



**COLORADO**

**Department of Transportation**

Region 1

**COLORADO DEPARTMENT OF TRANSPORTATION  
REGION 1**

**INSTRUCTIONS TO PROPOSERS AND  
NOTICE TO BIDDERS**

Eisenhower/Johnson Memorial Tunnel  
Drainage, Plumbing, Heat Trace  
Design Build Project

**PROJECT NO. C 0703-482  
SUBACCOUNT 24210**

**PROPOSALS DUE:**

**February 24, 2022**

**12:00 PM Mountain Standard Time**

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**EJMT DPHT Design Build Project**  
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## FORMS

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| Form B | Information about Proposer and Major Participants                      |
| Form C | Non-Collusion Affidavit  |
| Form D | Buy America Certification (FHWA)                                       |
| Form E | Debarment and Suspension Certification                                 |
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| Form U | Sample Stipend Purchase Order  |

## 1.0 Introduction

The Colorado Department of Transportation (CDOT) has issued this Request for Proposals (RFP), dated December 16, 2021, to solicit competitive Proposals for a Design Build Contractor (“Contractor”) to enter into a Contract (“Contract”) to design and construct the Eisenhower/Johnson Memorial Tunnel (EJMT) Drainage, Plumbing, and Heat Trace (DPHT) Design Build Project (the “Project”). Proposals will only be considered from those Proposers (“Proposers”) that were notified by CDOT that they were short listed under CDOT’s Request for Qualifications (RFQ) issued on August 5, 2021.

This document constitutes the Instructions to Proposers (ITP) for the RFP. Proposers should not rely solely on the limited information contained in this ITP, but instead should also refer to the appropriate sections of the RFP Documents for specific information and requirements.

General status of the non-programmatic Categorical Exclusion (CE) can be found in Book 2, Section 5, of the RFP.

### 1.1 Certain Definitions

As used herein, the term “Major Participant” means any of the following entities: all general partners or joint-venture members of the Proposer; all individuals, persons, proprietorships, partnerships, limited-liability partnerships, corporations, professional corporations, limited-liability companies, business associations, or other legal entity, however organized, holding (directly or indirectly) a 25% or greater interest in the Proposer; any Subcontractor(s) that will perform Work valued at 30% or more of the overall Contract amount; the lead engineering/design firm(s); and each engineering/design Sub-consultant that will perform 30% or more of the design Work.

CDOT will not disqualify any Proposer if a Proposer’s Major Participant belongs to more than one Proposer organization for this request, if that Major Participant is nonexclusive and specified as such.

Book 1, Exhibit A, contains the defined terms used in the RFP and ITP.

### 1.2 Request For Proposals Documents

The RFP package includes the following documents (“RFP Documents”):

1. Instructions to Proposers
2. Contract Documents
  - i. Book 1, Design-Build Contract
  - ii. Book 2, Technical Requirements
  - iii. Book 3, Applicable Standards, Data, and Reports
  - iv. Book 4, Contract Drawings
  - v. Reference Documents (for information only)

The Contract Documents will include Books 1 through 4. A Proposal will also be considered a Contract Document, as set forth in Book 1, Section 1.3.

### 1.3 Project Description

The Project description is as set forth in Book 2, Section 1 of the Contract Documents.

### 1.4 Project Funding

The Project will be funded with a combination of State of Colorado (State) and Federal funds. Proposers must comply with all applicable Federal, State, and local requirements.

### 1.5 CDOT Project Values

Reserved.

### 1.6 CDOT Upset Amount

The cost of the Work required for the Basic Configuration of the Project plus the cost of any Additional Requested Element(s) (ARE) included in the Proposal, shall not exceed CDOT's Upset Amount of \$19,000,000.00. The Basic Configuration and AREs are defined in Book 2, Section 1. The Proposer shall submit Form T indicating whether the Proposer's Price is less than or equal to the Upset Amount. Form T shall be included in accordance with ITP Section 3, Volume VI.

### 1.7 Project Goals

The Project goals are the basis for evaluation of the Technical Proposal. CDOT has established the following goals for the Project:

1. Provide an innovative solution for the project elements that is durable, historically proven, easily maintained, and compatible with current and future improvements in the EJMT within the project budget.
2. Minimize impacts to the traveling public, EJMT operations, and the EJMT fire life safety systems during construction and for the lifecycle of the constructed improvements.
3. Meet or exceed the project requirements.
4. Minimize the project delivery time.

### 1.8 Additional Requested Elements

CDOT has identified AREs that are beneficial to the Project and desires these AREs to be included within the CDOT Upset Amount or a fixed Proposer's Price that is less than the CDOT Upset Amount. Each ARE is described in Book 2, Section 1, and is further discussed in this ITP. If an ARE(s) or portions of the ARE(s) are included in the Proposer's Price, the ARE(s) or portions of the ARE(s) shall be incorporated into the Basic Configuration as described in Book 2, Section 1, and shall become the Proposer's Basic Configuration. Best Value Determination, in regards to AREs is further described in this ITP. ARE(s) shall be presented in accordance with the proposal process and this ITP.

The Proposer should include as many of the AREs as possible in its Proposal that must be at or below the CDOT Upset Amount or a fixed Proposer's Price that is less than the CDOT



Upset Amount. The AREs included as part of the Proposal shall include a comprehensive narrative of the Work, including commitments and value-added elements, to be completed as part of the ARE. The Price to complete the ARE shall be included in Form J, according to Section 3.

If the Proposer's Contract Price for the Basic Configuration is more than the CDOT Upset Amount, AREs shall not be included in the Proposal.

Exhibits that define the Work for each of the AREs are included in Book 2, Section 1.

## **1.9 Options**

Reserved.

## **1.10 Contract Drawings and Reference Documents**

The Contract Drawings included in Book 4, are Contractually binding and are Subject to the Contractor's right to a Change Order set forth in the Contract, with respect to Necessary Design Changes. The Proposer has sole responsibility for reviewing the reference design and assessing its adequacy or inadequacy to meet the Contract requirements.

The Contractor is not required to conform to the drawings included in the Reference Documents except to the extent defined by the Basic Configuration description set forth in Book 2, Section 1, and to the extent specifically incorporated in the Contract Documents, although such documents contain design solutions and other information the Proposer may find valuable in meeting the requirements of the Contract Documents.

Regardless of the level of completion or suitability of any portion of the Reference Documents, the Contractor shall be solely responsible for Project design, and CDOT shall have no liability or obligation as a result of design work contained in the Reference Documents. The Proposer is encouraged to develop and present alternate and innovative designs to CDOT through the ACC/ATC Process. The Reference Documents are provided solely for the Proposer's reference and are without representation or warranty by CDOT, unless specifically stated otherwise in Book 1.

## **1.11 Notice to Proceed**

CDOT intends to complete the procurement process and execute the Contract within 60 Days after selection. CDOT is planning to use a Phased Notice to Proceed (NTP) approach. It is anticipated there will be two milestone NTPs issued, as described in Book 2, Section 2. The anticipated NTPs are NTP1, Design, and NTP2, Design and Construction. Each NTP will require a completion of deliverables identified in the Contract.

## 1.12 Proposal Process Schedule

The dates of Proposal process milestones listed in Table 1-1 are subject to modification through amendment to the RFP.

Table 1-1 Project Milestones

| Project Milestone   | Date                      |
|---|---------------------------|
| Issue Draft RFP to Shortlisted teams  | October 21, 2021          |
| Session #1 of one-on-one non-confidential Industry Review Phase meetings                                  | Week of November 8, 2021  |
| Session #2 of one-on-one non-confidential Industry Review Phase meetings                                  | Week of November 29, 2021 |
| Last day for Proposer Requests for Information (RFI) on Draft RFP   | December 2, 2021          |
| Last day for CDOT Responses to RFI on Draft RFP   | December 9, 2021          |
| Issue Final RFP to Shortlisted Teams  | December 16, 2021         |
| Session #1 of one-on-one confidential meetings for ACC and ATC with Proposers                             | Week of January 10, 2022  |
| Session #2 of one-on-one confidential meetings for ACC and ATC with Proposers                             | Week of January 24, 2022  |
| Final Submittal Due Date for all ACCs/ATCs, RFCs, and RFIs  | January 28, 2022          |
| Last Day for CDOT Responses to ACCs/ATCs, RFCs and RFIs   | February 4, 2022          |
| Deadline for any Proposal Team questions on CDOT Responses to RFCs, and RFIs and resubmittal of ACCs/ATCs | February 10, 2022         |
| Last day for CDOT Responses to all outstanding RFIs and resubmitted ACCs/ATCs                             | February 17, 2022         |
| Final Addendum to RFP issued  | February 17, 2022         |
| Proposal Due Date (12 PM MST)   | February 24, 2022         |
| Escrowed Proposal Documents (EPD) Due Date  | March 3, 2022             |
| Recommend Selected Firm   | March 28, 2022            |
| Price Proposal Bid Opening  | March 31, 2022            |
| Selection notification  | March 31, 2022            |
| Conduct Debriefs with not selected Proposal Teams   | Week of April 28, 2022    |
| Anticipated First Notice to Proceed (NTP1)  | May 12, 2022              |
| Anticipated Second Notice to Proceed (NTP2)   | July 8, 2022              |
| Project Complete  | May 1, 2024               |

## 2.0 Proposal Process

### 2.1 CDOT Contact

~~David Tedrow~~Neal Retzer is the CDOT Project ~~Manager~~Director and CDOT's sole contact person and addressee for receiving all communications regarding the Project, unless CDOT directs otherwise in writing or in this document. All inquiries, comments, agendas, and scheduling of meetings regarding the Project shall be sent via email to David.Tedrow@state.co.us~~Neal.Retzer@state.co.us~~ (with a copy sent to dot\_ejmt\_dpht@state.co.us) and shall include wording in the "Subject" line that further defines the transmittal. (As an example, for an agenda, "Subject" might read [Proposer] Industry Review Agenda for [Date]).

### 2.2 CDOT Document Control System

CDOT's Document Control System (DCS) is the online Bentley based software platform, ProjectWise Deliverables Management. CDOT will provide one licensed access to the DCS to each shortlisted Proposer team during procurement. At the first one-on-one Meeting, if not prior, CDOT will provide each Proposer the required procedures for access to the DCS.

### 2.3 Pre-Proposal Meetings

#### 2.3.1. Meeting Location

Location for all meetings during the Proposal Process shall be in the Denver metro area at the Proposer's offices and/or held virtually and shall be set at a location where the Proposer chooses to ensure confidentiality of the meetings. This location shall be communicated a minimum of five business Days in advance of the meeting and shall be confirmed with the CDOT Project ~~Manager~~Director.

#### 2.3.2. One-on-One Meetings

CDOT will hold two non-confidential, one-on-one meetings for each Proposer during the Industry Review phase and up to two confidential, one-on-one meetings with each Proposer during the Final RFP phase. Each meeting shall be no longer than four hours in duration. The Proposer shall provide the proposed agenda and questions for each meeting a minimum of three business Days in advance of the meeting date, along with any requests for attendance by CDOT technical experts relevant in the matters to be discussed.

##### 2.3.2.1. Industry Review Phase

The non-confidential, one-on-one meetings during the Industry Review phase, will be held primarily to solicit comments and to request clarifications on the Draft RFP. The Proposer may discuss potential Alternate Configuration Concepts (ACC) and Alternative Technical Concepts (ATC) at the meeting, but is cautioned that issues and topics discussed at this time may not be considered proprietary and could be included in the Final RFP.

### 2.3.2.2. Final RFP Phase

The confidential, one-on-one meetings held after the issuance of the Final RFP, will be primarily for the Proposer to present and discuss proprietary and confidential ACCs and ATCs. The Confidentiality of our Proposers is very important to CDOT. Subject to applicable law, CDOT will use reasonable efforts to maintain confidentiality during the Proposal process. CDOT confidential one-on-one meetings to discuss ACC/ATC with each Proposer, if any, are not subject to the Colorado Open Records Act during the procurement period. All discussions with the Proposer regarding ACC/ATCs will remain confidential until the procurement process is complete.

## 2.4 Alternative Configuration Concepts

CDOT encourages innovation in the execution of the Project. However, the Basic Configuration as described in Book 2, Section 1 is a Contract requirement and shall be adhered to except to the extent that it is superseded by pre-Approved ACCs under this Section. Recommended alternatives to these requirements found in Book 2, Section 1 shall be considered ACCs.

As part of the ACC Approval process, the Proposer shall submit a timeline with deadlines for Approval of the ACC in order to realize the full benefit of the ACC.

CDOT will only Approve ACCs that are equal or better in quality or effect than the Book 2, Section 1 Contract Basic Configuration (as determined by CDOT in its sole discretion). ACCs that provide less than equal quality and/or effect will not be Approved. The Approval process for ACCs is described in Sections 2.6 and 2.7 below.

## 2.5 Alternative Technical Concepts

CDOT encourages the Proposer to recommend alternatives to the technical requirements that are equal or better in quality or effect with Contract Document requirements (as determined by CDOT in its sole discretion). Recommended alternatives to these requirements found in Book 2, Sections 2 through 21 shall be considered ATCs under this Section.

The Approval process for ATCs is described in Sections 2.6 and 2.7 below. CDOT will Approve ATCs that are equal or better in quality or effect than the Contract requirements (as determined by CDOT in its sole discretion). ATCs that provide less than equal quality and/or effect will not be Approved.

## 2.6 Pre-Proposal Submission of Alternative Technical Concepts and Alternative Configuration Concepts

The Proposer shall submit a searchable electronic .PDF file, compatible with Adobe Acrobat, of its desired ACCs/ATCs via CDOT's DCS no later than the date shown in the proposal schedule to the CDOT Project ~~Manager~~Director. The submittal shall include the "Subject" line [Proposer's Name] - ACC or ATC No. [ ] - Rev No. [ ]. The attached electronic file name must include 24210-[Proposer's Name]-ACC or ATC No.[ ]-Rev No.[ ]. Sequential numbering shall be used by the Proposer for each ACC/ATC submission. The

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DCS will automatically denote Project Information on the transmittal, whereas the Proposer will select the classification, ACC or ATC. The words “CONFIDENTIAL - PROPRIETARY INFORMATION” shall be clearly marked on the documents.

Each ACC/ATC submission must include:

1. Identification: A sequential ACC/ATC number.
2. Description: A description and conceptual drawings (if applicable) of the ACC/ATC or other appropriate descriptive information.
3. Usage: An explanation of where and how the Proposer would use the ACC/ATC on the Project.
4. Deviations: References to the RFP requirements with which the ACC/ATC is recommended as an alternative, with specific revisions shown to the related text of the Contract Documents, and a request for Approval of such alternative.
5. Analysis: An analysis justifying the Proposer’s use of the ACC/ATC and describing how it provides equal or better quality effect.
6. Impacts: A preliminary analysis of potential environmental impacts/clearances (including National Environmental Policy Act (NEPA) reevaluations), community impacts (including additional public involvement), safety impacts, and maintenance and operational impacts and lifecycle cost that the Proposer would be required to complete as part of the ACC/ATC.
7. Cost and Benefit Analysis: A detailed breakdown of any savings that would accrue to CDOT as a result of the ACC/ATC or a statement to the effect that there are no such cost savings. If a savings is realized, where will the savings be applied to maximize Project scope and if it reduces the Proposer’s Contract Price.
8. Schedule Impacts: An estimate of any impact to the schedule necessary to design and construct the Project resulting from implementing the ACC/ATC, as well as a schedule graphically showing the ACC/ATC impact or a statement to the effect that there are no impacts.
9. Risks: A description of any additional risks to CDOT or third parties associated with implementation of the ACC/ATC.
10. Quality: A description of how the ACC/ATC, in terms of quality and performance, is equal to or better than the RFP requirements.
11. Right-of-Way: A description, estimated cost, and procurement schedule of any additional right-of-way required to implement the ACC/ATC as part of the Work.
12. Past Use: Identification of other projects on which the ACC/ATC (or a substantially similar approach) has been implemented, regardless of the results, and the relevance of such experience.
13. Any other information required by CDOT.

In the event that implementation of an ACC/ATC will require Governmental or Environmental Approvals/clearances and or Permits, the Proposer shall provide a list of

these required Approvals/clearances and or Permits and shall have full responsibility for obtaining any such approvals/clearances and/or Permits.

If any required Approval/clearance or Permit is not subsequently granted, with the result that the Proposer must change its approach to meet the original requirements of the Contract Documents, the Proposer shall not be eligible for a Change Order that increases the Contract Price or extends the Completion Deadlines.

## **2.7 CDOT's Review of Alternative Technical Concepts and Alternative Configuration Concepts**

CDOT intends to review the ACCs/ATCs and provide verbal comments, as determined in CDOT's sole discretion, to each Proposer during one-on-one meetings during the Final RFP phase in advance of Proposal submission. Verbal comments shall not be considered Approval or not approving the proposed ACCs/ATCs.

The Proposer may submit ACCs/ATCs any time after the Draft RFP release for CDOT's written response within the limits of the proposal process schedule outlined in Table 1-1. Any ideas submitted prior to Final RFP may not be considered proprietary and could be included in the Final RFP. CDOT will use reasonable efforts to provide the Proposer a written response within 14 Days.

CDOT's written response to submitted ACCs/ATCs shall be limited to one, or a combination, of the following statements:

1. The ACC/ATC is Approved.
2. The ACC/ATC is not-Approved.
3. The ACC/ATC is Approved with Conditions. CDOT will identify any conditions which must be met in order to Approve the ACC/ATC.
4. CDOT may provide comments on ACCs/ATCs to enable the Proposer to revise and resubmit the ACCs/ATCs for additional consideration. CDOT does not commit to Approving any ACC/ATC if the comments are addressed. However, if the Proposer wishes additional clarification regarding necessary changes, the Proposer may provide a written confidential Request for Clarification (RFC) to CDOT.

The Proposer may elect to incorporate zero, one, or more Approved ACCs/ATCs (if any) as part of its Proposal. Copies of CDOT's ACC/ATC Approval letters for each incorporated ACC/ATC shall be included in the Proposal. If CDOT responded to an ACC/ATC by stating that certain Conditions must be met for Approval, the Proposer may incorporate such ACC/ATC with the Conditions into its Proposal at its risk. If the Proposer incorporates an ACC/ATC with Conditions into its Proposal, the Proposer shall be responsible to comply with such ACC/ATC Conditions if Awarded the Contract. The ACCs/ATCs submitted are not inherently approved and CDOT reserves the right to Approve or reject those ACCs/ATCs at its discretion.

Except for incorporating ACCs/ATCs, in accordance with these and other Contract Document requirements, the Proposal may not otherwise contain exceptions to, or deviations from, the requirements of the RFP.

## 3.0 Proposal Structure, Requirements, Format, and Submission

### 3.1 Proposal Structure

The Proposal shall contain the volumes listed below and shall respond fully to all applicable requirements of the RFP.

Volume I - Executive Summary

Volume II - Proposer Information, Forms, and Certifications

Volume III - Technical Proposal

Volume IV - Project Plans, AREs, ACCs, ATCs, Schedule, and Draft Civil Rights Plan

Volume V - Price Proposal (Form J)

Volume VI - Upset Amount Determination (Form T)

Volume VII - Options Proposal (Reserved)

Detailed instructions for submittal of each of the Proposal Volumes is included in Appendix A.

Unless stated otherwise, all Proposal forms included as part of this ITP shall be completed by the Proposer and submitted with Volume II.

### 3.2 Proposal Requirements

The contents of each Volume of the proposal is summarized below in the following sections.

#### 3.2.1. Volume 1 - Executive Summary

The Proposer shall submit via CDOT DCS an Executive Summary limited to no more than 10 pages, inclusive of text, photographs, and/or renderings. Up to a maximum of three of the 10 pages in the Executive Summary may be 11 x 17 pages. Each 11 x 17 page shall be counted as one page.

The Executive Summary shall contain sufficient information to familiarize reviewers with the Proposer's Project approach and its ability to satisfy the legal and financial requirements of the Contract. In addition to meeting the requirements of the contract, the Proposer is encouraged to highlight in the Executive Summary those items that, in the opinion of the Proposer, represent added value by exceeding the RFP requirements and Project goals and will distinguish its Proposal from those of other Proposers.

The Executive Summary shall include a comprehensive summary of pertinent information from each Volume of the Proposal, as follows:

1. **Proposal Overview Statement:**  
A summary of the Proposal's organization and contents, including a table of contents of the Proposal with page numbers identified.
2. **Proposer Information and Certifications:**  
A summary of the legal structure of the Proposer, agreements among the Proposer team members, and any legal commitments to the Project.
3. **Technical Proposal:**  
A summary of the Proposer's Technical Proposal, including a brief discussion of the benefits associated with implementing any ACCs, ATCs, and AREs that the Proposer has incorporated in the Technical Proposal.

The Executive Summary shall be suitable for presentation to, and for review by the CDOT Executive leadership and other Project Stakeholders. The Executive Summary may be released to the media after Award of the Contract. Therefore, sensitive or confidential information that may be misused, misconstrued, or misrepresented shall not be included or discussed in the Executive Summary.

### **3.2.2. Volume II - Proposer Information, Forms and Certifications**

The Proposer shall submit the required information indicated in the following sections for Volume II via CDOT DCS.

#### **3.2.2.1. Proposal Letter**

The Proposer shall submit a Proposal letter using Form A.

#### **3.2.2.2. Information about Proposer Organization**

The Proposer shall include Form B for the Proposer and for each Major Participant with modifications as appropriate for each Major Participant.

If the Proposer plans to form a joint venture (JV) or a special purpose vehicle (SPV), the Proposer shall submit the JV or SPV agreement. If the agreement is not yet complete, the Proposer shall describe the intent of the agreement and submit a copy of the agreement to CDOT after selection.

The Proposer shall describe any changes in the Proposer's organization since the Statement of Qualifications (SOQ) submittals, including Key Personnel or Major Participants (see additional information below), and shall include Form I and submit a copy of CDOT's Approval letter for each such change.

Additional Key Personnel are identified in the RFP. Include Key Personnel on Form I for all required positions. A CDOT Approval letter is not required for the positions added after SOQ.



**3.2.2.3. Non-Collusion Affidavit**

The Proposer shall submit Form C certifying the Proposal is not the result of, and has not been influenced by, collusion.

**3.2.2.4. Buy America Certifications**

The Proposer shall submit Form D certifying that only domestic steel and iron will be used for the construction portion of the Project.

**3.2.2.5. Debarment, Suspension, Ineligibility, and Voluntary Exclusion**

Form E shall be completed by the Proposer and Major Participants and shall be submitted with the Proposal.

Form E, with respect to Subcontractors and others than the Proposer and Major Participants, may be submitted up to 10 Days after the Proposal Due Date or after the subcontract has been executed.

**3.2.2.6. Use of Contract Funds for Lobbying**

The Proposer shall submit Form F regarding use of Contract funds for lobbying.

**3.2.2.7. Equal Employment Opportunity**

Form G shall be completed by the Proposer and Major Participants and shall be submitted with the Proposal.

Form G, with respect to Subcontractors and others besides the Proposer and Major Participants, may be submitted up to 10 Days after the Proposal Due Date or after the Subcontract has been executed

**3.2.2.8. Authorization Documents**

**3.2.2.8.1. Organizational Documents**

The Proposer shall provide a copy of the articles of incorporation and bylaws of the joint venture agreement, partnership agreement, limited liability company operating agreement, or equivalent organizational documents for the Proposer and each Major Participant upon future written request by CDOT. The documents shall be consistent with the responsibilities to be undertaken by the Proposer and Major Participants under the Contract.

**3.2.2.8.2. Evidence of Good Standing and Qualification to do Business**

If the Proposer is a corporation or limited liability company, the Proposer shall provide evidence that the Proposer is in good standing in the state of its incorporation/organization and of current qualification to do business in the State of Colorado. If the Proposer is a joint venture or partnership, the Proposer shall provide the foregoing evidence for each member of the joint venture or each general partner.

**3.2.2.8.3. Authorization to Bind Proposer**

If the Proposer is a partnership, joint venture or limited liability company, of the governing bodies of the Proposer's general partners, joint venture partners, or members shall provide evidence in the form of a certified resolution of its governing body, evidencing the capacity of the person(s) signing the Proposal to bind the Proposer should CDOT elect to accept it.

The Proposer shall also provide appropriate evidence regarding the authority of any designated individual(s) to sign the certificates required by this RFP on behalf of the Proposer, joint venture, or limited liability company. Such authorization may take the form of a certified copy of corporate or other resolution(s) authorizing the same.

**3.2.2.8.4. Authorization to Negotiate**

The Proposer shall provide appropriate evidence regarding authorization of one or more individuals to participate in the negotiation process if necessary and make binding commitments to CDOT in connection with this RFP. Such authorization may take the form of a certified copy of corporate or other resolution(s) authorizing the same.

**3.2.2.8.5. Joint and Several Liability**

If the Proposer is a joint venture, partnership, or limited liability company, the Proposer shall provide a letter from each partner or member of the joint venture or limited liability company stating that the respective partner or member of the joint venture or limited liability company agrees to be held jointly and severally liable for any and all duties and obligations of the Proposer under the Proposal and under any Contract or other agreement arising there from.

**3.2.2.8.6. Disadvantaged Business Enterprise Good Faith Effort Affidavit**

Form S shall be completed by the Proposer and shall be submitted with the Proposal.

**3.2.2.9. Escrow Agreement**

The Proposer shall deliver with its Proposal three signed originals of the Escrow Agreement on Form H. The Proposer shall also deliver the Escrowed Proposal Documents (EPD) per Form H, and as specified in the Escrow Agreement, as specified in the Table 1-1 Project Milestones.

**3.2.2.10. Proposal Bond**

The Proposer shall submit a Proposal Bond in the sum and in the form set forth in Form L. The Proposal Bond shall be issued by a fully qualified surety company meeting the requirements set forth in Book 1.

#### 3.2.2.11. Form Q Additional Requested Elements (AREs)

The Proposer shall submit a Form Q showing any AREs that are included in Project within the Upset Amount.

### 3.2.3. Volume III - Technical Proposal

The Proposer shall submit via CDOT DCS, Volume III - Technical Proposal. The Technical Proposal shall not exceed 100 pages. Both 8.5 x 11 pages and 11 X 17 pages are considered to be 1 page and up to 10, 11 X 17 pages may be included in Volume III. Although 11 X17 pages are allowed it is highly encouraged to utilize the 11 X 17 pages only to present graphics, tables and other information that cannot be easily presented on 8.5 X 11 narrative. Forms, dividers and table of contents are not included in the 100 page limit. If there are ARE(s) included in the Proposal, the Proposer shall include in Volume III under a separate divider.

The Technical Proposal submission requirements, points available, and evaluation criteria are outlined in detail in Section 4.0.

### 3.2.4. Volume IV - Project Plans, Additional Requested Elements, Alternative Configuration Concepts, Alternative Technical Concepts, ~~and Project Schedule,~~ and Civil Rights Plan

The Proposer shall submit via CDOT DCS, Volume IV - Project Plans, ARE(s), ACC(s), ATC(s), Project -and-Schedule, and Civil Rights Plan. The information included in Volume IV is considered supporting documentation for Volume III Technical Proposal and will be utilized in the evaluation and scoring of Volume III. There is no page limit for Volume IV and is excluded from the Volume III, 100 page limit. See Section 3.3 and Section 5 for additional details.

#### 3.2.4.1. Basic Configuration Project Plans

Project plans for the Basic Configuration shall be prepared and submitted in accordance with Section 5.

#### 3.2.4.2. Additional Requested Elements

ARE(s) that the Proposers includes in its submission shall include Project plans that are included in Proposal Volume IV. AREs or portions of AREs that are incorporated into the Project shall redefine the Project Basic Configuration included in Book 2, Section 1, and will become the Proposer's Basic Configuration. These plans shall be prepared and submitted in accordance with Section 5, Volume IV.

#### 3.2.4.3. Approved Alternative Configuration Concepts

ACC(s), if incorporated into the Proposal, shall be included with the Proposal Volume IV. The Proposer shall provide CDOT's ACC Approval letters for each Approved ACC with the Proposal, as well as the complete submittal information that was the basis for CDOT's responses to the ACCs. ACC(s) that are incorporated into the Project shall redefine the Project Basic Configuration included in Book 2,

Section 1, and will become the Proposers Basic Configuration. If the ACC(s) requires Project plans they shall be included in Proposal Volume IV. These plans shall be prepared and submitted in accordance with Section 5, Volume IV.

#### **3.2.4.4. Approved Alternative Technical Concepts**

ATC(s), if incorporated into the Proposal, shall be included with Proposal Volume IV. The Proposer shall provide CDOT's ATC Approval letters for each Approved ATC in the Proposal, as well as the complete submittal information that was the basis for CDOT responses to the ATCs. ATC(s) that are incorporated into the Project shall redefine the Technical Criteria included in Book 2, Sections 2-21, and will become the Proposers Basic Configuration. If the ATC requires Project plans they shall be included in Proposal Volume IV. These plans shall be prepared and submitted in accordance with Section 5, Volume IV.

#### **3.2.4.5. Schedule**

The Proposer shall include a proposed Project schedule and narrative for evaluation in Proposal Volume IV describing commitments to completing all Work by the Project Completion Deadlines (Form P). This schedule shall be developed in accordance with the requirements set forth in this ITP and Book 2, Section 2. The schedule shall be prepared and submitted in accordance with Section 5, Volume IV.

#### **3.2.4.6. Draft Civil Rights Plan**

The Proposer shall include a proposed draft Civil Rights Plan for evaluation and shall be included with Proposal Volume IV. This draft Civil Rights Plan shall be developed in accordance with the requirements set forth in this ITP and Book 2, Section 2. The draft Civil Rights Plan shall be prepared and submitted in accordance with Section 5, Volume IV.

#### **3.2.4.7. Small and Disadvantaged Business Participation Plan (SDBPP)**

The Proposer shall submit certain components of the Small and Disadvantaged Business Participation Plan to include: (1) calculation of contract values to be used to calculate each DBE (Design and Construction) and ESB Goal; (2) a schedule of the Proposer's plan for achievement of the DBE and ESB Goals to include the Contractor's annual Participation Target for each DBE and ESB Goal by Contractor Year and further detailed by scope of work and associated dollar value across Contract Years that is sufficient to meet or exceed the DBE and ESB Goals (schedule of SDBPP); (3) a description of Good Faith Efforts (GFE) that the Proposer will use to obtain adequate DBE and ESB participation to meet the DBE and ESB contract goals and achieve the SDBPP. This SDBPP shall be developed in accordance with the requirements set forth in this ITP and Book 2, Section 2. The SDBPP shall be prepared and submitted in accordance with Section 5, Volume IV.

### **3.2.5. Volume V - Price Proposal (Form J)**

The Proposer shall submit via CDOT DCS, Volume V - Price Proposal. The Price Proposal shall be marked as confidential-proprietary information.

#### **3.2.5.1. Price Information (Form J)**

The Proposer shall indicate a breakdown of the pricing as indicated on Form J. The Proposer is advised the work on Form J encompass all of the Work, including all AREs included in the Proposal, although the WBS descriptions may not specifically identify each element of the Work.

The Proposer shall include a breakout on Form J of the elements included.

The Proposer may revise Form J to:

1. Add WBS activities.
2. Specifically identify each ARE or portions of AREs included in the Proposal
3. Include Approved ACCs/ATCs and ACCs/ATCs with Conditions included in the Proposal.

The Proposer shall provide a comment on Form J or attach an explanation describing the reasons for each revision. Except as provided in this paragraph, the Proposer shall not revise Form J.

#### **3.2.6. Volume VI - Upset Amount Determination**

The Proposer shall indicate on Form T whether or not the Proposer's Price shown on Form J is less than or equal to the Upset Amount defined in Section 1.6. If the Proposer's Price is over the Upset Amount, it will be declared non-responsive.

#### **3.2.7. Volume VII - Options Proposal**

Reserved.

### **3.3 Proposal Format**

The Proposer shall adhere to the format and page count by presenting information as clearly and concisely as possible. Documentation that is difficult to read may be deemed non-responsive. Justification shall be provided for any significant deviation from these guidelines.

The format is provided to promote uniformity in the responses to the RFP and to facilitate the evaluation process.

#### **3.3.1. Text**

Text shall be in English in a standard font, a minimum of 11-point type in height, single-spaced. A minimum font of 8-point type in height shall only be used for tables, figures, drawings, and graphics.

#### **3.3.2. Pages and Page Numbering**

For purposes of this Proposal, "page" shall mean one side of an 8.5 x 11 page, or one side of an 11 x 17 page. Volume I and Volume III have specific requirements for the

page size and page limits as set forth in Sections 3.2.1 and 3.2.3. Volume IV has specific page size requirements for plan drawings and schedule plots as noted below.

Plan drawings included in Volume IV, shall be on 11 x 17 pages and included in Volume IV with a separate tab.

Schedule plots included in Volume IV, shall be on 11 x 17 pages and included in Volume IV with a separate tab.

Pages must be numbered in each volume consecutively; (i.e., Volume I-1, Volume I-2, Volume II-1, Volume II-2, etc.). Page numbers shall be centered at the bottom of each page.

### **3.3.3. Proprietary Information, Trade Secrets or Confidential Information:**

Pages containing materials with proprietary, trade secrets, or confidential information should be clearly marked as confidential - proprietary information. In addition, the covers of any volumes containing any proprietary, trade secrets, or confidential information shall be marked accordingly.

### **3.3.4. Reproduction and Printing:**

The information presented in the electronic Proposal submission shall be easily printed by common printers.

## **3.4 Proposal Submission**

The Proposal, as defined, must be received by CDOT by the Proposal Due Date and time provided in Table 1-1. The entire Proposal shall be delivered electronically via the CDOT DCS as required in Section 2.8.1. The Proposer shall provide 1 complete searchable, bookmarked electronic file, compatible with Adobe Acrobat .PDF, of each Volume I thru VI. Each Volume 1 through VI shall be a separate .PDF file. The page numbering shall conform to the requirements above.

It is the Proposer's sole responsibility to see that its Proposal is received as required. Proposals received after the Proposal Due Date and time due shall be rejected without consideration or evaluation.

Each Proposal shall:

1. Identify the Proposer
2. Include the following: "Proposal for the Eisenhower Johnson Memorial Tunnel Drainage, Plumbing, Heat Trace (EJMT DPHT) Design Build Project, Project No. C 0703-482, Subaccount Number 24210". The Proposer may choose to identify information that is considered Confidential and Proprietary. If so, it shall be identified with the following words "**CONFIDENTIAL - PROPRIETARY INFORMATION.**" The Proposers are encouraged to review CDOT Policy Directive

508.2, CDOT's Open Records Act Procedure for Engineering Contracts for additional information.

3. Include the date of submittal
4. Be addressed to the following:

~~David Tedrow~~Neal Retzer, CDOT Project ~~Manager~~Director  
CDOT Region 1  
~~David~~Neal.TedrowRetzer@state.co.us  
425B Corporate Circle  
Golden, CO 80401

## 4.0 VOLUME III - TECHNICAL PROPOSAL REQUIREMENTS, POINTS AVAILABLE, AND EVALUATION CRITERIA

This Section 4 contains specific requirements for each part of Volume III - Technical Proposal, including maximum points available, contents, and evaluation criteria. Only Volume III will be evaluated with the use of supporting documents include in Volume IV. The four sections of the Technical Proposal correspond to the four Project goals described in Section 1.7. These goals are the basis for the Technical Proposal contents and evaluation.

### 4.1 Section One - Provide an innovative solution for the project elements that is durable, historically proven, easily maintained, and compatible with current and future improvements in the EJMT within the project budget.

The Proposer's technical approach to providing an innovative solution for the project elements that is durable, historically proven, easily maintained, and compatible with current and future improvements in the EJMT within the project budget will be evaluated and scored in the following areas:

1. Provide solutions to complete the Project's Basic Configuration and AREs that maximizes the integration of the project goals.

#### 4.1.1. Submittal Requirements

The Proposer is encouraged to provide as much additional construction, defined by the AREs, as possible.

The Proposer must provide a narrative describing the Proposer's solutions to complete the Project's Basic Configuration, including AREs and portions of AREs.

The narrative should include the following conceptual key design elements for the Basic Configuration and each ARE in the Proposal at a minimum:

1. Fire system/hydrant supply in the north and south tunnels, including routing of horizontal and vertical piping through the plenum and roadway levels, along with typical sections.

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2. Abandonment of the existing water line and hydrants under the roadway of the north tunnel.
3. Domestic raw water supply line connecting west and east portals in the north tunnel.
4. Freeze protection for fire hydrant and domestic water supplies, seep mains and collector lines, roadway drainage, and exterior roof drains.
5. Electrical circuitry upgrades.
6. Emergency backup generator location and routing of supporting utilities.
7. Air supply/exhaust fan motor reconstruction, including phasing.
8. Upgrades to water treatment facilities.
9. Permitting, testing, integration, and commissioning of all Project improvements.
10. Minimizing aesthetic impacts resulting from the proposed improvements at EJMT and the surrounding area.
11. Approach to incorporating innovation into the project design, including considerations to minimize future maintenance, improve reliability of the constructed elements, and enhance access for CDOT personnel for maintenance and inspection activities.
12. Approach to validation of the functionality (operations and maintenance) of the proposed improvements during the design process.
13. Discussion on how the proposed design will be compatible with or accommodate future CDOT infrastructure improvements at EJMT, such as lighting, mechanical, electrical, and plumbing upgrades; Supervisory Control and Data Acquisition (SCADA) and systems upgrades; and a future maintenance facility constructed adjacent to the west portal of EJMT.
14. Approach and commitments that maximize the efficiency of the ARE Work within the project budget and schedule.
15. Discuss any benefits to CDOT resulting from any Approved (with or without Conditions) ACCs/ATCs included in the Basic Configuration or AREs.
16. Discuss any value-added elements that enhance the Project goals.

**Table 4-1 Maximum Points Available**

| Provide Solutions to Complete the Project’s Basic Configuration and AREs                                      | Points |
|---|--------|
| Understanding of key conceptual design elements for Basic Configuration - Fire System/Hydrant Supply          | 10     |
| Understanding of key conceptual design elements for Basic Configuration - Domestic Water Line                 | 5      |
| Understanding of key conceptual design elements for Basic Configuration - Heat Tape/Freeze Protection Systems | 10     |



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| Provide Solutions to Complete the Project’s Basic Configuration and AREs   | Points    |
|--|-----------|
| Understanding of key conceptual design elements for Basic Configuration - Electrical Circuitry Upgrades                        | 10        |
| Understanding of key conceptual design elements for Basic Configuration - Emergency Backup Generator                           | 5         |
| Understanding of key conceptual design elements for Basic Configuration - Air Supply/Exhaust Fan Rebuild                       | 2.5       |
| Understanding of key conceptual design elements for Basic Configuration - Water Treatment Plant Upgrades                       | 2.5       |
| Inclusion and understanding of ARE #1 - Provide power conditioners for FFSS and CCTV systems                                   | 2         |
| Inclusion and understanding of ARE #2 - Label manholes and walls for ease of maintenance access with signage in tunnels        | 0.5       |
| Inclusion and understanding of ARE #3 - Re-label FFSS zones in programming to be consistent with the physical tunnel locations | 0.5       |
| Inclusion and understanding of ARE #4 - Upgrade 480V switch gear   | 2         |
| <b>Section 1 Maximum Subtotal Points:</b>  | <b>50</b> |

**4.1.2. Evaluation Criteria**

The Basic Configuration will be evaluated to determine the Proposer’s understanding of key conceptual design elements. CDOT will evaluate the Proposal based on understanding of:

1. Approach to fire system/hydrant design and construction that maximize the efficiency of the Basic Configuration Work within the project budget and schedule while meeting or exceeding the Technical Criteria.
2. Approach to abandonment of the existing water line and hydrants under the roadway of the north tunnel that maximize the efficiency of the Basic Configuration Work within the project budget and schedule while meeting or exceeding the Technical Criteria.
3. Approach to connecting the west and east portal domestic water supply line in the north tunnel that maximizes the efficiency of the Basic Configuration Work within the project budget and schedule while meeting or exceeding the Technical Criteria.
4. Approach to the design and construction of freeze protection systems for the fire hydrant and domestic water supplies, seep mains and collector lines, roadway drainage, and exterior roof drains that maximize the efficiency of the Basic Configuration Work within the project budget and schedule while meeting or exceeding the Technical Criteria.

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5. Approach to the design and construction of the electrical circuitry upgrades that maximize the efficiency of the Basic Configuration Work within the project budget and schedule while meeting or exceeding the Technical Criteria.
6. Approach to design and construction of the emergency backup generator and routing of supporting utilities that maximize the efficiency of the Basic Configuration Work within the project budget and schedule while meeting or exceeding the Technical Criteria.
7. Approach to phasing the air supply/exhaust fan motor rebuild construction to meet or exceed the Technical Criteria.
8. Approach to the design and construction of upgrades to water treatment facilities that maximize the efficiency of the Basic Configuration Work within the project budget and schedule while meeting or exceeding the Technical Criteria.
9. Approach to permitting, testing, integration, and commissioning of all Project improvements that meets or exceeds the Technical Criteria.
10. Approach and commitments to minimizing aesthetic impacts resulting from the proposed improvements at EJMT that meet or exceed the Technical Criteria.
11. Proposer's approach/commitments to incorporate innovative design solutions to minimize future maintenance and improve reliability of the required improvements at EJMT for a minimum of 20 years that meet or exceed the Technical Criteria.
12. Proposer's approach/commitments to provide enhanced access and safety for CDOT personnel to conduct maintenance and inspection activities at EJMT that meet or exceed the Technical Criteria.
13. Proposer's approach/commitments to validate the functionality of the designed improvements that meets or exceeds the Technical Criteria.
14. Proposer's approach/commitments to ensuring that CDOT is able to maintain operations of EJMT during construction, testing, and integration, including all fire and life safety systems and infrastructure, that meets or exceeds the Technical Criteria.
15. Proposer's approach to accommodating future CDOT infrastructure improvements at EJMT into the Project design that minimizes rework that meets or exceeds the Technical Criteria.
16. Benefits to CDOT resulting from any Approved (with or without Conditions) ACCs/ATCs included with the Proposal for the Basic Configuration.

The AREs will be evaluated to determine the Proposer's understanding of key conceptual design elements. CDOT will evaluate the Proposal based on inclusion of AREs and the understanding of:

1. Proposer's approach/commitments that maximize the efficiency of the ARE Work within the project budget and schedule while meeting or exceeding the Technical Criteria.
2. Benefits to CDOT for any ACCs/ATCs included with the Proposal for the AREs.

#### **4.2 Section Two - Minimize impacts to the traveling public, EJMT operations, and the EJMT fire life safety systems during construction and for the lifecycle of the constructed improvements.**

The Proposer's technical approach to minimize impacts during both construction and over the lifecycle of the constructed improvements will be scored on the following areas:

1. Approach and strategies to phasing of the Work that minimizes impacts to the traveling public and EJMT operations during construction.
2. Minimize full-closures of EJMT during construction.
3. Minimize full-closures of EJMT required after construction for routine operations and maintenance of the constructed improvements by CDOT EJMT personnel.
4. Develop an approach to managing traffic that minimizes travel times.

##### **4.2.1. Submittal Requirements**

Provide narratives that describe approaches and commitments to no full-closures of highways at EJMT and for minimizing inconveniences to the traveling public during both construction and for future operations and maintenance of the constructed improvements.

The narratives must include the following:

1. Approach and commitments to managing traffic that minimizes travel times during construction.
2. Approach and commitments to phasing of the Work that minimizes impacts to the traveling public and EJMT operations during construction.
3. Approach and commitments to construct the EJMT improvements that minimizes full closures of the highways. The Proposer shall identify and commit to a specific number of full closures necessary to complete the Work.
4. Approach and commitments to designing the EJMT improvements that minimizes the need for full-closures of the highways for CDOT to conduct routine operations and maintenance activities over the lifecycle of the EJMT improvements.
5. Approach to maintaining full functionality of the EJMT, including fire life safety systems, during construction.
6. Approach and commitments on how communication protocols for traffic management solutions will be integrated, communicated, and coordinated

between the Proposer, CDOT (both project staff and EJMT operations), and the traveling public will be incorporated into the Project.

7. Approach to coordinating with adjacent CDOT projects and contractors to minimize impacts to the traveling public along the I-70 mountain corridor.

**Table 4-2 Maximum Points Available**

| Minimize impacts to the traveling public, EJMT operations, and the EJMT fire life safety systems during construction and for the lifecycle of the constructed improvements  | Maximum Points |
|---|----------------|
| Approach to managing traffic that minimizes travel times  | 4              |
| Approach to construction phasing of the Work that minimizes impacts to the traveling public and EJMT operations   | 5              |
| Approach to minimizing full-closures of the highways during construction, including Proposer’s commitment to specific number of full-closures required to complete the Work | 2              |
| Approach to designing EJMT improvements that minimize future traffic impacts for operations and maintenance activities associated with the constructed improvements         | 2              |
| Approach to maintaining full functionality of the EJMT, including fire life safety systems, during construction.  | 5              |
| Approach to public and adjacent project communication   | 2              |
| <b>Section 2 Maximum Subtotal Points:</b>   | <b>20</b>      |

#### **4.2.2. Evaluation Criteria**

The section will be evaluated to determine the Proposer’s ability to meet or exceed the Project goal of minimizing impacts to the traveling public, EJMT operations, and the EJMT fire life safety systems during construction and for the lifecycle of the constructed improvements. CDOT will evaluate the section on the approach and benefits, including:

1. Full-closures of highways during construction.
2. The effectiveness of maintenance of traffic management approach and the impacts to travel times.
3. The effectiveness of the construction phasing approach on constructing the Work while minimizing impacts to the traveling public and EJMT operations.
4. The effectiveness of design management processes to minimize future traffic impacts for operations and maintenance activities associated with the constructed improvements.
5. Maintaining full functionality EJMT during construction, including fire life safety systems.

6. The effectiveness of Project communication and management processes as they relate to the traveling public and adjacent CDOT projects.
7. Project organization to provide appropriately qualified personnel at functional levels or authority and responsibility to execute the management of construction and traffic management for the Project.
8. Any ACCs/ATCs included for design and construction of the project that minimizes inconveniences to the traveling public during construction.

### **4.3 Section Three - Meet or exceed the project requirements**

The Proposer's technical approach to meet or exceed the project requirements will be scored on the following areas:

1. Meeting or exceeding the establish Project goals.
2. Key Personnel and organization chart.
3. Project management.
4. Safety management.
5. Quality management.
6. Budget management.
7. Risk management (including mitigation of unforeseen conditions).
8. Design and construction integration management.
9. Disadvantaged Business Enterprise/Equal Employment Opportunity (DBE/EEO) Plan.
10. Change management.
11. Stakeholder management, including CDOT, FHWA, and Department of Labor and Employment.

#### **4.3.1. Submittal Requirements**

Provide narratives that demonstrate understanding of and approaches and commitments to successfully manage the Project to meet or exceed the project requirements.

The narratives must include the following:

1. Approach and commitments to meeting or exceeding the Project goals.
2. Identification, description, and understanding of Project critical issues and approach to successfully resolving these issues.
3. Description of Key Personnel, including past experience, roles and responsibilities, and approach to managing the project team throughout design and construction.
4. Organization chart showing all required team members and communication and reporting structures.

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5. Approach and commitments to meeting or exceeding the project management Technical Criteria.
6. Approach and commitments to meeting or exceeding the safety management Technical Criteria.
7. Approach and commitments to meeting or exceeding the quality management Technical Criteria.
8. Approach and commitments to meeting or exceeding the budget management Technical Criteria.
9. Approach and commitments to meeting or exceeding the risk management Technical Criteria.
10. Approach and commitments to meeting or exceeding the design and construction integration management Technical Criteria.
11. Approach and commitments to meeting or exceeding the partnering/issue resolution Technical Criteria.
12. Approach and commitments to meeting or exceeding the DBE/EEO Technical Criteria, including meeting the DBE and OJT project goals; communicating with and training of Subcontractors at all tiers regarding compliance with the Civil Rights requirements; tracking Subcontractors at all tiers on compliance with the Civil Rights requirements; tracking and monitoring of civil rights trends and proposed strategies to develop resolutions to compliance issues that may be negatively trending or may be occurring on the Project; and innovative techniques of the Proposer to meet the Civil Rights requirements.
13. Approach and commitments to meeting or exceeding the change management Technical Criteria.
14. Approach and commitments to meeting or exceeding the Stakeholder management Technical Criteria.

**Table 4-3 Maximum Points Available**

| Meet or exceed the project requirements  | Maximum Points |
|--|----------------|
| Identification, description, and understanding of Project critical issues and approach to successfully resolving these issues                                | 5              |
| Key Personnel and Organizational Chart   | 5              |
| Approach and commitments to project management, including safety, quality, budget, risk, integration, partnering/issue resolution, change, and stakeholders. | 13             |
| Approach and commitments to DBE/EEO  | 2              |
| <b>Section 3 Maximum Subtotal Points:</b>  | <b>25</b>      |

### 4.3.2. Evaluation Criteria

The section will be evaluated to determine the Proposer's ability to meet or exceed the Project requirements. CDOT will evaluate the section on the approach and benefits, including:

1. Proposer's identification, description, and understanding of Project critical issues and effectiveness of the approach to resolve these issues.
2. Experience and ability of the Key Personnel to effectively manage and deliver the Project on schedule and budget.
3. Effectiveness of the organizational chart to deliver a project that meets or exceeds the project requirements.
4. Effectiveness of the project management approach and commitments to meet or exceed the project requirements.
5. Effectiveness of the safety approach with defined goals, employee empowerment and accountability, and patterns that show commitment to health and safety management.
6. Effectiveness of the quality approach during design and construction, including:
  - a. Strategies for plan development and checking to ensure consistency, accuracy, completeness, engineering standard compliance, contract compliance, and constructability.
  - b. Strategies for construction quality management including commitments to integration with the CDOT's quality assurance oversight, staffing, continuous quality improvement culture, and establishment, implementation, and maintenance of a quality management system.
7. Established protocols for Project First and conflict resolution for the Project.
8. Effectiveness of approach and commitments to meet or exceed DBE/EEO plan goals.
9. Communication and teamwork approach and protocols between internal Proposer team, between Proposer team and CDOT team, and between Proposer, CDOT, and Stakeholders.
10. Any value-added items that improve safety, quality, communications, or enhance the Project goals.
11. Any ACCs/ATCs included for design and construction of the project that meet or exceed the project requirements.

## 4.4 Section Four - Minimize the project delivery time

### 4.4.1. Submittal Requirements

#### 4.4.1.1. Narrative

The Proposer must provide narratives that describe the Proposer's solutions to minimize Project delivery time.

The Proposer must provide a narrative that describes the Proposer's solutions to complete the Project's scope that includes the following at a minimum:

1. Approach and commitments to meeting or beating the Project Completion Deadline. The Proposer must provide the specific date when the Proposer commits to achieving Project Completion for the project.
2. Approach and commitments to balancing cost and time while delivering the Project at or below budget, not only for the Proposer, but also for CDOT Project management.
3. The ability of the Proposer's organization to provide appropriately qualified personnel at all functional levels of authority and responsibility to execute the management of the design and construction for the Project. Thus minimizing delivery time.
4. A description of the Proposer's Work Breakdown Structure (WBS), including Project phases and major activities. Describe the inter-relationships between the WBS, phases, and major activities and how the breakdown facilitates coordination between design, review, and construction of the Project. The proposal shall describe how the WBS is consistent with the Proposer's organization and approach to management.
5. The Proposer's approach to development, review, and coordination with CDOT for Approval of the Contract Schedules, including updates as necessary.
6. The Proposer's organization and specific positions (including field personnel) that will be responsible for developing and progressing the Contract Schedules and for Process Control (PC) and Independent Quality Control (IQC) of the Contract Schedules.
7. Proposer's approach to managing the schedule, including updating and maintaining the Contract Schedules to reflect the scheduled Work, required deliverables tracking, and how the Contract Schedules will be utilized to progress the Work.
8. Proposer's approach to tracking the information necessary to update each Monthly Progress Schedule to reflect the exact manner in which the Proposer executed the Construction Work.
9. Proposer's approach to coordinating schedules with other Contractors and projects at EJMT.

#### **4.4.1.2. Schedule**

The Proposer shall also provide a proposal Project schedule, in chart form, for the Project. The proposal Project schedule shall show the WBS, phases, and major activities. The schedule shall show the sequence and continuity of operations, as well as the date of physical completion. Some activities that are Project-wide, such as IQC/PC, may be shown as stand-alone activities on the schedule.

The schedule shall be broken down to show activities in sufficient detail to show construction sequencing and significant Project interrelationships.



The schedule shall show the activity relationships, duration, and timing of the phases, and activities for engineering, construction, and maintenance during construction. The schedule shall reflect major Project milestones, if any, designated to be CDOT or the Proposer.

Include dates for achieving Project Completion and Final Acceptance deadlines and other key dates or durations to support additional milestones. The schedule shall also include the duration of each construction stage in Days and the anticipated start-date of each stage. The schedule detail should be limited to Level IV WBS elements.

**Table 4-4 Maximum Points Available**

| Minimize Project delivery time  | Maximum Points |
|---|----------------|
| Describe strategy and commitments to deliver the Project within the proposed schedule | 3              |
| Project Completion Date commitment  | 2              |
| <b>Section 4 Maximum Subtotal Points:</b>   | <b>5</b>       |

#### **4.4.2. Evaluation Criteria**

The section will be evaluated based upon the Proposer’s ability to meet or exceed the Project goal of minimizing Project delivery time. CDOT will evaluate this section on the approach, commitments, and benefits, including:

1. Minimizing Project delivery time while keeping cost at or below the budget for both the Proposer and CDOT project management.
2. Any ACCs/ATCs included for design and construction of the Project that minimizes the time required to deliver the project.
3. Effectiveness of the Proposer’s WBS and preliminary schedule in demonstrating the Proposer’s understanding of the scope and delivery requirements for the Project.
4. The Proposer with the earliest Project Completion date commitment will be awarded all of the allocated points for this sub-evaluation item. All other Proposers with a later Project Completion date commitment will receive no points for this sub-evaluation item. In the event of a tie, both Proposer’s will receive the full allocated points for this sub-evaluation item. All Proposer’s must meet or beat the Project Completion Deadline.

#### **4.5 Scoring Sections One, Two, Three, and Four**

The following “Adjectival Ratings” and “Percent of Maximum Score,” exclusive of the pass/fail components, will be used for scoring Sections One, Two, Three, and Four of Volume III - Technical Proposal and are listed below:

| Adjective Rating | Description   | Percent of Max. Score |
|------------------|---|-----------------------|
| Excellent (E)    | Proposal supports an extremely strong expectation of successful Project performance if ultimately selected as the Contractor. Proposal indicates significant strengths and/or a number of minor strengths and no weaknesses. Proposer provides a consistently outstanding level of quality.   | 100 - 90 %            |
| Very Good (VG)   | Proposal indicates significant strengths and/or a number of minor strengths and no significant weaknesses. Minor weaknesses are offset by strengths. There exists a small possibility that, if ultimately selected as the Contractor, the minor weaknesses could slightly affect successful Project performance adversely.                                  | 89 - 75 %             |
| Good (G)         | Proposal indicates significant strengths and/or a number of minor strengths. Minor and significant weaknesses exist that could detract from strengths. While the weaknesses could be improved, minimized, or corrected, it is possible that if ultimately selected as the Contractor, the weaknesses could adversely affect successful Project performance. | 74 - 51 %             |
| Fair (F)         | Proposal indicates weaknesses, significant and minor, which are not offset by significant strengths. No significant strengths and few minor strengths exist. It is probable that if ultimately selected as the Contractor, the weaknesses would adversely affect successful Project performance.  | 50 - 25 %             |
| Poor (P)         | Proposal indicates existence of significant weaknesses and/or minor weaknesses and no strengths. Proposal indicates a strong expectation that successful performance could not be achieved if submitter were selected as the Contractor.  | 24 - 0 %              |

All other Volumes will have a responsiveness review in accordance with Section 6 and as shown in Table 6-1.

## 5.0 Volume IV: Supporting Documents for Volume III, Project Plans, AREs, ACCs, ATCs, Project Schedule, and Civil Rights Plan

### 5.1 Project Plans with included AREs, ACCs, and ATCs

Project plans shall show all major Work elements needed to complete the Basic Configuration. The Proposer shall incorporate any AREs, ACCs, ATCs that are included in the Proposal within the Upset Amount into the Project and this shall become the Proposers Basic Configuration.

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The Proposer shall provide Project plans that show all major Work elements needed to complete the Proposer's Basic Configuration, including AREs and ACCs/ATCs. Plan and Profile drawings shall be at 1 inch equals 100 feet scale showing all major Work elements for the Project. The Proposer should use color, single-sided individual sheets (not double sided), and maximum page size of 11 x 17. These drawings are exempt from the page limit and there are no suggested page limits.

Project plans shall show the following items, at a minimum:

1. All of the Project construction within defined Project limits.
2. Plan of each tunnel
3. Site plan of east and west main electrical rooms.
4. Proposed fire system/hydrant supply in the north and south tunnels, including routing of horizontal and vertical piping through the plenum and roadway levels
5. Typical sections of each tunnel, showing the plenum, traveled roadway, under the roadway, and proposed improvements and connections to existing infrastructure.
6. Proposed domestic raw water supply line connecting west and east portals in the north tunnel.
7. Freeze protection/heat trace details, limits, and block diagrams for fire hydrant and domestic water supplies, seep mains and collector lines, roadway drainage, and exterior roof drains.
8. One-line diagrams of electrical circuitry, emergency generator system and switchgear tie-in, and demolition.
9. Emergency backup generator location and routing of supporting utilities.
10. Air supply/exhaust fan motor reconstruction, including phasing.
11. Upgrades to water treatment facilities.
12. Aesthetic treatments
13. Construction phasing for the Project, including maintenance of traffic.
14. Highlight deviations from reference drawings regarding horizontal and vertical alignments.
15. Approved (with or without Conditions) ACCs/ATCs included in the Basic Configuration.
16. Value-added elements that enhance the Project goals.

The Proposer may include any desired elements of the Reference Documents in its Project plans, but is cautioned that it is not entitled to rely on any elements of the Reference Documents except those that are incorporated in the Contract Documents by reference in the Contract Documents.

The Proposers Project plans that incorporate any included AREs ACCs/ATCs into Proposes Basic Configuration will be used to ensure the Proposer's commitment to satisfying the requirements of the Project Basic Configuration and Project AREs. These Project plans will

be used to support and evaluate the Proposer’s Technical Approach described in Volume III.

## 5.2 ACCs/ATCs

The Proposer shall provide CDOT’s ACC or ATC Approval letters for pre-Approved ACCs/ATCs or ACC/ATCs with Conditions.

## 5.3 Project Schedule

Provide Project schedule on 11 x 17 page size to support the Proposer’s schedule commitments and Project Management Plan described in Volume III.

## 5.4 Draft Civil Rights Plan

Provide a draft Civil Rights Plan as required by that meets the requirements of Book 1, Section 7 and Book 2, Section 2.

# 6.0 Evaluation of Proposals

## 6.1 Proposal Evaluation and Scoring

A summary of the Proposal evaluation and scoring is provided in Table 6-1.

Table 6-1 Proposal Evaluation and Scoring

| Volume   | Evaluation Factor          |
|--|----------------------------|
| Volume I: Executive Summary  | Responsiveness Review      |
| Volume II: Proposer Information, Forms and Certifications  | Responsiveness Review      |
| Volume III: Technical Proposal   | Maximum 100 Total points   |
| Section 1: Provide an innovative solution that is durable, historically proven, easily maintained, and compatible with current and future improvements in the EJMT within the project budget | Maximum Total 50 points    |
| Section 1-1: Basic Configuration - Fire System/Hydrant Supply  | Maximum Subtotal 10 points |
| Section 1-1: Basic Configuration - Domestic Water Line   | Maximum Subtotal 5 points  |
| Section 1-1: Basic Configuration - Heat Tape/Freeze Protection Systems   | Maximum Subtotal 10 points |
| Section 1-1: Basic Configuration - Electrical Circuitry Upgrades   | Maximum Subtotal 10 points |
| Section 1-1: Basic Configuration - Emergency Backup Generator  | Maximum Subtotal 5 points  |

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| <b>Volume</b>  | <b>Evaluation Factor</b>       |
|--|--------------------------------|
| Section 1-1: Basic Configuration - Air Supply/Exhaust Fan Rebuilds   | Maximum Subtotal 2.5 points    |
| Section 1-1: Basic Configuration - Water Treatment Plant Upgrades  | Maximum Subtotal 2.5 points    |
| Section 1-2: AREs  |                                |
| ARE #1   | Maximum Subtotal 2 points      |
| ARE #2   | Maximum Subtotal 0.5 points    |
| ARE #3   | Maximum Subtotal 0.5 points    |
| ARE #4   | Maximum Subtotal 2 points      |
| <b>Section 2: Minimize impacts to the traveling public, EJMT operations, and the EJMT fire life safety systems during construction and for the lifecycle of the constructed improvements</b> | <b>Maximum Total 20 points</b> |
| Approach to managing traffic that minimizes travel times   | Maximum Subtotal 4 points      |
| Approach to construction phasing of the Work that minimizes impacts to the traveling public and EJMT operations  | Maximum Subtotal 5 points      |
| Approach to minimizing full-closures of the highways during construction, including Proposer's commitment to specific number of full-closures required to complete the Work                  | Maximum Subtotal 2 points      |
| Approach to designing EJMT improvements that minimize future traffic impacts for operations and maintenance activities associated with the constructed improvements                          | Maximum Subtotal 2 points      |
| Approach to maintaining full functionality of the EJMT, including fire life safety systems, during construction.   | Maximum Subtotal 5 points      |
| Approach to public and adjacent project communication  | Maximum Subtotal 2 points      |
| <b>Section 3: Meet and exceed the project requirements</b>   | <b>Maximum Total 25 points</b> |
| Identification, description, and understanding of Project critical issues and approach to successfully resolving these issues  | Maximum Subtotal 5 points      |
| Key Personnel and Organizational Chart   | Maximum Subtotal 5 points      |
| Approach and commitments to project management, including safety, quality, budget, risk, integration, partnering/issue resolution, change, and stakeholders.                                 | Maximum Subtotal 13 points     |
| Approach and commitments to DBE/EEO  | Maximum Subtotal 2 points      |

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| <b>Volume</b>   | <b>Evaluation Factor</b>   |
|---|--|
| <b>Section 4: Minimize the project delivery time</b>  | <b>Maximum Total 5 points</b>  |
| Describe strategy and commitments to deliver the Project within the proposed schedule                 | Maximum Subtotal 3 points  |
| Proposer with earliest Project Completion commitment  | Maximum Subtotal 2 points  |
| <b>Volume IV: Project Plans, AREs, ACCs/ATCs, Project Schedule, Civil Rights Plan (CRP and SDBPP)</b> | Supporting Documents for Volume III Evaluations<br>No Points awarded for Volume IV |
| <b>Volume V: Price Proposal (Form J)</b>  | Responsiveness Review  |
| <b>Volume VI: Upset Amount Determination (Form T)</b>   | Responsiveness Review  |
| <b>Volume VII: Options Proposal - Reserved</b>  | N/A  |

*The maximum number of points allocated to Volume III - Technical Proposal Sections 1, 2, 3, and 4 with supporting documents in Volume IV. Actual points awarded shall be determined by the evaluation criteria identified in Volume III, Evaluation Sections 1, 2, 3, and 4.*

## **6.2 Responsiveness Evaluation and Review**

Volume I, Executive Summary, Volume II, Proposer Information, Forms and Certifications, Volume V, Price Proposal, and Volume VI, Upset Amount Determination the Proposal, will be evaluated for responsiveness. A “responsive” rating will be assigned to each of these Volumes of the Proposal, provided they conform to the requirements this ITP. Failure to achieve responsiveness will result in the Proposal being declared non-responsive. A Proposal must receive a “responsive” for the Proposal to be further evaluated.

Failure to submit information in the manner, format, and detail specified in this ITP will result in the Proposal receiving a responsiveness failure determination, and the Proposal will be declared non-responsive.

The Proposals will be reviewed for:

1. The Proposal’s conformance to the organization and format set forth in this ITP.
2. The responsiveness of the Proposer to the requirements set forth in the RFP.
3. Minor informalities, irregularities, and apparent clerical mistakes that are unrelated to the technical content of the Proposals.

CDOT will have the right to submit written questions to the Proposer regarding the Proposal for the following purposes:

1. Resolving any minor uncertainties or to obtain clarifications concerning the Proposal.
2. Resolving any suspected mistakes by calling them to the attention of the Proposer.
3. Providing the Proposer a reasonable opportunity to submit revisions resulting from the questions related to minor informalities and apparent clerical misstates that are unrelated to the technical content of its Proposal.

Those Proposals deemed not responsive to the RFP at CDOT's sole discretion may be excluded from further consideration, and the Proposer will be so advised. CDOT reserves the right to exclude from consideration any Proposer whose RFP contains a misrepresentation.

### **6.2.1. Proposer's Price**

As part of the responsiveness evaluation and review, CDOT will determine whether the Proposer has indicated on Form J that its Technical Proposal and any AREs/ACCs/ATCs submitted in accordance with this ITP and other Contract Document requirements are included in the Proposer's Contract Price and if it is within the Project Upset Amount, the Proposer's Price shall be at or below the Project Upset Amount to be considered responsive.

## **6.3 Additional Information**

CDOT may at any time request additional information from the Proposer or may request the Proposer to verify or certify certain aspects of its Proposal.

## **6.4 Oral Presentations**

CDOT reserves the right to invite the Proposers to make oral presentations in accordance with guidelines established by CDOT.

## **6.5 Best Value Determination**

Award of the Project shall be based on a best value determination. In order for the Proposal to go through the best value determination the Proposal must first be declared responsive. The responsive Proposal that achieves the highest score on the Technical Proposal adjusted by the Proposer's Price will represent the best value to CDOT. The Proposer with the highest score will then be determined to have the Best Value Proposal and will be selected by CDOT.

The Total Best Value Proposal shall be determined by the following formula:

$$\text{Total Score} = \text{TS} * (\text{UA} / \text{PP})$$

Where: TS=Technical score as determined by the evaluations of Volume III, Sections 1, 2, 3, and 4 (Volume IV will be used to as supporting documents to evaluate Volume III)

UA=Upset Amount

PP=Proposer's Price

To ensure transparency and build continued trust with the industry, CDOT will disclose each Proposer's Technical Proposal Score and Proposer Price. This approach of revealing the Apparent Selected Proposer is in complete compliance with Federal Regulation, State Statute for Bid Opening and Design Build Processes. In addition, all Technical Evaluations shall be completed blind and without influence of the price component of the Proposals.

## **6.6 Authorization of Proposal Evaluation Board (CDOT Management)**

The CDOT Project Director will present the selection results to the Project's Program Engineer and the CDOT Chief Engineer and recommend that they authorize Award, negotiations, Best and Final Offers (BAFOs), or rejection of all Proposals, as detailed below.

### **6.6.1. Award Without Negotiations**

The CDOT Project Director may request Award of the Contract without negotiations to the Proposer with the Best Value Proposal.

### **6.6.2. Negotiations**

The CDOT Project Director may request authorization to proceed with negotiations prior to Award. Such negotiations shall be limited to allocation of the Price Proposal among the various Work Breakdown Structure (WBS) items desired by CDOT, or any factors affecting the Project which have become known after the date of issuance to the last Addendum to this RFP.

### **6.6.3. Best and Final Offers**

If two Proposals are submitted within the Upset Amount and submitted/signed on Form J, CDOT does not intend to request BAFOs, but reserves the right to do so. If only one or no Proposal is submitted with the Proposal Price Form J signed, CDOT may also request BAFOs.

If the CDOT Project Director determines discussions are necessary, the CDOT Project Director may request authorization to enter into discussions with the Proposers, revise the RFP, and request BAFOs.

At the conclusion of the discussions, a final common cut-off date, which allows a reasonable opportunity for submission of written final revisions, will be established and those Proposers selected to remain will be notified to submit Proposal revisions. CDOT will consider the revised information and reevaluate and revise ratings as appropriate.



#### 6.6.4. Rejections of Proposals

CDOT may reject all Proposals without BAFOs.

### 7.0 Procurement Requirements

#### 7.1 Receipt of Request for Proposals Documents and Other Notices

The Proposer shall notify CDOT in writing via the CDOT DCS of any changes in the contact information for any notices or Addenda to be sent to the Proposer by CDOT. Failure to notify CDOT may result in the Proposer failing to receive Addenda or other important communications from CDOT, for which CDOT shall not be responsible.

Upon the Proposer's receipt of the RFP or any Addenda issued, the Proposer shall acknowledge receipt to CDOT by responding within the CDOT DCS.

#### 7.2 Examination and Interpretation of Request for Proposals Documents

The Proposer shall be solely responsible for examining, with appropriate care, the RFP Documents, including any Addenda issued, and for informing itself, with respect to any and all conditions that may in any way affect the amount of the Proposal, the nature of the Proposal, or the performance of the Work in the event of Award. Failure of the Proposer to so examine and inform itself shall be its sole risk and CDOT will provide no relief for error or omission.

The Proposer shall be responsible for:

1. At its election, submitting comments on the Form of Contract.
2. Requesting clarification or interpretation of any material discrepancy, deficiency, ambiguity, error, or omission contained therein, or of any provision which the Proposer otherwise fails to understand.

Any such comments or requests shall be considered RFIs and shall be submitted in writing via the CDOT DCS to ~~David Tedrow~~Neal Retzer, CDOT Project ~~Manager~~Director.

Written RFCs and RFIs must be transmitted to CDOT no later than the date shown in the Proposal schedule. If CDOT determines, in its sole discretion, that such comments or clarifications require a change to the RFP Documents, CDOT will prepare and issue an Addenda to the RFP. CDOT will not be bound by, and the Proposer shall not rely on, any oral communication regarding the RFP Documents. CDOT will respond to RFCs and RFIs by posting responses via CDOT's DCS. It is the sole responsibility of the Proposer to ensure that CDOT receives any RFCs and RFIs by the date indicated in the ITP, and to verify that CDOT has responded.

If the Proposer chooses to meet or have discussions with other agencies or entities beyond the release of the Final RFP during the Proposal process, the Proposer shall be responsible for verifying any information received from such meetings or discussions with CDOT.

### **7.3 Addenda**

CDOT reserves the right to revise the RFP Documents. Such revisions, if any, will be announced by Addenda to the RFP Documents (“Addenda”). CDOT will also identify questions received from Proposers (anonymously) and answers given by CDOT (“Questions and Answers”). Copies of Addenda and Questions and Answers will be furnished to all short listed firms via CDOT’s DCS.

If any Addenda includes changes that significantly impact this RFP, as determined in CDOT’s sole discretion, CDOT may set a new Proposal Due Date. The announcement of such new date, if any, will be included in the Addenda.

The Proposer shall acknowledge receipt of all Addenda in its Proposal Letter (Form A). Failure to acknowledge receipt of all Addenda may cause the Proposal to be deemed non-responsive and be rejected.

### **7.4 (Reserved)**

### **7.5 Improper Conduct**

If the Proposer, or anyone representing or acting on behalf of or at the direction of the Proposer, offers or gives any advantage, gratuity, bonus, discount, bribe, or loan of any sort to CDOT, including agents or anyone representing CDOT at any time in connection with this RFP or the Contract, CDOT shall immediately disqualify the Proposer, claim the Proposal Bond, and may sue the Proposer for damages.

### **7.6 Withdrawal of Proposal After Proposal Due Date**

The Proposer understands and agrees that if the Proposer withdraws all or any part of its Proposal within 60 days after the Proposal Due Date without the written consent of CDOT, the Proposer shall forfeit its Proposal Bond and will be disqualified from receiving a stipend.

### **7.7 Responsive Proposal**

The Proposer shall provide responses to all information as outlined in this ITP and requested in this RFP for the Proposal. Failure to provide the requested information may result in CDOT, at its sole discretion, determining that a Proposal is non-responsive and should be rejected. A Proposal will be considered non-responsive if it seeks to qualify or change any of the terms and conditions of the Contract; to limit or modify the bonds, insurance, or warranties required; or if the Proposal Bond is not provided.

### **7.8 Stipend**

CDOT has determined that it is appropriate to Award a stipend to the unsuccessful Proposers that provide a fully responsive, but unsuccessful Proposal (including all BAFOs, if any) that is deemed acceptable by CDOT. A stipend will be allowed for non-responsive Proposals based upon Proposer’s Price over the upset amount only, as indicated on Form J, provided that (1) the Proposer completes a BAFO, if applicable, and (2) is responsive in all other areas. The amount of the stipend shall be \$50,000.00 and shall be provided to such Proposer within 90 Days after Award of the Contract.

The submission of a Proposal to an RFP does not constitute the Proposer's acceptance of the stipend as full payment for all technical solutions and design concepts contained in the Proposal. The Proposer shall have the option of refusing the stipend and not transferring ownership of all technical solutions and design concepts contained in the Proposal.

The Proposer must notify CDOT within 7 calendar Days after the selection if they intend to Accept the Stipend. If the Proposer Accepts the stipend, CDOT will be entitled to use any and all concepts, ideas, ACCs/ATCs, and information contained in its Proposal without limitation or in connection with a subsequent procurement for the Project or any other project, without any obligation to pay any additional compensation, consideration, or value to the unsuccessful Proposer.

In no event shall any Proposer that is selected for Award, but fails to satisfy the Award conditions set forth in Section 8.0 Contract Execution, below, be entitled to receive a stipend.

Notwithstanding the foregoing, if the second-highest ranked Proposer becomes the selected Contractor as a result of the failure of the higher-ranked Proposer to comply with the Award conditions set forth in Section 8.0 Contract Execution, such Proposer(s) shall no longer be entitled to the stipend.

A sample stipend purchase order has been provided for information in Form U.

## **7.9 Ownership of Proposals**

All documents submitted by the Proposer in response to this RFP shall become the property of CDOT and will not be returned to the Proposer. The concepts and ideas in the information contained in the Proposal, including any proprietary, trade secret, or confidential information (exclusive of any patented concepts or trademarks) submitted by the Proposer, shall also become the property of CDOT if:

1. The successful Proposer receives Award and execution of the Contract; and
2. The unsuccessful Proposer(s) accepts payment of the stipend.

## **7.10 Colorado Open Records Act**

Except for the Escrowed Proposal Documents (EPD), as defined in Section 7.12, below, all records, documents, drawings, plans, specifications, and other materials relating to the conduct of CDOT business, including materials submitted by the Proposer, are subject to the provisions of the Colorado Open Records Act (Colorado Revised Statutes [C.R.S.] sections 24-72-201, et seq.) and any other laws and regulations applicable to the disclosure of documents submitted under this RFP. Such laws govern CDOT's use and disclosure of records. Consult CDOT PD 508.2 for CDOT's business practice regarding when and if specific documents are available under CORA and Colorado law and to clarify when and if which documents are protected.

During the Proposal process, including any BAFOs and negotiation period, CDOT will accept materials clearly and prominently labeled "PROPRIETARY," "TRADE SECRET," or

“CONFIDENTIAL” by the Proposer. Any such proprietary information, trade secrets, or confidential commercial and financial information that a Proposer believes should be exempted from disclosure shall be specifically identified and marked as such. Blanket, all-inclusive identifications by designation of whole pages or sections as containing proprietary information, trade secrets, or confidential commercial or financial information shall not be permitted and shall be deemed invalid. CDOT will advise the Proposer of any request pursuant to the Colorado Open Records Act and any other applicable laws for the disclosure of any material properly labeled as proprietary, trade secret, or confidential so as to allow the Proposer the opportunity to protect such materials from disclosure. Under no circumstances, however, will CDOT be responsible or liable to the Proposer or any other party for the disclosure of any such labeled materials, whether the disclosure is deemed required by law, by an order of court, or occurs through inadvertence, mistake, or negligence on the part of CDOT or its officers, employees, contractors, or consultants.

CDOT will not advise a Proposer as to the nature or content of documents entitled to protection from disclosure under the Colorado Open Records Act or other applicable laws, as to the interpretation of the Colorado Open Records Act, or as to the definition of trade secret. The Proposer shall be solely responsible for all determinations made by it under applicable laws, and for clearly and prominently marking each and every page or sheet of materials with PROPRIETARY,” “TRADE SECRET,” or “CONFIDENTIAL” as it determines to be appropriate. Each Proposer is advised to contact its own legal counsel concerning the Colorado Open Records Act, other applicable laws, and their application to the Proposer’s own circumstances.

In the event of litigation concerning the disclosure of any material submitted by the Proposer, CDOT’s sole involvement will be as a stakeholder retaining the material until otherwise ordered by a Court, and the Proposer shall be responsible for otherwise prosecuting or defending any action concerning the materials at its sole expense and risk.

## **7.11 Changes in Proposer’s Organization**

If there are any changes, including new or deleted Major Participants or Key Personnel in the Proposer’s organization from those shown in the SOQ, the Proposer shall obtain written Approval of the change from CDOT prior to submitting its Proposal. The last date for submittal of changes to Key Personnel or Major Participants is the Last Date for Proposer Submittals of Request for Information per the proposal schedule, above. Such requests must be accompanied with the information specified in the SOQ. If a Major Participant is being deleted, the Proposer must submit information as may be required by CDOT to demonstrate that the changed Proposer team, Major Participant, or Key Personnel still meets the SOQ criteria (both responsiveness and qualitative). CDOT is under no obligation to approve any such changes and may do so in its sole discretion.

## **7.12 Escrowed Proposal Documents**

### **7.12.1. Format of Escrowed Proposal Documents**

The EPDs shall contain information regarding the Proposer’s assumptions made in developing Forms J and K (Reserved) in its Proposal. The Proposer shall submit the EPDs in such format as it used in preparing of their Proposal.

### 7.12.2. Review of Escrowed Proposal Documents

The Proposer will deliver EPDs, marked “Confidential,” to CDOT, as identified in the proposal schedule, above. Prior to Contract execution (or Contract negotiations, if applicable), the selected Proposer’s EPDs will be reviewed to determine completeness.

The Proposer shall deliver EPDs in a locked fireproof box to be held at the CDOT Region 1 Headquarters office in Denver, CO. The Proposer will retain the key and CDOT will retain the fireproof box.

Representatives of CDOT and the Proposer shall review the EPDs prior to Contract execution (or Contract negotiations, if applicable) to determine whether they are complete. Such representatives shall also organize the EPDs, labeling each page so that it is obvious that the page is a part of the EPDs and to enable a person reviewing the page out of context to determine where it can be found within the EPDs; and the representatives shall compile an index listing each document included in the EPDs and a brief description of the document and its location in the EPDs. CDOT will have the right to retain a copy of the index. If, following the initial organization, CDOT determines that the EPDs are incomplete, CDOT may require the Proposer to supply data to make the EPDs complete. Incomplete EPDs may render the Proposal non-responsive. The EPDs will be available for joint review in conjunction with Contract negotiations, if applicable, and as described in Book 1, Section 22.

### 7.12.3. CDOT’s Acknowledgment

CDOT acknowledges that the EPDs and the information contained therein are being provided to CDOT because such is an express prerequisite to entering into the Contract. CDOT agrees to defend against any Colorado Open Records Act requests that are made to inspect or photocopy the EPDs.

## 7.13 Protests

### 7.13.1. Protests Regarding Request for Proposal Documents

Any Proposer that is aggrieved in connection with the RFP may protest the terms of the RFP Documents prior to the time for submission of Proposals on the grounds that: (1) a material provision in the RFP Documents is ambiguous; (2) any aspect of the procurement process described herein is contrary to legal requirements applicable to this procurement; or (3) the RFP Documents exceed, in whole or in part, the authority of CDOT.

Protests regarding the RFP Documents shall be filed only after the Proposer has informally discussed the nature and basis of the protest with the CDOT Project ~~Manager~~Director in an effort to remove the grounds for protest. Written protests regarding the RFP Documents must completely and succinctly state the grounds for protest and shall include, as a minimum, the following:

1. The name and address of the protester.
2. Appropriate identification of the procurement by bid or Award number.

3. A statement of the reasons for the protest.
4. All available exhibits, evidence, or documents substantiating the protest.

Protests regarding the RFP Documents shall be filed by hand-delivery to the CDOT Project ~~Manager~~Director:

~~David Tedrow~~Neal Retzer, CDOT Project ~~Manager~~Director  
~~425A-425B~~ Corporate Circle  
Golden, CO 80401

The protests shall be delivered within 7 Days after the protester knows or should have known of the facts giving rise to the basis for the protest. The protester shall post a bond payable to CDOT in accordance with 2 Colorado Code of Regulations (CCR) 601-15, § 22, Protests. The Proposer is responsible for obtaining proof of delivery.

No hearing will be held on the protest, but the CDOT Chief Engineer or his designee shall decide on the basis of the written submissions. Any additional information regarding the protest should be submitted within the time period requested to expedite resolution of the protest. If any party fails to comply expeditiously with any request for information by the CDOT Chief Engineer or his designee, the protest may be resolved without such information. The CDOT Chief Engineer or his designee will issue a written decision regarding the protest within 7 Working Days after the protest is filed. The decision shall be based on and limited to a review of the issues raised by the aggrieved Proposer(s) and shall set forth each factor taken into account in reaching the decision. The decision shall inform the protesters of their right to appeal administratively or judicially in accordance with C.R.S. §§ 24-109-201-206. The decision is subject to appeal de novo to the Executive Director of CDOT or their designee, or to the District Court for the City and County of Denver. No stay of procurement will become effective.

If necessary to correct any error, omission, or ambiguity identified by the protest, CDOT will make appropriate revisions to the RFP Documents by issuing an Addenda. The failure of a Proposer to establish a basis for a protest regarding the RFP Documents shall preclude consideration of that basis in any protest of a selection, unless such basis was not and could not have been known to the Proposer in time to protest prior to the final date for such protests.

CDOT may extend the Proposal Due Date, if necessary, to include any such protest issues.

### **7.13.2. Protests Regarding Responsiveness, Best Value Evaluation, or Award**

Protests regarding CDOT's approval of changes in a Proposer's organization or decisions regarding responsiveness, best value evaluation rankings, or Award of the Contract must be filed by hand-delivery to the CDOT Project ~~Manager~~Director:

Neal Retzer, CDOT Project Director  
David Tedrow, CDOT Project Manager  
425A-425B Corporate Circle  
Golden, CO 80401

The protests must be delivered within 7 Days after CDOT releases notice of its decision of a change in a Proposer's organization or decision regarding responsiveness, rankings, or Award, as applicable. The protestant shall concurrently file a Notice of Protest with the other Proposers whose addresses may be obtained from the CDOT Project ManagerDirector. The Notice of Protest shall state with particularity, the grounds of the protest.

The procedures applicable to such protests are set forth in the Design-Build Regulations, 2 CCR 601-15, § 22, and in C.R.S. §§ 24-109-101 through 24-109-404. The CDOT Chief Engineer or their designee is authorized to settle and resolve any protest within 7 Working Days after the protest is filed.

## 7.14 Ex Parte Communications

During the RFP process, commencing as of the date of this RFP and continuing until Award of the Contract for the Project (or cancellation of the procurement), no employee, member, or agent of any Proposer shall have any ex parte communications regarding the procurement process for this Project with any member of CDOT, USDOT, the Federal Highway Administration (FHWA), or Ineligible Firms (see Section 7.15 of this ITP), except for communications expressly permitted by this ITP or the CDOT Project ManagerDirector. Any Proposer engaging in such prohibited communications may be disqualified at the sole discretion of CDOT. The foregoing shall not preclude any Proposer from participating in public meetings.

## 7.15 Ineligible Firms

CDOT has retained Atkins as the consulting firm to provide guidance in the Project's procurement process, and to provide advice on related contractual and technical matters. As such, Atkins, Michael Baker International, PK Electrical, Pinyon Environmental, and AquaWorks DBO are not eligible to participate as a member of any Proposer's team.

Requests for determination regarding this eligibility requirement may be submitted in writing to the CDOT Project ManagerDirector.

## 7.16 Project Rights and Disclaimers

Notwithstanding anything to the contrary contained in this RFP or the Contract, CDOT reserves the right, in its sole discretion, to:

1. Investigate the qualifications of any Proposer.
2. Require confirmation of information furnished by a Proposer.
3. Require additional evidence of qualifications to perform the Work.
4. Reject any or all of the Proposals.

5. Issue a new request for Proposals.
6. Cancel, modify, or withdraw the entire RFP, or any part hereof.
7. Issue Addenda, supplements, and modifications to this RFP.
8. Solicit BAFOs from the Proposers.
9. Appoint evaluation committees to review Proposals, and seek the assistance of outside technical experts and consultants in Proposal evaluation.
10. Revise and modify, at any time, the factors it will consider in evaluating responses to this RFP and to otherwise revise or expand its evaluation methodology.
11. Seek or obtain data from any source that has the potential to improve the understanding and evaluation of the responses to this RFP.
12. Waive or permit corrections to data submitted with any response to this RFP.
13. Waive or permit submittal of addenda and supplements to data previously provided with any responses to this RFP.
14. Approve or disapprove changes in the Proposer team or Proposal (a substitution of any of the major participants will be carefully scrutinized and may result in disqualification of the Proposer).
15. Require correction of or waive deficiencies, informalities, and minor irregularities in Proposals; or seek clarifications or modifications to a Proposal.
16. Disqualify any Proposer that changes its submittal without CDOT Approval.
17. Hold the Proposals and Proposal Bonds under consideration for a maximum of 120 days after the Proposal Due Date until the final Award is made.

This RFP does not commit CDOT to enter into the Contract or any other contract. CDOT assumes no obligations, responsibilities, or liabilities, fiscal or otherwise, to reimburse all or part of the costs incurred or alleged to have been incurred by parties considering a response to and/or responding to this RFP. Except for payment of the stipend to certain Proposers as described previously, all of such costs shall be borne solely by each Proposer.

In no event shall CDOT be bound by, or liable for, any obligations with respect to the Project until such time (if at all) as a Contract, in form and substance satisfactory to CDOT, has been executed and authorized by CDOT and, then, only to the extent set forth therein.

## **8.0 Contract Execution**

Within 30 Days after delivery by CDOT to the successful Proposer of the execution form of Contract, the successful Proposer shall deliver to CDOT the following:

1. Signed Contract (4 executed duplicate originals), together with evidence of the signatory authority of the signatories thereto. All original signatures shall be in BLUE ink.



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2. Approvals of each member or partner of the Proposer of the final form of the Contract.
3. Payment Bond in the form attached hereto as Form N, issued by the surety listed in the Proposal, or an equivalent surety meeting the requirements stated in the Contract, together with evidence of the signatory authority of the signatories thereto.
4. Performance Bond in the form attached hereto as Form O, issued by the surety listed in the Proposal, or an equivalent surety meeting the requirements stated in the Contract, together with evidence of the signatory authority of the signatories thereto.
5. Documentation from the Proposer and each major participant that clearly depicts entitlement under the laws of the State of Colorado to undertake and perform the Work. Said documentation shall include copies of construction licenses and evidence that the Proposer or its designated design firm is licensed to carry out the design portion of the Work.
6. Opinion of counsel for the Contractor, which counsel will be Approved by CDOT (which may be in-house or outside counsel, provided that the enforceability opinion shall be provided by attorneys licensed in the State of Colorado), in substantially the form attached hereto as Form M.

Failure to comply with the above may result in cancellation of the Award and forfeiture of the Proposal Bond, in which case CDOT may, but is not obligated to, proceed to Award the Contract to the next highest ranked Proposer. No stipend will be paid to the selected Proposer if the Award is not consummated due to failure of the selected Proposer to provide the items specified herein.