Dial access number: 1-719-520-7660
2. Enter the participant-guest pass code: 51488#
3. Attendee access code: 1234#

Proposers are NOT required to participate. No in person entry to our building will be permitted.

To enable the County to conduct a uniform review of the information submitted in response to this Solicitation, Contractors must address the following information, numbered to directly correspond with the number of the Table of Contents section of the submitted Response. The County reserves the right to reject submittals that do not follow the required format. Include concise, complete information which will demonstrate that your firm is uniquely qualified to provide the products and services specified in this Solicitation.

ALL signatures on required documents must be in blue ink or a verifiable electronic time and date stamped signature in ONE PDF document.

1. Provide response without reference to El Paso County logo or company logo in **one** PDF document
2. Submit response in a tab format that follows a clearly outlined Table of Contents that identifies all material and attachments that comprise your response by section and by page number. I.e. – Required Documentation section, Evaluation Criteria section, etc. as outlined on the Response Submittal Requirements page.
3. Cover Letter, one-page limit. Submit a Cover Letter on official business letterhead that:
 - a. Positively states your willingness to comply with all work requirements and other terms and conditions as specified in this Solicitation.
 - b. Provides, in brief concise terms, a summation of your submittal and identifies the points that make your firm uniquely qualified for this project.
 - c. Is signed by an Authorized Representative of your firm who has the authority to commit to the proposed work.
4. Provide documentation that satisfies the Required Document Requirements
5. Provide documentation that satisfies the criteria to be reviewed
6. Provide the completed and signed Cover Sheet
7. Addendum(s) Acknowledgement, if applicable
8. Submission Form
9. Bid Form
10. Work Plan and Schedule shall:
 - a. Be broken out by tasks for work, availability of materials, equipment and labor, etc. to maximize construction efficiency,
 - b. Include start date, key tasks, project milestones, phasing, completion date, etc.,
 - c. Be as comprehensive as practicable,
 - d. Assume a Contract Award per the IFB Schedule of Activities.
 - e. If the schedule does not meet all of the qualifications stated herein, the bid will be considered non-responsive.
11. Completed W9
12. Universal Entity Identifier (UEI) Number
13. Additional Attachments, if applicable

V. ATTACHMENTS:

1. Bid Form
2. Construction Plans (Bid Set)
3. Project Special Provisions
4. CDOT Standard Special Provisions
5. ROW Plans
6. ROW Plan No Work Exhibit
7. Geotechnical Report
8. Geotechnical Pavement Addendum
9. Biological Assessment (SMITH)
10. Biological Opinion (USFWS)
11. Nationwide Permit (NWP) 14 Verification Letter
12. CDOT Form 205 – Sublet Permit Application
13. CDOT Form 605 – Contractors Performance Capability Statement
14. CDOT Form 606 – Anti-Collusion Affidavit
15. CDOT Form 621 – Assignment of Antitrust Claims
16. CDOT Form 1337 – Contractor Commitment to Meet OJT Requirements
17. CDOT Form 1413 – Bidders List
18. CDOT Form 1414 – Anticipated DBE Participation Plan

19. CDOT Form 1415 – Commitment Confirmation
20. CDOT Form 1416 – Good Faith Effort Report
21. CDOT Form 1418 – Monthly Payment Summary
22. CDOT Form 1419 – DBE Participation Report
23. CDOT Form 1420 – DBE Participation Plan Modification Request
24. CDOT Form 1425 – Supplier List
25. Federal Aid Contract Provisions for Construction Contracts (Exhibit I)
26. Additional Federal Requirements (Exhibit J)
27. FFATA Supplemental Federal Provisions (Exhibit K)
28. OMB Uniform Guidance for Federal Awards (Exhibit M)
29. B2G – LCPtracker Setup Information
30. PPRTA Special Funding Provisions
31. PPRTA General Conditions to Construction
32. CADD Files *for download*:

NOTE: Access will require installation of a third party FTP program, such as WinSCP <https://winscp.net/eng/download.php> or similar.

The secure SFTP site is:

sftp://EPCDOT_FilesOut:DOT_output0@elpxfr-t.elpasoco.com:22\Hwy105_Construction

You can copy and paste this in Windows File Explorer, go to the Highway105_Construction folder, and you must **download** the files.

OR

Open the WinSCP program, enter the information below, and “login”. Go to the “Hwy105_Construction” directory and **download** the files.

All the parts are:

Protocol:	SFTP
Host:	ftp://elpxfr-t.elpasoco.com
Port:	22
Username:	EPCDOT_FilesOut
Password:	DOT_output0

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1. **METHOD OF AWARD – AGGREGATE:** The award of the bid will be made to the responsible Contractor who submits the lowest dollar responsive bid for all bid items combined in accordance with State and Federal requirements.
2. **POST AWARD MEETING:** The Contractor may be required to attend a post-award meeting with the County to discuss the terms and conditions of the contract. This meeting will be coordinated by the Contracts and Procurement Division.
3. **PRICE OFFERS SHALL BE FIXED AND FIRM:** The prices offered by the Contractor shall remain fixed and firm. No changes in the Response shall be allowed after the date and time of the Solicitation opening due to error by the Contractor. Responses may not be withdrawn after the time and date set for the Solicitation opening for a period of ninety calendar days.
4. **BID GUARANTY:** All Responses shall be accompanied by a Bid Guaranty in the form of a Certified Check, Cashier's Check or Bid Bond, made payable to EL PASO COUNTY, in the amount that represents **5%** of the total base price. The Bid Guaranty shall be made payable to County and shall be conditioned upon the successful Contractor submitting a specified performance bond within ten **(10)** calendar days following written notice of award. Any Response which is not accompanied by a Bid Guaranty shall be considered non-responsive and ineligible for award. In the event the selected Contractor fails or refuses to submit the performance bond within the time stated, the Bid Guaranty/Security submitted with the Response will be forfeited as liquidated damages because of such failure or default. The bid guarantees will be returned after the opening of Responses to all except the three lowest responsible, responsive Contractors and the remaining guarantees shall be returned to these Contractors after the contract with the selected Contractor (s) is executed.
5. **PERFORMANCE BOND:** The Contractor to whom a contingent award is made shall duly execute and deliver a Performance and Payment Bond to the County in an amount that represents 100% of the price offered by the Contractor. The Contractor may deliver multiple bonds in lieu of a single bond, provided the total amount of these bonds equals the amount specified above. The bond shall be delivered to the County's Contracts and Procurement Division within ten calendar days after a Notice of Contingent Award is given to the Contractor, either verbally or in writing. If the Contractor fails to deliver the bond within this specified time frame, including any extensions which may be granted by the County, the County shall declare the Contractor in default of the contractual terms and conditions and the Contractor shall surrender its Bid Bond. In lieu of a Performance and Payment Bond, the County will accept a cash bond in the form of a certified cashier's check made payable to El Paso County.
6. **PROOF OF REGISTRATION WITH THE COLORADO SECRETARY OF STATE:** Successful Contractors that are corporations or limited liability companies will be required to furnish a Certificate of Good Standing from the Colorado Secretary of State's Office, as proof that they are properly registered to do business in the State of Colorado, prior to finalization of award.
7. **LOBBYING PROHIBITED:** Contractors are prohibited from directly or indirectly communicating with members of the Board of County Commissioners regarding their qualifications or any other matter related to the eventual award of a contract for the goods and/or services requested in this Solicitation. Contractors are prohibited from contacting County employees or evaluation committee members regarding their qualifications or the award of a contract unless in response to an inquiry from an employee or committee member as part of the formal evaluation process outlined in the Solicitation. Any violation of these provisions will result in the Contractor's immediate disqualification from the selection process.

8. CONFLICTS WITHIN THE CONTRACT DOCUMENTS: In the event that conflicts exist within the Contract Documents, the policies stated in the following paragraphs shall govern: A. Project Special Provisions (PSP) shall supersede Construction Plans (Plans), and Plans shall supersede IFB Specifications (Specifications). B. Addenda shall supersede all other Contract Documents to the extent specified. Subsequent addenda shall supersede prior addenda only to the extent specified.

The Plans, PSP and Specifications are intended to agree and be mutually explanatory and shall be accepted and used as a whole and not separately. Should any item be omitted from the Plans, PSP or Specifications as specified, it shall be implied that such omissions are contained in all three as necessary for the proper construction of the work herein specified. Should any error or disagreement between the three exist or appear to exist, the Contractor shall not avail itself of such manifestly unintentional error or omission but must have same explained or adjusted by the County's project manager before proceeding with the work in question.

9. ELIGIBILITY OF CONTRACTORS: Bids will only be considered from Contractors which are engaged in the business of performing services as described in this Solicitation. The Contractors must be able to produce evidence that they have an established satisfactory record of performance for a reasonable period of time and have sufficient financial support, equipment, and organization to ensure that they can satisfactorily execute the services if awarded a contract. The term equipment and organization as used herein shall be construed to mean a fully equipped and well-established company in line with the best business practices in the industry and as determined by the proper authorities of the County. The County reserves the right, before awarding the contract, to require a Contractor to submit such evidence of its qualifications as it may deem necessary and may consider any evidence available to it (including, but not limited to, the financial, technical, and other qualifications and abilities of the Contractor, including past performance and experience with the County) in making the award in the best interest of the County.

10. CONSIGNMENT OF CONTRACT NOT ALLOWED: No part of this contract can be consigned to another Contractor.

11. SUBCONTRACTORS OF WORK SHALL BE IDENTIFIED: As part of its Response, the Contractor shall be required to identify any and all sub-contractors that will be used in the performance of the contract resulting from this Solicitation. The Contractor shall also identify the capabilities, experience, and portion of the work to be performed by the subcontractor(s). The competency of the subcontractor(s) with respect to skill, responsibility and business standing shall be considered by the County when making the award in the best interest of the County.

12. CURRENT PERMITS REQUIRED: Contractor must obtain and pay for all required permits, licenses, inspection fees, etc., and will comply with all laws, ordinances, and regulations associated with construction of the Project. Damages, penalties and/or fines imposed by the County on the Contractor for failure to obtain required permits, licenses, certificates or pay fees shall be borne by the Contractor. The Contractor shall enclose a current copy of their applicable permits, licenses, and certificates with their Response.

13. LABOR, MATERIALS AND EQUIPMENT TO BE SUPPLIED BY THE CONTRACTOR: Unless otherwise provided in this Solicitation, the Contractor shall furnish all labor, materials, and equipment necessary for satisfactory contract performance. When not specifically identified in this Solicitation, such materials and equipment shall be of a suitable type and grade for the intended purpose.

14. ACCIDENT PREVENTION: The Contractor shall be required to take safety precautions in an effort to protect persons and property. All Contractors, Contractors and sub-Contractors shall conform to all OSHA, State and County regulations while performing under the terms and conditions of the awarded contract. Any fines levied by the above-mentioned authorities because of inadequate compliance with these requirements shall be borne solely by the Contractor which is responsible for same.

15. DEFICIENCIES IN WORK TO BE CORRECTED BY CONTRACTOR: The successful Contractor shall promptly correct all deficiencies in service and/or any work that fails to conform to the Contract Documents. All corrections shall be made immediately after such deficiencies and/or non-conformances are verbally reported to the Contractor by the County's Project Manager. The Contractor shall bear all costs of correcting such rejected work. If the Contractor fails to correct the work within the period specified in this Solicitation, the County reserves the right to place the Contractor in default of its contractual obligations, obtain the services of another Contractor and charge the Contractor for these costs, either through a deduction from the final payment over to the Contractor or through invoicing.

16. LIQUIDATED DAMAGES FOR INCOMPLETE PROJECTS: If required, Liquidated Damages shall be invoked as specified in the "STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION", Colorado Department of Transportation, State of Colorado (2022).

17. COMPLETION OF WORK: The Contractor shall adhere to the timeline and milestones provided in its Response in which it will commit to perform the work and/or service. All work shall be performed in accordance with good commercial practice and the timeline and milestones shall be adhered to by the successful Contractor, except in such cases where the timeline will be delayed due to acts of God, strikes, or other causes beyond the control of the Contractor. In these cases, the Contractor shall notify the County of the delays in advance of the original timeline so that a revised timeline can be negotiated. Should the Contractor to whom the contract is awarded fail to complete the work within the timeline as stated in its Response or as subsequently approved, it is hereby agreed and understood that the County reserves the right to cancel the contract with the Contractor and to secure the services of another Contractor to complete the work. If the County exercises this right, the County shall be responsible for reimbursing the Contractor for work which was completed and found acceptable to the County in accordance with the Specifications. In addition, the County may, at its sole discretion, request payment from the Contractor, through an invoice or credit memo, for any additional costs over and beyond the original price which were incurred by the County as a result of having to secure the services of another Contractor.

18. METHOD OF PAYMENT: The successful Contractors shall submit monthly invoices. These invoices shall be submitted to the County's Project Manager.

19. SALES TAX: The County is exempt from paying State or Local Sales Taxes. Contractors should be aware of CONTRACTOR APPLICATION FOR EXEMPTION CERTIFICATE Pursuant to Statute Section 39-26.708(1)(a)(XIX) sales tax exemption for construction and building materials. State tax I.D. # 09-803308-0000, Federal tax I.D. # 84-6000764.

20. FEDERAL FUNDING: This project will be funded, in whole or in part, with an award of federal funds. The Contractor shall comply with the following:

Federal Compliance - Contractor shall comply with all applicable federal laws, regulations, and requirements. These include but are not limited to compliance with the following laws and regulations:

- 1) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). If this Agreement is in excess of \$100,000 and involves the employment or mechanics or laborers, Contractor must comply with provisions of 40 U.S.C. 3702, as supplemented by Department of Labor regulations (29 CFR Part 5).
- 2) Rights to Inventions Made Under a Contract or Agreement. If this Agreement is an agreement with a small business firm or nonprofit organization for performance of experimental, developmental, or research, Contractor must comply with the requirements or 37 CFR Part 401, "Rights to Inventions Made by Nonprofit organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any Implementing regulations issued by the awarding agency.
- 3) Clean Air Act (42 U.S.C. 7401 – 7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387). If this Agreement is in excess of \$150,000, the Contractor is required to comply with all

applicable standards, orders or regulations issued pursuant to the Clean Air Act as amended (42 U.S.C. 7401- 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency of the federal funds for this Agreement and the Regional Office of the Environmental Protection Agency (EPA).

- 4) Debarment and Suspension (Executive Orders 12549 and 12689). The County is prohibited from entering into this Agreement with a party listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- 5) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). If this Agreement is for compensation in excess of \$100,000, Contractor must file the required certification with the County that it will not and has not used Federal appropriated funds received by the Contractor to pay any person or organization for influencing or attempting to influence an officer or employee or any agency, a member of Congress, officer or employee of Congress, or an employee or a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Contractor must also disclose to the County any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.
- 6) Procurement of Recovered Material (2 CFR CH. II §200.322). Contractor must 1) comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; 2) procuring solid waste management services in a manner that maximizes energy and resource recovery; and 3) establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- 7) Equal Employment Opportunity. If this Agreement is a construction contract Contractor is required to comply with the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11246, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and Implementing regulations at 41 CFR part 60, "Office or Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
- 8) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). If this Agreement is prime construction contract in excess of \$2,000, Contractor is required to comply with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor Regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction").
- 9) Affirmative Action, it is hereby agreed and understood that Section 60-250.4, Section 60-250.5 and Section 60-741.4 of Title 4 of the United States Code, which addresses Affirmative Action requirements for handicapped workers, is incorporated into this Solicitation by reference.
- 10) The Contractors and its subcontractors shall at all times strictly adhere to, and comply with, all applicable federal and State laws, and their implementing regulations, as they currently exist and may hereafter be amended. Applicable federal provisions are attached hereto as Exhibit I, Exhibit J, Exhibit K, and Exhibit M, are hereby incorporated.

- 21. DISADVANTAGED BUSINESS ENTERPRISE:** The Project is subject to a DBE goal of 7%.
- 22. COORDINATION WITH WOODMOOR WATER AND SANITATION:** Contractor shall perform the Work without interfering or hindering the progress or completion of the work (the "WWSD Work") being performed by Woodmoor Water & Sanitation No. 1 and the Woodmoor Water & Sanitation contractors and consultants (collectively referred to herein as "WWSD") at or near the Site, during the same period as Contractor will be performing Work on the Project. Contractor is responsible for closely coordinating with WWSD, with respect to schedule, equipment and working space to avoid delays in the Work. WWSD is not within the control of or acting on behalf of El Paso County or the PPRTA and vice versa. Notwithstanding any provision of the Contract Documents to the contrary, Contractor shall not be entitled to any increase in Contract Price or Contract Times or any claim for delays or impacts to the Project associated with WWSD or the WWSD Work; all Project impacts and delays attributed to WWSD or the WWSD Work shall be the sole responsibility of Contractor. In no event shall El Paso County or PPRTA or Engineer be liable to Contractor, any Subcontractor, any Supplier, or any other person or organization, or to any surety for or employee or agent of any of them, for damages arising out of or resulting from delays caused by WWSD or WWSD Work.
- 23. INDEMNIFICATION: Indemnification – General.** The Contractor shall, to the fullest extent permitted by law, defend, indemnify and hold harmless the County, Board of County Commissioners, PPRTA, Woodmoor Water and Sanitation District No. 1, and their respective officials, officers, directors, and employees, from and against all liability, claims, demands, suits, actions or proceedings of any kind that are not the result of or directly related to the performance of professional services, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, 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 Board of County Commissioners, PPRTA its officers, agents and employees, from damages resulting from the negligence of the County's Board of County Commissioners, PPRTA, officials, officers, directors, agents, and their insurers, and employees. The County and PPRTA cannot and by this Agreement does 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.

Indemnification for Professional Services. The Contractor shall, to the fullest extent permitted by law, indemnify and hold harmless the County, Board of County Commissioners, PPRTA, Woodmoor Water and Sanitation District No. 1 and any of its officials, officers, directors, agents, and their insurers, and employees, from and against damages, liability, losses, costs and expenses, including reasonable attorney's fees, but only to the extent caused by or arising out of the negligent acts, errors or omissions of the Contractor, its employees, agents or subcontractors, or others for whom the Contractor is legally liable, in the performance of professional services under this Agreement. The Contractor is not obligated to indemnify or hold harmless the County for the negligent acts of the County, Board of County Commissioners, PPRTA or any of its officials, officers, directors, agents, and employees.

Indemnification – Costs. The Contractor shall, to the extent provided by law, 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 extent provided by law, 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. If it is determined by the final judgment of a court of any competent jurisdiction that such injury, loss or damage was caused in whole or in part by the act, omission or other fault of the County, Board of County Commissioners, PPRTA, officials, officers, directors, agents and employees, the County shall reimburse the Contractor for the portion of the judgment attributable to such act, omission or other fault of the County, Board of County Commissioners, PPRTA, officials, officers, directors, agents and employees.

24. FEDERAL STANDARDS COMPLIANCE: All services to be purchased in conjunction with this Solicitation shall be in accordance with all governmental standards to include, but not be limited to, those issued by the Office of Safety and Health Administration (OSHA), the National Institute of Occupational Safety Hazards (NIOSH), and the National Fire Protection Association (NFPA).

25. EQUAL OPPORTUNITY: El Paso County intends and expects that the contracting processes of the County and its Contractors provide equal opportunity without regard to gender, race, creed, ethnicity, religion, age, sex, national origin, or disability and that its Contractors make available equal opportunities to the extent third parties are engaged to provide goods and services to the County as subcontractors, Contractors, or otherwise. Accordingly, the Contractor shall not discriminate on any of the foregoing grounds in the performance of the contract and shall make available equal opportunities to the extent third parties are engaged to provide goods and services in connection with performance of the contract (**joint ventures are encouraged**). The Contractor shall disseminate information regarding all subcontracting opportunities under this contract in a manner reasonably calculated to reach all qualified potential subcontractors who may be interested. The Contractor shall maintain records demonstrating its compliance with this article and shall make such records available to the County upon the County's request.

26. PURCHASE BY OTHER GOVERNMENTAL AGENCIES: Each governmental unit which avails itself of this Solicitation will establish its own contract, place its own orders, issue its own purchase orders, be invoiced there from, make its own payments, and issue its own exemption certifications as required by the Contractor. It is understood and agreed that El Paso County is not a legally binding party to any contractual agreement made between any other governmental unit and the Contractor as a result of this Solicitation.

27. CONFIDENTIALITY: Responses to this Solicitation are considered to be working documents while they are under consideration and, as such, are not subject to official bid openings. In consideration of this Invitation for Bid, the only information released at the receipt of Responses to this Solicitation will be the names of the respondents, the total cost of the bids, and the apparent responsible, responsive Contractor. Only after staff makes an official recommendation of award and a contract is fully executed will Responses to this Solicitation be available as public record.

Responses submitted to the County for consideration shall be subject to the Colorado Open Records Law, Section 24-72-201, et seq., C.R.S., after award is made. Any confidential information in the Contractor's Response shall be identified as such. Should the County receive a request for the release of any information in the Contractor's Response identified as confidential in accordance with the open records law, the County will notify the Contractor of the request and will exercise best efforts in assisting the Contractor in taking all legally available steps to resist or narrow such request. If, in the opinion of County's legal counsel, the County is nonetheless compelled to disclose any portion of such information to anyone or else stand liable for contempt or suffer censure or penalty, the County may disclose such information without liability.

28. GRATUITIES AND KICKBACKS: It shall be a breach of ethical standards for any person to offer, give, or agree to give any employee or former employee (within six months of termination from County employment), or for any employee or former employee (within six months of termination from County employment) to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding of application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or bid therefore.

It shall be a breach of ethical standards for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime Contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order. In the event that any gratuities

or kickbacks are offered or tendered to any El Paso County employee, the bid shall be disqualified and shall not be reinstated.

29. DEBARMENT: By submitting this bid, the bidder warrants and certifies that he/she is eligible to submit a bid because he/she is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in a transaction by any Federal, State, or local department or agency.

30. LOGOS: The County logo is trademarked and property solely of El Paso County. Contractors do not have permission to use our logo on any documentation or presentation materials and to do so would be a violation of our trademark. We also prefer your company does not utilize its trademark as to not influence an evaluator's evaluation.

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1. **APPLICABILITY.** These General Terms and Conditions apply, but are not limited, to all bids, proposals, qualifications and quotations (hereinafter referred to as "Offers" and/or "Responses") made to El Paso County (hereinafter referred to as "County") by all prospective suppliers (herein after referred to as "Contractors") in response, but not limited to, Invitations to Bid, Invitations for Bids, Requests for Proposals, Statement of Qualifications, and Requests for Quotations (hereinafter referred to as "Solicitations").

2. **CONTENTS OF OFFER**

2.1 **General Conditions.** Contractors are required to submit their Offers in accordance with the following expressed conditions:

2.1.1 Contractors shall make all investigations necessary to thoroughly inform themselves regarding the plant and facilities affected by the delivery of materials required by the conditions of the Solicitation. No plea of ignorance by the Contractor of conditions that exist or that may hereafter exist as a result of failure to fulfill the requirements of the contract documents will be accepted as the basis for varying the requirements or the compensation to the Contractor.

2.1.2 Contractors are advised that all County contracts are subject to all legal requirements contained in County ordinances, the Contracts and Procurement policies and state and federal statutes. When conflicts between the Solicitation and these legal documents occur, the highest authority will prevail.

2.1.3 Contractors are required to state exactly what they intend to furnish to the County via this Solicitation. Contractors affirm by submitting a bid that they have examined all the bidding documents, plans, specifications, addendums, site conditions, etc., and that their offer includes all these requirements to complete the project work.

2.1.4 El Paso County intends and expects that the contracting processes of the County and its Contractors provide equal opportunity without regard to race, color, religion, sex, national origin, age, disability, or any other characteristic protected by law. Accordingly, the Contractor shall not discriminate on any of the foregoing grounds in the performance of the contract.

2.1.5 All Offers and other materials submitted in response to this Solicitation shall become the property of the County and will be a matter of public record. Contractors must identify, in writing, all copyrighted material, trade secrets and/or other proprietary information that it claims are exempt from disclosure under the Open Records Act.

Any Contractor claiming an exemption must identify the specific provision of the Open Records Act that provides an exemption from disclosure for each item that the Contractor claims is not subject to disclosure and must submit an additional original copy of the Response with each exempt item clearly redacted. Any Contractor claiming an exemption must also state in its Response that the Contractor agrees to defend, indemnify, and hold harmless the County and its officers and employees from any action brought against the

County for its refusal to disclose any purportedly exempt material, trade secrets and other proprietary information to any party making a request therefore.

Any Contractor who fails to include an exemption statement along with the additional redacted copy of the Response shall be deemed to have waived any right to an exemption from disclosure as provided by the Open Records Act.

2.2 Clarification and Modifications in Terms and Conditions

2.2.1 Where there appear to be variances or conflicts between the General Terms and Conditions, the Special Terms and Conditions and the specifications outlined in this Solicitation, the specifications then the Special Terms and Conditions will prevail.

2.2.2 If any Contractor contemplating submitting an Offer under this Solicitation is in doubt as to the true meaning of the specifications, the Contractor must submit a **written request** for clarification to the County's Contracts and Procurement Manager or their designee as outlined in the Special Terms and Conditions. The Contractor submitting the request shall be responsible for ensuring that the request is received by the County's buyer by the date and time listed in the Schedule of Activities for submitting question(s) or as stated in the Special Terms and Conditions.

Any official interpretation of this Solicitation must be made by the County's Contracts and Procurement Manager or their designee. The County shall not be responsible for interpretations offered by other employees of the County.

The County shall issue a written addendum if substantial changes which impact the technical submission of Offers are required. Addenda will be posted on the Rocky Mountain E-Purchasing System web site (<http://www.rockymountainbidsystem.com>) as well as the El Paso County web site (<http://www.elpasoco.com>). Contractors are responsible for either revisiting one of these websites prior to the due date or contacting the Contracts and Procurement Manager or their designee named on the Cover Sheet of this Solicitation to ensure that they have any addenda which may have been issued after the initial download.

The Contractor shall certify its acknowledgment of the addendum by signing the addendum and returning it with its Offer. In the event of conflict with the original contract documents, addenda shall govern all other contract documents to the extent specified. Subsequent addenda shall govern over prior addenda only to the extent specified.

2.3 Prices Contained in Offer-Discounts, Taxes, Collusion

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2.3.2 Contractors shall not include federal, state, or local excise or sales taxes in prices offered, as the County is exempt from payment of such taxes. Materials purchased directly by the Contractor in conjunction with this contract will, however, be subject to applicable state and local sales taxes. These taxes shall be borne by the Contractor. Under no circumstances shall Contractor be authorized to use the County's tax exemption number in acquiring such materials.

2.3.3 The Contractor, by affixing its signature to this Solicitation, certifies that its Offer is made without previous understanding, agreement, or connection either with any persons, firms or corporations making an Offer for the same items, services, or with the County. The Contractor also certifies that its Offer is in all respects fair, without outside control, collusion,

fraud, or otherwise illegal action. To ensure integrity of the County's public procurement process, all Contractors are hereby placed on notice that any and all Contractors who falsify the certifications required in conjunction with this section will be prosecuted to the fullest extent of the law.

3. PREPARATION AND SUBMISSION OF OFFER

3.1 Preparation

- 3.1.1 El Paso County will not be responsible for any expenses incurred by any Contractor in preparing and submitting its offer.
- 3.1.2 The Offer must be typed or legibly printed in ink. The use of erasable ink is not permitted. All corrections made by the Contractor must be initialed **in blue ink** by the authorized agent of the Contractor.
- 3.1.3 Offers must contain, in blue ink, a manual signature of an authorized agent of the Contractor or a verifiable electronic signature in the space provided on the Solicitation Cover Sheet. **Typed names as signatures are not allowed.** The original Cover Sheet of this Solicitation must be included in all Offers. If the Contractor's authorized agent fails to sign and return the original Cover Sheet of the Solicitation, its Offer shall be invalid and shall not be considered.
- 3.1.4 Prices shall be provided by the Contractor on the Solicitation's Pricing Form when required in conjunction with the prescribed method of award and shall be for the unit of measure requested. Prices that are not in accordance with the measurements and descriptions requested shall be considered non-responsive and shall not be considered. Where there is a discrepancy between the unit price and the extension of prices, the unit price shall prevail.
- 3.1.5 Alternate Offers will not be considered unless expressly permitted in the Specification's and/or Special Terms and Conditions.
- 3.1.6 The accuracy of the Offer is the sole responsibility of the Contractor. No changes in the Offer shall be allowed after the date and time that the Offers are due.

3.2 Submission

- 3.2.1 The Offer shall be submitted via the Rocky Mountain E-Purchasing System with the Contractor's name, the IFB Number, and the IFB Title. When required in conjunction with the prescribed method of award, the County's Pricing Form must be used when the Contractor is submitting its Offer. The Contractor shall not alter this form (e.g., add or modify categories for posting prices offered) unless expressly permitted in an addendum duly issued by the County. No other form shall be accepted.
- 3.2.2 Offers submitted via facsimile machines, mail, or email will not be accepted unless expressly permitted in the solicitation.
- 3.2.3 Conditional bid offers will be considered non-responsive and not considered for award.

- 3.3 **Late Offers.** Offers received after the date and time set for the opening will not be authorized to enter into the electronic lockbox and will be deemed as non-responsive.

4. MODIFICATION OR WITHDRAWAL OF OFFERS

4.1. Modifications to Offers. Offers may only be modified in the form of a written notice on company letterhead and must be received prior to the time and date set for the Offers to be submitted. Each modification submitted to the County's Contracts and Procurement Division must have the Contractor's name and return address and the applicable Solicitation number and title clearly marked and shall be submitted via Rocky Mountain E-Purchasing System. If more than one modification is submitted, the modification bearing the latest date of receipt by the County's Contracts and Procurement Division will be considered the valid modification.

4.2. Withdrawal of Offers

4.2.1 Offers may be withdrawn prior to the time and date set for the opening. Such requests must be made in writing on company letterhead.

4.2.2 In accordance with the Uniform Commercial Code, Offers may not be withdrawn after the time and date set for the opening for a period of ninety calendar days after the opening. If an Offer is withdrawn by the Contractor during this ninety-day period, the County may, at its option, suspend the Contractor from the bid list and may not accept any Offer from the Contractor for a six-month period following the withdrawal.

5. REJECTION OF OFFERS

5.1. Rejection of Offers. If deemed non-responsive and/or non-responsible, The County, in coordination with CDOT may, at its discretion:

5.1.1 Reject any and all, or parts of any or all, Offers submitted by prospective Contractors;

5.1.2 Re-advertise this Solicitation;

5.1.3 Postpone or cancel the process;

5.1.4 INTENTIONALLY LEFT BLANK.

5.1.5 INTENTIONALLY LEFT BLANK.

5.2 Rejection of a Particular Offer. The County may reject an offer under any of the following conditions:

5.2.1 The Contractor misstates or conceals any material fact in its Offer;

5.2.2 The Contractor's Offer does not strictly conform to the law or the requirements of the Solicitation;

5.2.3 The Offer expressly requires or implies a conditional award that conflicts with the method of award stipulated in the Solicitation's Special Terms and Conditions and/or specifications;

5.2.4 The Offer does not include documents, including, but not limited to, certificates, licenses, and/or samples, which are required for submission with the Offer in conjunction with the Solicitation's Special Terms and Conditions and/or specifications; or

5.2.5 The Offer has not been executed by the Contractor through an authorized agent signature on the Specification's Cover Sheet.

5.3 Elimination from Consideration

5.3.1 To ensure fair consideration for all Contractors, the County prohibits communication initiated by a Contractor or on a Contractor's behalf regarding the Solicitation to or with any County official or employee during the submission process, except as expressly set forth in this Solicitation. In addition, the County prohibits communications initiated by a Contractor or on a Contractor's behalf to or with any County official or employee evaluating or considering the solicitation prior to the time an award decision has been made. Prohibited communications initiated by a Contractor shall be grounds for eliminating the offending Contractor from consideration for award.

5.3.2 An Offer may not be accepted from, nor any contract be awarded to, any person or firm which is in arrears to the County upon any debt or contract or which is a defaulter as surety or otherwise upon any obligation to the County.

5.3.3 An Offer may not be accepted from, nor any contract awarded to, any person or firm which has failed to perform to the specifications as outlined in any previous contract with the County, state, or federal government, for a minimum period of three years after this previous contract was terminated for cause.

6. AWARD OF CONTRACT. Pikes Peak Rural Transportation Authority (PPRTA), El Paso County and the successful Contractor shall execute the PPRTA Trade Services Agreement (see Attachment B) to consummate a contract between the parties. This Solicitation and the Contractor's Offer shall be attached and incorporated as part of that contract.

7. CONTRACTUAL OBLIGATIONS

7.1 Local, State and Federal Compliance Requirements. Successful Contractors shall be familiar and comply with all local, state, and federal directives, ordinances, rules, orders, and laws applicable to, and affected by, this contract including, but not limited to, Equal Employment Opportunity (EEO) regulations, Occupational Safety and Health Act (OSHA), and Title II of the Americans with Disabilities Act (ADA).

7.2 Disposition. The Contractor shall not assign, transfer, convey, sublet, or otherwise dispose of this contract, including any or all of its right, title or interest therein, or its power to execute such contract to any person, company, or corporation, without prior written consent of the County.

7.3 Employees.

7.3.1 All employees of the Contractor shall be considered to be, at all times, employees of the Contractor, under its sole direction, and not employees or agents of the County. The County may require the Contractor to remove an employee it deems careless, incompetent, insubordinate or otherwise objectionable, and whose continued employment on County property is not in the best interest of the County. In accordance with the County's policy regarding the use of tobacco products, no employee of the Contractor shall be permitted to use tobacco products when performing work on County property.

7.3.2 Contractors providing services to El Paso County shall comply with all State and Local requirements concerning Workers Without Authorization as required by C.R.S. § 8-17.5-102 and public contracts for service.

7.4 Workers' Compensation Insurance. Each Contractor and subcontractor shall maintain at his own expense until completion of his work and acceptance thereof by the County, Workers' Compensation Insurance, including occupational disease provisions, covering the obligations of

the Contractor or subcontractor in accordance with the provisions of the laws of the State of Colorado. The Contractor shall furnish the County with a certificate giving evidence that he is covered by the Workers' Compensation Insurance herein required, each certificate specifically stating that such insurance includes occupational disease provisions and provisions preventing cancellation without ten days' prior notice to the County in writing.

7.5 Delivery. Prices, quotes, and deliveries are to be **FOB destination, freight prepaid**, and shall require inside delivery unless otherwise specified in the Solicitation's Special Terms and Conditions. Title and risk of loss shall pass to the County upon inspection and acceptance by the County at its designated point of delivery, unless otherwise specified in the Special Terms and Conditions. In the event that the Contractor defaults on its contract or the contract is terminated for cause due to performance, the County reserves the right to re-procure the materials or services from the next lowest Contractor or from other sources during the remaining term of the terminated/defaulted contract. Under this arrangement, the County shall charge the Contractor any difference between the Contractor's price and the price to be paid to the next lowest Contractor, as well as any costs associated with the re-solicitation effort.

7.6 Material or Service Priced Incorrectly. As part of any award resulting from this process, Contractor(s) will discount all transactions as agreed. In the event the County discovers, through its contract monitoring process or formal audit process, that material or service was priced incorrectly, Contractor(s) agree to promptly refund all overpayments and to pay all reasonable audit expenses incurred as a result of the non-compliance.

8. CONTRACT MODIFICATIONS. Terms and conditions may be added, modified, and deleted upon mutual agreement between the County and the Contractor provided that such terms and conditions remain within the scope and original intent of the Solicitation. Said terms and conditions may include, but are not limited to, additions or deletions of service levels and/or commodities and/or increases or decreases in the time limits for an existing contract. Any and all modifications must be expressed in writing through a Contract Modification Order (CMO) and/or an Amendment executed by authorized agents of the County and the Contractor prior to the enactment of such modifications.

9. TERMINATION OF CONTRACT

9.1 Failure to perform. The County may, by written notice to the successful Contractor, terminate the contract if the Contractor has been found to have failed to perform its service in a manner satisfactory to the County as per specifications, including delivery as specified. The date of termination shall be stated in the notice. The County shall be the sole judge of non-performance.

9.2 Reasons other than cause. The County may cancel the contract upon thirty days written notice for reason other than cause. This may include the County's inability to continue with the contract due to the elimination or reduction of funding.

1. CONTRACTOR

- a. Legal Name of Company _____
- b. Business Name or DBA (if different) _____

2. LOCAL COLORADO ADDRESS (IF APPLICABLE)

- a. Street Address _____
- b. City/State/Zip _____

3. ORDER ADDRESS

- a. Street Address _____
- b. City/State/Zip _____
- c. Online (website) _____

4. PAYMENT ADDRESS

- a. Street Address _____
- b. City/State/Zip _____

5. CONTACT INFORMATION

- a. Name/Title _____
- b. Telephone Number: (_____) _____
- c. Toll Free Number: (_____) _____
- d. Fax Number: (_____) _____
- e. Email Address: _____

6. TAXPAYER IDENTIFICATION NUMBER

7. OWNERSHIP STATUS (check all that apply)

- | | |
|--|--|
| <input type="checkbox"/> Corporation | <input type="checkbox"/> Partnership |
| <input type="checkbox"/> Governmental Agency | <input type="checkbox"/> Sole Proprietorship |
| <input type="checkbox"/> Individual | <input type="checkbox"/> Other _____ |
| <input type="checkbox"/> Non-Profit | |

8. PRIMARY BUSINESS CLASSIFICATION

- | | |
|--|---|
| <input type="checkbox"/> Broker | <input type="checkbox"/> Retailer |
| <input type="checkbox"/> Distributor | <input type="checkbox"/> Service Provider |
| <input type="checkbox"/> Jobber | <input type="checkbox"/> SubContractor (trades) |
| <input type="checkbox"/> Manufacturer | <input type="checkbox"/> Wholesaler |
| <input type="checkbox"/> Prime Contractor (trades) | <input type="checkbox"/> Other _____ |

9. OFFICERS, OWNERS, PARTNERS

- Name/Title _____
- Name/Title _____
- Name/Title _____

10. COMPANY PROFILE

- a. Date Firm Was Established _____
- b. Under the Laws of What State _____
- c. Number of Employees _____
- d. Approximate Yearly Sales Volume _____

11. PRIMARY PLACE OF BUSINESS

- Home
- Office Building
- Office Complex
- Office/Warehouse
- Warehouse
- Other _____

12., 13., 14. and 15. INTENTIONALLY LEFT BLANK

16. PURCHASE ORDERS. Do you accept purchase orders?

Yes No

17. CREDIT CARDS. Do you accept credit cards?

Yes No

18. INFORMATION (if you answer "yes" to any of the following questions, attach a separate page explaining your response clearly labeled with the corresponding question number).

- a. In the past five years, has there been any change in ownership of your company?
 Yes No (if "yes," attach explanation labeled 18a)
- b. In the past five years, has your firm operated under any other name?
 Yes No (if "yes," attach explanation labeled 18b)
- c. Are any corporate officers, owners or partners currently connected with any other firm in the same line of business?
 Yes No (if "yes," attach explanation labeled 18c)
- d. In the past five years, has your firm been in bankruptcy?
 Yes No (if "yes," attach explanation labeled 18d)
- e. In the past five years, has your firm been assessed and paid liquidated damages?
 Yes No (if "yes," attach explanation labeled 18e)
- f. In the past five years, has your firm, or any firm with which your company's officers, owners or partners are associated, been barred, disqualified, removed, or otherwise prevented from bidding on, or competing for any government project for any reason?
 Yes No (if "yes," attach explanation labeled 18f)
- g. In the past five years, has your firm been denied an award of any contract based on a finding by a public agency that your company was not a responsible bidder?
 Yes No (if "yes," attach explanation labeled 18g)
- h. In the past five years, has any claim against your firm concerning your firm's work on a project been filed in court or arbitration?
 Yes No (if "yes," attach explanation labeled 18h)
- i. Has your firm made any claim against a project owner concerning work on a project or payment for a contract and filed that claim in court or arbitration?
 Yes No (if "yes," attach explanation labeled 18i)
- j. Has your firm, or any of its officers, owners, or partners, ever been found liable in a civil suit or found guilty in a criminal action for making any false claim or material misrepresentation to any public agency or entity?
 Yes No (if "yes," attach explanation labeled 18j)

- k. Has your firm, or any of its officers, owners, or partners, ever been convicted of a crime involving any federal, state, or local law related to your business dealings?
 Yes No (if "yes," attach explanation labeled 18k)
- l. Has your firm, or any of its officers, owners, or partners, ever been convicted of a federal or state crime of fraud, theft, or any other act of dishonesty?
 Yes No (if "yes," attach explanation labeled 18l)
- m. In the past five years, has any surety company made any payments on your firm's behalf as result of a default, to satisfy any claims made against a performance or payment bond issued on your firm's behalf?
 Yes No (if "yes," attach explanation labeled 18m)
- n. Has your firm ever been denied bond coverage by a surety company, or has there ever been a period of time when your firm had no surety bond in place during a project when one was required?
 Yes No (if "yes," attach explanation labeled 18n)
- o. Have you ever had insurance terminated by a carrier?
 Yes No (if "yes," attach explanation labeled 18o)
- p. In the past five years, has any insurance carrier, for any form of insurance, refused to renew an insurance policy for your firm?
 Yes No (if "yes," attach explanation labeled 18p)
- q. In the past five years, has OSHA cited and assessed penalties against your firm?
 Yes No (if "yes," attach explanation labeled 18q)

19. Licenses. Does your company have current and valid licenses for the services being requested? Please provide copies.
 Yes No (if "yes," attach licenses labeled 18)

20. Certification. The undersigned hereby affirms (1) that he/she is a duly authorized agent of the Contractor and (2) that the information submitted in/with this form is true and correct. Any information submitted herein that is later found to be false shall serve as grounds for disqualifying the Contractor's Response.

- a. Printed Name: _____
 - b. Printed Title: _____
 - c. Firm Name: _____
 - d. Address: _____
 - e. City, State, Zip: _____
 - f. Telephone: _____
 - g. Fax: _____
 - h. E-mail: _____
- Authorized Representative's Signature _____

Attach all requested exhibit items to the end of this document and clearly label each exhibit with the corresponding question number.

I/We acknowledge that subsequent to award of this solicitation, all of, or part of this submittal may be released to any person or firm who may request it, as prescribed by the State of Colorado Open Records Act CRS 24-72-201 et seq., as amended, and that:

_____ None of this submittal is considered proprietary and/or confidential

OR

_____ The portions/pages of this submittal identified below are proprietary and/or confidential for the reasons stated (cite the specific exemptions allowed by the Colorado Open Records Act/Government Code). **A clearly identified redacted softcopy of the original Response is required if this section is selected.**

Page:	Code:	Reason:
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

General reference to Freedom of Information Act (FOIA) or Colorado Open Records Act (CORA) is not sufficient justification. The County has the final discretion in determining whether information is subject to disclosure under CORA.

I/We acknowledge that the above statements may be subject to legal review and challenge.

Signature below indicates that applicant has read all the information provided above and agrees to comply in full. This form is considered as a section of the Invitation for Bid, IFB-23-058 and therefore, this signed document shall be considered and fully submitted with the original package.

Authorized Representative's Signature

Date

Printed Name

Title

Company Name

El Paso County values your input. Your input assists us in building competitive solicitations and ensuring our solicitations are cutting edge and relevant. Please spend a few minutes to complete this form and return to the Contracts and Procurement Division.

Please send to: El Paso County
Becky Schaffstein, CPPB
IFB-23-058; Construction of Highway 105A Project
beckyschaffstein@elpasoco.com

Specifications too "strict" (i.e. – geared toward one brand or manufacturer only, etc.). Please explain.

Specifications are unclear. Please explain.

Other. Please explain in detail.

- We are unable to meet specifications
- Insufficient time to respond to the solicitation
- Our schedule would not permit us to perform within the required time
- We are unable to meet insurance and/or bonding requirements
- We do not offer this product or service

PRINT OR TYPE YOUR INFORMATION

Company Name: _____ Fax: _____

Address: _____ City/State/Zip: _____

Contact Person: _____ Title: _____

Email: _____ Phone: _____

Authorized Representative's Signature: _____ Date: _____

Printed Name: _____ Title: _____

Email: _____ Phone: _____

ELECTRONIC SUBMISSION OF OFFERS: El Paso County will only accept electronic bid Responses submitted through the Rocky Mountain E-Purchasing system. A Submittal Log will be posted after the County has had an opportunity to review and verify the submittals offered to the County.

The original Offer must be received before the due date and time through an electronic package transmitted through the Rocky Mountain E-Purchasing system. The Contractor is responsible for ensuring its Response is posted by the due date and time outlined in the solicitation document.

If the submittal arrives late, it will not be included in the electronic lockbox.

ALL signatures on required documents must be in blue ink or a verifiable electronic signature

Contractor shall check (✓) to confirm that the following documentation has been submitted:

- Signed Cover Sheet from this Solicitation
- Contractor Information Form
- Proprietary / Confidential Statement
- Signed copies of any addenda issued regarding this Solicitation
- W9 Documentation / Universal Entity Identifier (UEI) Number
- Exhibit 1, 2, 3, and 4
- Work Plan and Schedule
- Bid Form

In submitting the bid offer, Bidders affirm they have no exceptions to any of the terms, conditions, specifications, plans or any other requirements identified in the bid solicitation documents.

Contractor's response to the following question will not be considered in awarding this Solicitation.

El Paso County actively participates in purchasing between and among government agencies to combine purchasing power and resources and to obtain lower costs of procurement for quality goods and services. As such, we hereby request that other agencies of government be permitted to avail themselves of any award resulting from this solicitation and purchase any and all items specified herein from the successful Contractor(s) at the contract price(s) established herein. Each agency would establish its own contract, issue its own orders, be invoiced therefrom, make its own payments, and issue its own exemption certificates as required by the Contractor. It is understood and agreed that El Paso County would not be a legally binding party to any contractual agreement made between any other agency and the Contractor as a result of this Solicitation.

May other units of government avail themselves of this contract and purchase any and all items specified.

- Yes No

EXHIBIT 1: RESTRICTIONS ON LOBBYING CERTIFICATION

Pursuant to United States Public Law 101-121, Section 319, the undersigned duly authorized official of the proposer hereby certifies, to the best of her/his knowledge and belief, that:

1. No Federal appropriated funds have paid or will be paid, by or on behalf of the undersigned, to any person for the purpose of influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person or agency for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress, in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit a Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
3. The undersigned duly authorized official shall require and ensure that the language of this certification be included in any award documents for subcontracts, grants, loans, and cooperative agreements, and that all subcontractors shall so certify and disclose accordingly.

This Certification is a material representation of fact, upon which reliance was placed when this transaction was made or entered into. The submission of this Certification is a prerequisite for making or entering into this transaction, imposed by Title 31 USC Section 1352. Any proposer (person) who fails to file the required certification shall be subject to civil penalty of not less than ten thousand dollars (\$10,000) and not more than one hundred thousand dollars (\$100,000) for each such failure to file.

I DO CERTIFY **I DO NOT CERTIFY**

Proposer: _____
Signature: _____
Title: _____
Date: _____

EXHIBIT 2: NON-COLLUSION AFFIDAVIT

The undersigned duly authorized official of the proposer hereby certifies, to the best of her/his knowledge and belief, that:

1. That I am an officer or employee of _____ (proposing entity) having the authority to sign on behalf of the corporation, and,
2. That the prices in the attached Response were arrived at independently by _____ (proposing entity) without collusion, consultation, communication, or any agreement, for the purpose of restricting competition as to any matter relating to such prices with any other proposer or with any other competitor regarding an understanding, or planned common course of action with any other Contractor of materials, supplies, equipment, or service described in the IFB/IFB designed to limit independent Responses or competition; and
3. That unless otherwise required by law, the contents and prices contained in the Response have not been communicated by _____ (proposing entity) or its employees or agents to any person not an employee or agent of _____ (proposing entity), or its surety on any bond furnished with the Response, and will not be communicated to any such person prior to the official opening of the Response; and,
4. That I have fully informed myself regarding the accuracy of the statements made in this affidavit.

I DO CERTIFY

I DO NOT CERTIFY

Proposer: _____

Signature: _____

Title: _____

Date: _____

EXHIBIT 3: MINIMUM INSURANCE REQUIREMENTS

For this contract, the following provisions for insurance shall apply:

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 Attachment 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 Attachment A, by reason of its failure to procure or 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 subcontractors, the minimum insurance coverages listed below. Such coverages shall be procured and maintained with forms and insurers acceptable to the County. All coverages shall be continuously maintained to cover all liability, claims, demands and other obligations assumed by the Contractor, pursuant to Attachment A. In the case of a claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage. Notwithstanding the foregoing, when the Contractor requires a subcontractor to obtain insurance coverage, the types and minimum limits of this coverage may be different than those required, as stated herein for the Contractor.

1. 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 PPRTA and the County 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 certificate of insurance must be on file with the County prior to commencement of the Agreement**. The completed certificate of insurance shall be sent to:

El Paso County
Board of County Commissioners
Attn: Contracts and Procurement Division
15 East Vermijo Avenue
Colorado Springs, Colorado 80903

2. It is the affirmative obligation of the Contractor to notify the County's Contract Specialist, as provided in this Agreement, including e-mailing (PURCOI@elpasoco.com) a copy of the notice to the Contracts and Procurement Division, 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.

3. 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 contract upon which PPRTA and the County may immediately terminate this Agreement or, at its discretion, PPRTA and the County 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 PPRTA and the County shall be repaid by Contractor to PPRTA and the County upon demand, or PPRTA and the County may offset the cost of the premiums against any monies due to Contractor from PPRTA and the County.

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

5. The parties hereto understand and agree that PPRTA and the County, its 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) per person, and One Million Ninety-Three Thousand Dollars (\$1,093,000) per occurrence), 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, its officers or employees.

El Paso County, PPRTA, Woodmoor Water and Sanitation District No. 1, and the Colorado Department of Transportation must be included on the General Liability insurance as additional insureds. Certificates of Insurance must be submitted before commencing work and provide 30 days' notice prior to any cancellation.

It shall be the responsibility of the Contractor to ensure that all sub-Contractors carry insurance of not less than those coverages and limits specified herein. Proper evidence of this compliance must be forwarded to the appropriate department prior to the inception of any work by sub-Contractor.

The undersigned certifies and agrees to carry and maintain the insurance requirements indicated above throughout the contract Period of Performance.

(Name of Company)

(Signature) (Date)

**ATTACHMENT A
INSURANCE CHECKLIST**

SOLICITATION NUMBER: 23-058
TITLE OF SOLICITATION: Construction of the Highway 105A Project

Insurance items checked below have been identified as necessary requirements for this Contractor per the desired scope of work.

PPRTA AND EL PASO COUNTY SHALL BE NAMED AS ADDITIONAL INSURED ON ALL RELEVANT POLICIES.

Insurance Item:	Required	Waived
The contractor shall obtain and maintain, and ensure that each Subcontractor shall obtain and maintain, insurance as specified in this section and per EXHIBIT 5 at all times during the term of this Contract. All insurance policies required by this Contract shall be issued by insurance companies as approved by the County.	X	
Workers' Compensation: Workers' compensation insurance as required by state statute, and employers' liability insurance covering all Contractor or Subcontractor employees acting within the course and scope of their employment.	X	
Commercial General Liability: Commercial general liability insurance covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows: \$1,000,000 each occurrence; \$2,000,000 general aggregate; \$1,000,000 products and completed operations aggregate; and \$50,000 damage to premises rented to you – anyone premises.	X	
Automobile Liability: Automobile liability insurance covering any auto (including owned, hired, and non-owned autos) with a minimum limit of \$1,000,000 each accident combined single limit.	X	
Subrogation Waiver: All insurance policies secured or maintained by Contractor 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, its agencies, institutions, organizations, officers, agents, employees, and volunteers.	X	
Garagekeepers Coverage: Garagekeepers coverage for loss to vehicles in the Contractors custody for servicing or storage with a minimum limit of \$500,000 for each loss.		X
Umbrella Liability Insurance: 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: \$1,000,000 each occurrence and aggregate. Higher or Lower limits may be required or determined acceptable at the sole discretion of County.	X	
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 \$1,000,000 each occurrence; and \$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.		X
Pollution Liability: If the Contractor's scope of work includes any pollution liability exposure, the 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 \$1,000,000 each occurrence and aggregate.	X	
Professional Liability/Malpractice Insurance: Professionals to include: physicians, nurses, psychologists, social workers, etc. 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, omission in performance of the professional services with minimum limits as follows: \$1,000,000 each claim; and \$1,000,000 general aggregate. Policy shall include coverage for bodily injury and sexual misconduct claims.		X
Professional Liability Insurance: Professionals to include: Architects, Engineers, Construction Managers. 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, omission, or negligent professional act in performance of the professional services with minimum limits as follows: \$1,000,000 each claim; and \$1,000,000 general aggregate.	X	
Professional Liability Insurance (Errors and Omissions): Miscellaneous professions to include: IT Consultants/Programmers, Insurance Brokers, Accountants, Real Estate Agents, Etc. 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, omission, or negligent professional act in performance of the professional services with minimum limits as follows: \$1,000,000 each claim; and \$1,000,000 general aggregate.		X
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 \$1,000,000 single limit. Commercial Crime Coverage shall include third party liability coverage and list County as a loss payee		X
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 Owner 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.	X	

EXHIBIT 4: CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS

The undersigned duly authorized official of the proposer certifies to the best of its knowledge and belief, that it and its principals:

- A. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency.
- B. **Are presently active and in good standing on SAMS.gov**
- C. **Are required to be in good standing throughout the contract term**
- D. Have not within a three-year period preceding this Response been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements or receiving stolen property.
- E. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (B) of this certification; and
- F. Have not within a three-year period preceding this application/Response had one or more public transaction (federal, state, or local) terminated for cause or default.
- G. Are not on the Comptroller General's List of Ineligible Bidders or any similar list maintained by any other governmental entity.
- H. Are able to, and will, submit proof of SAM.gov eligibility (documentation of good standing) with their submittal.

Where the proposer is unable to certify any of the statements in this certification, such prospective participant shall attach an explanation to this Response.

(Check One)

I DO CERTIFY **I DO NOT CERTIFY**

Date: _____

Signature: _____

Title: _____

The Sample PPRTA Trade Contractor Agreement is included in this solicitation for information and reference purposes only.

It is the responsibility of the Contractor to provide any exceptions to this Solicitation and/or Sample PPRTA Trade Contractor Agreement with its response for evaluation by PPRTA and El Paso County. It is the responsibility of the Contractor to provide the Solicitation and PPRTA Sample Trade Contractor Agreement to their Legal Counsel for review and notation of any exceptions prior to submitting a bid.

Following the determination of award, PPRTA, El Paso County and the successful Contractor will execute this document to consummate a contract between the parties. The Solicitation and the Contractor's Offer will be attached and incorporated as part of the contract.

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In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States:

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity,
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust, and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China Income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS a percentage of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code* on page 3 and the separate instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships* on page 1.

What is FATCA reporting? The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code* on page 3 and the instructions for the Requester of Form W-9 for more information.

Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account, for example, if the grantor of a grantor trust dies.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Name

If you are an individual, you must generally enter the name shown on your income tax return. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person or entity whose number you entered in Part I of the form.

Sole proprietor. Enter your individual name as shown on your income tax return on the "Name" line. You may enter your business, trade, or "doing business as (DBA)" name on the "Business name/disregarded entity name" line.

Partnership, C Corporation, or S Corporation. Enter the entity's name on the "Name" line and any business, trade, or "doing business as (DBA)" name on the "Business name/disregarded entity name" line.

Disregarded entity. For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulation section 301.7701-2(c)(2)(ii). Enter the owner's name on the "Name" line. The name of the entity entered on the "Name" line should never be a disregarded entity. The name on the "Name" line must be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on the "Name" line. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on the "Business name/disregarded entity name" line. If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

Note. Check the appropriate box for the U.S. federal tax classification of the person whose name is entered on the "Name" line (individual/sole proprietor, Partnership, C Corporation, S Corporation, Trust/estate).

Limited Liability Company (LLC). If the person identified on the "Name" line is an LLC, check the "limited liability company" box only and enter the appropriate code for the U.S. federal tax classification in the space provided. If you are an LLC that is treated as a partnership for U.S. federal tax purposes, enter "P" for partnership. If you are an LLC that has filed a Form 8832 or a Form 2553 to be taxed as a corporation, enter "C" for C corporation or "S" for S corporation, as appropriate. If you are an LLC that is disregarded as an entity separate from its owner under Regulation section 301.7701-3 (except for employment and excise tax), do not check the LLC box unless the owner of the LLC (required to be identified on the "Name" line) is another LLC that is not disregarded for U.S. federal tax purposes. If the LLC is disregarded as an entity separate from its owner, enter the appropriate tax classification of the owner identified on the "Name" line.

Other entities. Enter your business name as shown on required U.S. federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name/disregarded entity name" line.

Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the *Exemptions* box, any code(s) that may apply to you. See *Exempt payee code* and *Exemption from FATCA reporting code* on page 3.

Exempt payee code. Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends. Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.

Note. If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

The following codes identify payees that are exempt from backup withholding:

- 1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)
- 2—The United States or any of its agencies or instrumentalities
- 3—A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities
- 4—A foreign government or any of its political subdivisions, agencies, or instrumentalities
- 5—A corporation
- 6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States
- 7—A futures commission merchant registered with the Commodity Futures Trading Commission
- 8—A real estate investment trust
- 9—An entity registered at all times during the tax year under the Investment Company Act of 1940
- 10—A common trust fund operated by a bank under section 584(a)
- 11—A financial institution
- 12—A middleman known in the investment community as a nominee or custodian
- 13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over \$600 required to be reported and direct sales over \$5,000 ¹	Generally, exempt payees 1 through 5 ²
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

¹ See Form 1099-MISC, Miscellaneous Income, and its instructions.

² However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney, and payments for services paid by a federal executive agency.

Exemption from FATCA reporting code. The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements.

- A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)
- B—The United States or any of its agencies or instrumentalities
- C—A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities
- D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Reg. section 1.1472-1(c)(1)(i)
- E—A corporation that is a member of the same expanded affiliated group as a corporation described in Reg. section 1.1472-1(c)(1)(ii)
- F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

- G—A real estate investment trust
- H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940
- I—A common trust fund as defined in section 584(a)
- J—A bank as defined in section 581
- K—A broker
- L—A trust exempt from tax under section 664 or described in section 4947(a)(1)
- M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited Liability Company (LLC)* on page 2), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note. See the chart on page 4 for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local Social Security Administration office or get this form online at www.ssa.gov. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/businesses and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting IRS.gov or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note. Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 4, or 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on the "Name" line must sign. Exempt payees, see *Exempt payee code* earlier.

Signature requirements. Complete the certification as indicated in items 1 through 5 below.

- 1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.** You must give your correct TIN, but you do not have to sign the certification.
- 2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.
- 3. Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.
- 4. Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).
- 5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account ¹
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor ²
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee ³
b. So-called trust account that is not a legal or valid trust under state law	The actual owner ¹
5. Sole proprietorship or disregarded entity owned by an individual	The owner ³
6. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulation section 1.671-4(b)(2)(i)(A))	The grantor ⁴
For this type of account:	Give name and EIN of:
7. Disregarded entity not owned by an individual	The owner
8. A valid trust, estate, or pension trust	Legal entity ⁴
9. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
10. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
11. Partnership or multi-member LLC	The partnership
12. A broker or registered nominee	The broker or nominee
13. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
14. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulation section 1.671-4(b)(2)(i)(B))	The trust

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ You must show your individual name and you may also enter your business or "DBA" name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

⁴ List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships* on page 1.

*Note. Grantor also must provide a Form W-9 to trustee of trust.

Note. If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records from Identity Theft

Identity theft occurs when someone uses your personal information such as your name, social security number (SSN), or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN.
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Publication 4535, Identity Theft Prevention and Victim Assistance.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes. Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to phishing@irs.gov. You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration at 1-800-368-4484. You can forward suspicious emails to the Federal Trade Commission at: spam@uce.gov or contact them at www.ftc.gov/idtheft or 1-877-IDTHEFT (1-877-438-4338).

Visit IRS.gov to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

TRADE CONTRACTOR AGREEMENT IFB-XX-XXX; _____

THIS AGREEMENT is made this _____ day of _____, 20__, 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 Bids, 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 Amendment/ change order, the total sum not to exceed _____ Dollars (\$_____) (the "Original Agreement Amount"). Notwithstanding anything to the contrary contained in this Agreement, no 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, a Contract Modification Oder (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 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, based on the Agreement execution and working days, will end on _____, 20___. Contractor shall commence any work requested by the County within **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, 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 Five Hundred Thousand Dollars (\$500,000) each accident, Five Hundred Thousand Dollars (\$500,000) disease-policy limit, and Five Hundred Thousand Dollars (\$500,000) 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. INTENTIONALLY LEFT BLANK

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. 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 30. 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}

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 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 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 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 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, 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 CJJ, 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