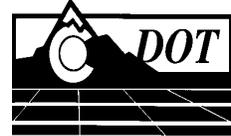


**HIGH PERFORMANCE TRANSPORTATION ENTERPRISE
REQUEST FOR PROPOSAL
SUBMISSION DEADLINE: 12/13/10, 2:00 PM**



Proposals submitted to: Colorado High Performance Transportation Enterprise, c/o Colorado Department of Transportation, 4201 E. Arkansas Avenue, Room 284; Denver, CO 80222

Proposers delivering their proposal in person must check into the Colorado Department of Transportation (CDOT) Headquarters Building before being allowed to proceed to the High Performance Transportation Enterprise (HPTE) office to submit proposals. Proposers should allow approximately 10 minutes in advance of proposal deadline for check-in procedure.

UNDERWRITERS AND/OR PUBLIC PRIVATE PARTNERSHIP ADVISORS

The Colorado High Performance Transportation Enterprise (HPTE) is requesting proposals from qualified financial firms interested in providing underwriting and/or public private partnership (P3) advisory services to HPTE in connection with the U.S. 36 Project described below in paragraph 1.3 (Project). The HPTE intends to select one or more firms for those purposes and will, as the circumstances require and in its discretion, enter into a contract or contracts with one or all of the selected firms to provide any necessary underwriting services and/or to provide any necessary P3 advisory services.

Please read this Request for Proposal (RFP) thoroughly before responding. Telegraphic or electronic bids (Fax, Western Union, Telexes, etc.) cannot be accepted. Illegible responses may be rejected as non-responsive. **The HPTE reserves the right to reject any and all proposals, in whole or part, and to waive informalities or irregularities.**

By submission of a proposal, the proposer agrees as follows:

- Except as replaced, modified, or supplemented by the HPTE for this solicitation, all applicable contract provisions in the Terms and Conditions (Attachment A) will be accepted by the proposer.
- The proposer guarantees to the State of Colorado (State) that it understands and agrees to the terms and conditions of this RFP and that it will not default from performance by virtue of a mistake or misunderstanding. Proposers must seek clarification from HPTE of any specifications, terms and/or conditions that they determine to be unclear. The failure of a proposer to seek clarification may be deemed a waiver of any such clarification.

All proposals must be submitted on this form and signed in ink by an authorized officer of the firm.

Proposer Name _____ Signature _____

Proposer Address _____ Name (Print) _____

City, State, Zip _____ Title _____ Date _____

Proposer Phone _____ Fax _____ F.E.I.N./SSN _____

NOTE: Results will be posted on the HPTE website (www.coloradodot.info/about/high-performance-transportation-enterprise-hpte) and/or sent via postal system but will not be discussed by phone except as noted in the RFP document.

SECTION 1 GENERAL INFORMATION

1.1 ISSUING OFFICE

This Request for Proposal (RFP) is issued by the Colorado High Performance Transportation Enterprise. All inquiries regarding this RFP are to be directed by email before the date shown in the RFP Schedule below to:

Michael Cheroutes, Director
High Performance Transportation Enterprise
Email: Michael.Cheroutes@dot.state.co.us

There should be no other contact regarding this RFP with the HPTE, its Board, or its advisors or staff after the date this RFP is posted.

1.2 PURPOSE

The purpose of this RFP is to obtain competitive proposals from qualified financial firms interested in providing underwriting and/or P3 advisory services to the HPTE in connection with the following Project.

1.3 PROJECT

The HPTE is assisting CDOT by financing improvements to the existing U.S. 36, between approximately Pecos Street on the east and Foothills Blvd. on the west, a distance of approximately 18 miles. The Project includes improvements to the existing general purpose lanes (two in each directions) and the creation of one buffer-separated Bus Rapid Transit (BRT) lane in each direction. The BRT lanes will also be available without toll to High Occupancy Vehicles (HOV) – currently defined as vehicles occupied by two or more passengers (HOV 2+). Single Occupancy Vehicles (SOV) will be charged a toll for use of these lanes (the Managed Lanes). The Managed Lanes are being designed to connect with reversible High Occupancy Toll (HOT) lanes currently operated by the HPTE on I-25.

The Project is being planned in three segments: the first extending from Pecos Street to approximately Wadsworth Avenue (Segment 1), the second extending from Segment 1 to approximately West Flatirons Circle (Segment 2), and the third from Segment 2 to approximately Foothills Boulevard (Segment 3). Segment 1 is being planned as a design-build project, the total cost of which (general purpose lanes and the Managed Lanes) is estimated to be in the range of \$160. Of this, a total of approximately \$100 million is expected to be provided by CDOT, the Regional Transportation District, the Denver Regional Council of Governments, and other sources. In early 2010, CDOT received a \$10 million TIGER TIFIA Challenge Grant for the Project. The HPTE intends to use the grant to apply by January 31, 2011 for a TIFIA loan from the U.S. Department of Transportation. This and any other debt incurred by the HPTE for the Project are currently planned to be secured by and repaid from the tolls generated by the Managed Lanes

The combined costs of Segments 1 and 2 are estimated to be in the range of \$260 million, and the combined costs of Segments 1, 2, and 3, (i.e. the entire Project), are estimated to be in the range of \$550 million. Additional funds are expected to be available for these components, but the source and amount of these have not yet been identified. The HPTE currently intends to move forward quickly with a design-build contract that will be funded with grants, a TIFIA loan, and/or bond financing for at least Segment 1 but also wants to explore innovative alternatives that would facilitate the completion now, or in the near future, of Segments 2 and 3.

The HPTE has engaged Wilbur Smith & Associates (WSA) as its Traffic & Revenue Consultant to provide indicative traffic and revenue forecasts for (i) the Base Case/Option A – generally tolls from the Managed Lanes included in Segment 1, (ii) Option B – generally tolls from the Managed Lanes included in Segments 1 and 2, combined, and for (iii) Option C – generally tolls from the Managed Lanes in Segments 1, 2, and 3, combined.

WSA also is providing forecasts for each option considering HOV 2+ and HOV 3+ free scenarios as well as certain other revenue enhancement scenarios for each option. The existing I-25 HOT lanes and a possible extension to the north may be made part of the Project later. WSA also has been engaged to prepare an investment grade Traffic & Revenue Study for the purpose of financing the Project.

The WSA indicative forecasts, together with a map of the Project and other relevant material, will be posted on the HPTE website (www.coloradodot.info/about/high-performance-transportation-enterprise-hpte) simultaneously with this RFP. Your attention is called to the assumptions and qualifications included in the WSA forecasts. You should assume for purposes of your proposal that the HOV2+ scenario is preferred and that the I-25 HOT lane revenues are not available for the Project.

Scott Balice Strategies is assisting the HPTE as its Financial Advisor for the Project and the HPTE has engaged nationally recognized legal counsel for the Project. CDOT has engaged Jacobs Engineering in a construction and tolling advisory capacity.

1.4 HIGH PERFORMANCE TRANSPORTATION ENTERPRISE

In March 2009, the General Assembly adopted and the Governor signed into law S.B. 09-108, known as the Funding Advancements for Surface Transportation and Economic Recovery act (FASTER). FASTER established the HPTE to aggressively pursue innovative means of more efficiently financing important surface transportation infrastructure projects in the State that are designed to improve the safety, capacity, and accessibility of the surface transportation system, that can feasibly be commenced in a reasonable amount of time, that will allow more efficient movement of people, goods, and information throughout the State, and that will accelerate the economic recovery of the State.

As an enterprise, the HPTE has the power under FASTER to impose tolls and other user based fees and to borrow money and enter long-term repayment obligations secured by those fees without an election. The FASTER legislation also authorizes the HPTE to implement innovative means of financing projects, including public-private partnerships, operating concession agreements, user fee-based project financing, availability payments and design-build contracts.

1.5 STATEMENT OF WORK/RESPONSIBILITIES

The HPTE seeks qualified firms to provide the services set forth in either or both 1.6 or 1.7 below. The overall goal of the underwriter and P3 advisor services is to develop and execute a financing plan that maximizes the proceeds available for Project, including proceeds available from any potential issuance of public debt (taxable or tax exempt), TIFA loan, P3 or alternative financing structure.

The HPTE intends to select one or more firms for those services and will, as the circumstances require and in its discretion, enter into a contract or contracts with one or all of the selected firms to provide such services. Each firm should clearly identify in its proposal which scope of services (i.e. the services set forth in either 1.6 or 1.7 below) it intends and is qualified to provide. If proposing to provide the services set forth in both 1.6 and 1.7, the proposer should clearly state it has determined that no federal regulatory issues will impair its ability to provide such services.

Separate contracts with HPTE are anticipated for P3 services and for underwriting services.

1.6 SCOPE OF UNDERWRITER SERVICES

1. Work with the HPTE and its advisors to develop a financing plan for at least Segment 1 of the Project, which may include a TIFIA loan or loans and toll revenue bonds. Make recommendations on all aspects of the Project's financing plan, including, but not limited to: the timing of the sale of any revenue bonds, the type of bonds to be issued (Build America Bonds, if available, tax exempt, taxable, bond anticipation notes, etc.) call provisions, expected distribution and marketing plans, credit enhancement and evaluation of alternative issue structures and other elements of the financing.
2. Purchase any revenue bonds upon terms and conditions mutually acceptable to the HPTE and the underwriter(s) pursuant to a mutually acceptable Bond Purchase Agreement.
3. Assist in preparations, discussions and meetings with rating agencies, if requested.
4. Assist with investor relations, including accessing new buyers and market sectors for any proposed revenue bonds(s).
5. Participate in the drafting and review of the Official Statement and other bond documents, as required.
6. Work with the HPTE's Financial Advisor and/or CDOT Chief Financial Officer (acting as the HPTE Chief Financial Officer) in the rating and credit enhancement solicitation process if requested, and offer expert advice on the cost effectiveness of credit enhancement for any proposed revenue bond issuance.
7. Provide specific information as may be requested by HPTE officials regarding orders and allotments of the revenue bonds.
8. Provide such other underwriting services as may be reasonably requested by the HPTE, including, but not limited to, services in connection with an interest rate hedges. HPTE reserves the right to procure any interest rate swap on a competitive or quasi-competitive basis.
9. Review of the underlying financing documents adopted by participating institutions.
10. Provide advice and assistance on all other financing program matters that may affect the sale including issue structure, security features, cross-collateralization, interest rate mode, etc.

1.7 SCOPE OF P3 ADVISORY SERVICES

1. Work with the HPTE and its advisors to evaluate and enhance HPTE's financial plan for the Project. Identify and evaluate possible P3 transactions to fully implement the Project.
2. Evaluate the (contracting, construction, financing and operational) interface between the Project segments and advise on a financial structure and approach to facilitate the overall implementation of an integrated Project.
3. Identify the potential portions of the Project that may be suitable for a P3 Transaction.
4. Assist the HPTE in making its selection of forecasting, operations, design and engineering firms as may be required to assist in developing and executing a P3 Transaction.
5. Develop the process and structure for implementing a P3 Transaction.
6. Work with HPTE and its advisors to identify the key public policy considerations surrounding a P3 Transaction and evaluate the potential impact of such considerations on the potential P3 Transaction economics. Provide valuation estimates for the proposed P3 Transaction under the policy parameters set forth by the HPTE for the purpose of facilitating HPTE's consideration as to whether to proceed with a P3 Transaction.

7. Develop and maintain throughout the P3 Transaction process a financial model to evaluate the potential benefit and cost to the HPTE of the proposed P3 Transaction and to evaluate potential private partners' proposed transaction terms and structure; recommend the optimal structure for the Project to maximize the financial benefit while respecting HPTE's public policy goals and objectives.
8. Identify potential qualified private partners for the P3 Transaction, develop a Request for Qualifications (RFQ) solicitation, coordinate informational or due diligence sessions with such parties; assist in the development, scheduling and management of a transparent and competitive bid process for the P3 Transaction.
9. Negotiate confidentiality agreements with the potential private partners that are qualified as a result of the RFQ.
10. Establish, organize and maintain an electronic data room and manage the data included therein, which would be expected to be used by the potential private partners.
11. Prepare, in conjunction with the HPTE's advisors, a Confidential Information Memorandum for the purpose of briefing qualified bidders. Assist the HPTE's advisors with drafting a Concession Agreement, Operating Standards and other P3 Transaction related documents and negotiate relevant terms with potential private partners.
12. Assist the HPTE in reviewing and analyzing proposals from potential partners with respect to any P3 Transaction and advising and assisting in negotiating financial aspects of the P3 Transaction.
13. Assist the HPTE in briefings to its Board, Project stakeholders or other legislative bodies, as needed.

1.8 RFP SCHEDULE

| Item | Date | Time (MST) |
|---|----------------------|------------|
| 1. RFP published on HPTE's website | November 24, 2010 | N/A |
| 2. Inquiry deadline (No questions accepted after this date) | December 1, 2010 | 5:00 p.m. |
| 3. Response to proposer questions | December 6, 2010 | 5:00 p.m. |
| 4. Proposal submission deadline | December 13, 2010 | 4:00 p.m. |
| 5. Interviews (If requested by HPTE) | December 16-17, 2010 | N/A |
| 6. Intent to Award posted | December 21, 2010 | N/A |
| 7. <i>Desired</i> date of executed contract | December 23, 2010 | N/A |

(The HPTE understands this is an aggressive schedule. It is designed to make advisors available prior to the anticipated January 31, 2011, submission deadline for a TIFIA application. Your cooperation is very much appreciated.)

1.9 PROPOSAL SUBMISSION

All proposals must be received by the HPTE, 4201 East Arkansas Avenue, Room 284, Denver, CO 80222, no later than the date and time shown in the RFP Schedule above. Each proposal shall consist of **one original (identified as such) and five (5) copies** of the proposer's complete proposal. In addition, a PDF version of the full proposal should be emailed for informational purposes to the HPTE at Michael.Cheroutes@dot.state.co.us.

It is the responsibility of each proposer to ensure that its proposal is received in the HPTE office prior to the deadline. Proposers mailing their documents should allow ample mail delivery time to ensure timely receipt of their proposals. **PROPOSALS RECEIVED AFTER THE DEADLINE WILL NOT BE CONSIDERED.**

Proposals must be clearly identified as a proposal to provide Underwriting Services or to provide P3 Advisory Services, or both (i.e., a single proposal may be used to provide both such sets of services), and shall show such information on the **outside** of the proposal packet. Proposals will not be accepted by facsimile transmittal.

Proposals from teams or consortiums will not be accepted. The HPTE prefers that proposals be submitted on recycled paper. In addition, it is requested that proposals be in flat bound form to facilitate filing. Please do not submit proposals in loose-leaf binders.

1.10 INQUIRIES

Prospective proposers may make written inquiries concerning this RFP to obtain clarification of requirements. No inquiries will be accepted after the date and time specified in the RFP Schedule. Questions must be submitted in writing via email to Michael.Cheroutes@dot.state.co.us, with the subject line of the email stating "Questions for Underwriter/Public Private Partnership Advisors RFP" to facilitate handling and distribution. An addendum responding to questions submitted regarding the RFP will be published on HPTE's website.

1.11 AMENDMENTS TO RFP

In the event it is necessary to revise any portion of this RFP, addenda will be published on the HPTE's website. It is the proposer's responsibility to monitor the HPTE's website at <http://www.coloradodot.info/about/high-performance-transportation-enterprise-hpte> and to acknowledge and/or comply with all addenda to this RFP.

1.12 PROPOSAL OWNERSHIP

All material submitted in response to this RFP by the winning proposer(s) becomes the property of the State of Colorado. The selected proposal(s) may be reviewed by any person after the Intent to Award is issued, subject to the terms of Section 24-72-201 . seq., C.R.S., as amended, Public (open) Records. The proposals not selected by the HPTE will be returned, upon request, to the proposing parties.

1.13 PROPRIETARY INFORMATION

All material submitted in the selected proposal(s) in response to RFP will become public record and open to inspection after an Intent to Award is issued. Any material requested to be treated as proprietary or confidential must be clearly identified and easily separable from the rest of the proposal. Such requests must include justification for the request. The request will be reviewed and either approved or denied by the HPTE Director. If denied, the selected proposer(s) will have the opportunity to withdraw its entire proposal, or to remove the proprietary restrictions. **NEITHER COST NOR PRICING INFORMATION NOR A TOTAL PROPOSAL MAY BE DESIGNATED PROPRIETARY.** Refer to Section 1.28 of this RFP for submission of Confidential/Proprietary information.

1.14 REJECTION OF PROPOSALS

The HPTE reserves the right to reject any or all proposals received in response to this RFP, or to cancel this RFP if it is in the best interest of the HPTE to do so. Failure to furnish all information or to follow the

proposal format requested in this RFP may disqualify the proposal. Any exceptions to the Statement of Work must be clearly identified in the proposal. Inclusion of exceptions does not guarantee acceptance by the HPTE of such variation, and may instead lead to rejection of the proposal as non-responsive. Refer to Section 1.17 of this RFP for more information.

1.15 INCURRING COSTS

The HPTE is not liable for any costs incurred by proposers prior to issuance of a legally executed contract or procurement document. All costs to prepare and submit a response to this solicitation shall be borne solely by the proposer.

1.16 EVALUATION CRITERIA

An evaluation will be made by a committee selected to evaluate the merits of all proposals received according to the evaluation criteria. The recommendations of this group will be forwarded to the HPTE Director and the HPTE Board for decision.

- 1.16.1 Failure of the proposer to provide in his/her proposal any information requested in this RFP may result in disqualification of the proposal. It is the sole responsibility of the proposing individual or firm to ensure all information requested in the RFP is included.
- 1.16.2 The sole objective of the evaluation committee will be to recommend the proposer(s) whose proposal(s) is/are most responsive to the HPTE's needs within its available resources.
- 1.16.3 Specific evaluation criteria are outlined in Section 3 of this RFP, entitled Evaluation Criteria.

1.17 ACCEPTANCE OF RFP TERMS

A proposal submitted in response to the RFP shall constitute a binding offer. Acknowledgment of this condition shall be indicated by the autographic signature of the proposer, or an officer of the proposer, legally authorized to execute contractual obligations. A submission in response to the RFP acknowledges acceptance by the proposer of all terms and condition, as set forth herein. Any exceptions and/or variations to the terms and conditions presented in the RFP may be submitted as part of the proposal, with each such exception and/or variation identified clearly and thoroughly. Failure to identify any exceptions and/or variations in the submitted proposal shall be deemed a waiver of any rights to subsequently modify the terms of performance, except as outlined or specified in the RFP, and may result in cancellation of the award and such vendor may be removed from future solicitations. Submission of a proposal containing exceptions and/or variations does not guarantee acceptance of such variations by the HPTE, and may instead lead to the rejection of the proposal as non-responsive if the requested variations are determined to be extensive or unreasonable, by the evaluation committee assigned to this RFP solicitation.

1.18 CONSULTANT CERTIFICATION

Proposers must submit a signed Consultant Certification Form, CDOT Form #637, with their proposal, **Attachment B** to this RFP.

1.19 CONFLICT OF INTEREST

By submission of a proposal, proposer represents that, at the time of the proposal and any subsequent contract, the proposer has and will have no interest, direct or indirect, that would conflict in any manner or

degree with the performance of the required services. The proposer shall further covenant that, in the performance of the contract, it shall not employ any person having any such known interest. Any firm affiliated or related to a member of the HPTE Board or senior staff at either CDOT or the HPTE shall be ineligible to submit a proposal for the required services.

Please, if proposing to provide P3 advisory services and in a separate appendix (which will not count against the page limitation), identify any P3 transactions or client relationships currently in process or closed within the last three years for which your firm is serving in an advisory capacity to any governmental seller or P3 buyer. Please address your firm's process to insure that this is not a conflict, and how your firm would be willing to restrict its activities until any P3 Transaction for the Project is closed.

1.20 AUDIT OF THE SELECTED PROPOSER

Prior to final contract award, an audit may be conducted by the CDOT's External Audit Branch of the selected proposer. This audit will be for the purpose of ensuring that the selected firm is financially capable of performing the contract, and that the selected proposer has adequate accounting practices to assure accurate tracking of contract costs.

Prior to final acceptance of the contract work, a closing audit of the proposer may be performed by the CDOT External Audit Branch. This final closeout audit will be performed upon completion of the contract to verify the accuracy of the billings and compliance with the contract provisions.

1.21 BUDGETED FUNDS

No funds have been budgeted for this solicitation at this time.

1.22 SELECTION OF PROPOSAL

After a proposer is selected, an "Intent to Award" notice will be posted on the HPTE's website. However, "Intent to Award," by itself, does not grant any property interest or right of any nature in the RFP work/services or to a contract for the performance of such work/services. A contract must then be completed and signed by all parties before any such right exists. Therefore, the selected proposer(s) identified in the Intent to Award notice shall not rely on that notice to make commitments to third parties, and the selected proposer(s) shall not take any actions(s) to prepare for or start the performance of the RFP work/services until a contract is so negotiated and executed. In addition, unless extended by the HPTE, a contract must be completed and signed by all parties concerned on or before the date indicated in the RFP Schedule.

If the parties are unable to agree on negotiated terms, for the contract, or if this schedule date is not met through no fault of the HPTE, the HPTE may elect to make the award and enter into a contract with another proposer.

1.23 TERMS AND CONDITIONS

The HPTE has provided in **Attachment A**, State special provisions that must be included in all contracts.

1.24 AWARD

An award will be made on the basis described in Section 3 of this RFP. Interviews may or may not be requested. It is the intent of the HPTE to make its decisions as set forth in the RFP Schedule. However, proposals must be firm and valid for award for at least 120 days after the deadline for receipt of proposals.

1.25 NEWS RELEASES

News releases pertaining to this RFP shall NOT be made prior to execution of a contract, and then will be made only with the approval of the HPTE.

1.26 CERTIFICATION OF INDEPENDENT PRICE DETERMINATION

1.26.1. By submission of this proposal each proposer certifies as to its own organization, that in connection with this procurement:

- (a) The prices in this proposal have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other proposer or with any competitor;
- (b) Unless otherwise required by law, the prices which have been quoted in this proposal have not been knowingly disclosed by the proposer and will not knowingly be disclosed by the proposer prior to opening, directly or indirectly to any other proposer or to any competitor; and
- (c) No attempt has been made by the proposer to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.

1.26.2 Each person signing the Invitation for Bid form of this RFP certifies that:

He/she is the person in the proposer's organization responsible within that organization for the decision as to the prices being offered herein and that he/she has not participated, and will not participate, in any action contrary to 1.26.1 (a) through (c) above.

or

He/she is not the person in the proposer's organization responsible within that organization for the decision as to the prices being offered herein but that he/she has been authorized in writing to act as agent for the persons responsible for such decision in certifying that such persons have not participated, and will not participate, in any action contrary to 1.26.1 (a) through (c) above, and as their agent does hereby so certify; and he/she has not participated, and will not participate, in any action contrary to 1.26.1 (a) through (c) above.

1.26.3 A proposal will not be considered for award where 1.26.1 (a) and (c), and 1.26.2 above, have been deleted or modified. Where 1.26.1 (b) above has been deleted or modified, the proposal will not be considered for award unless the proposer furnishes with the proposal a signed statement which sets forth in detail the circumstances of the disclosure and the head of the CDOT's Purchasing Office, or designee, determines that such disclosure was not made for the purpose of restricting competition.

1.27 COMPENSATION

The HPTE expects that in accordance with customary practice a firm selected to provide underwriting services pursuant to this RFP will be compensated from the proceeds of any bonds issued by the HPTE for the Project. Such compensation arrangements will be negotiated as part of the applicable contract with the firm.

Given its budgetary circumstances, the HPTE requests that a firm selected to provide P3 advisory services pursuant to this RFP will defer most, if not all, of its compensation until the financial close of any P3 transaction for the Project. Such compensation will be negotiated as part of the applicable contract with the firm.

1.28 SUBMISSION OF CONFIDENTIAL/PROPRIETARY INFORMATION

The HPTE neither requests nor encourages the submission of confidential/proprietary information in response to this RFP. Information submitted by the winning proposer(s) will be open for public inspection. However, written requests for confidentiality can be submitted to the HPTE Director, provided that the submission must be in STRICT accordance with the following procedures. The submission of information in strict accordance with such procedures shall be the SOLE RESPONSIBILITY of the proposer.

1. A written request for confidentiality shall be submitted, by the proposer with the proposal documents.
2. The written request will be enclosed in an envelope marked "REQUEST FOR CONFIDENTIALITY," and attached to the cover of the ORIGINAL copy of the proposer's proposal that contains the HPTE invitation for proposal page with the proposer's ORIGINAL autographic signature.
3. The written request must state SPECIFICALLY, AND IDENTIFY BY PAGE NUMBER, what elements of the proposal are to remain confidential. The request must also IDENTIFY THE BASIS for the claim of confidentiality, OTHER than a recitation of a SPECIFIC State or Federal statute.
4. Confidential/propriety information MUST be readily IDENTIFIED, MARKED and SEPARATED/PACKAGED from the rest of the proposal. Co-mingling of confidential/propriety information and other information is NOT acceptable.
5. The HPTE Director will make a written determination as to the apparent validity of any request for confidentiality. The written determination of the HPTE Director will be sent to the proposer.
6. Proposals that are determined to be at variance with this procedure may be declared non-responsive by the HPTE Director, and not given further consideration.

1.29 RFP CANCELLATION

The HPTE reserves the right to cancel this Request for Proposal at any time, without penalty.

1.30 VENUE

The laws of the State of Colorado shall govern in connection with the formation, performance and the legal enforcement of any resulting contract.

SECTION 2.0 INFORMATION REQUIRED FROM PROPOSER

2.1 BACKGROUND

This section of the proposal, should demonstrate the proposer's understanding of, and approach to, the described services, specifically addressing how *each element* of the Statement of Work will be accomplished for the Project. The proposal should include details of the following:

2.2 CONFLICT IDENTIFICATION

Identify all current and former contract activity with:

- a. Any existing State agency or transportation authority relating to this Project,
- b. Any State agency, local agency, or transportation authority relating to a transportation P3 project, as an underwriter, lender or advisor,
- c. Any bidder for a P3 project within the State within the last five years and/or current activity on such projects,
- d. A bidder or a unit of government in another state or commonwealth for any transportation P3 project that is currently ongoing or has closed within the last five years,
- e. Any potential conflicts per section 1.19 of this RFP,
- f. If you provide a positive response to a-e above, how you will ensure no conflict of interest in undertaking this engagement.

Indicate when involvement occurred and length of activity, the type of activity with such transportation, and the extent of involvement with such entities. Please explain why such activity is not a conflict, or steps that your firm has taken to mitigate such conflict.

NOTE: Response to this item does not count toward page limits specified below.

2.3 WORK EXPERIENCE

Using the Project as an example of how expertise will be applied, the proposal should list and describe all relevant work experience and qualifications, including but not limited to:

- a. Describe why your firm and the team devoted to HPTE is qualified to provide the underwriting and/or P3 advisor services that have been described in this RFP.
- b. Describe recent experience by the firm and the team assigned to HPTE in providing such underwriting and/or P3 advisor services in state or municipal financing. In particular, describe any experience with TIFIA Loans, revenue bonds, Private Activity Bonds, P3 financing, Taxpayer's Bill of Rights - TABOR, and state-sponsored enterprises.
- c. If proposing to provide P3 advisory services, please list the P3 financing experience of your firm and the team assigned to HPTE, with a primary focus on closed transactions of a similar nature to the Project where your firm has served the government and directly managed the bidding process. This information may be included in an appendix of not more than 5 pages.

2.4 FORMAT FOR PROPOSALS

Firms responding to this RFP should address the following items in no more than 15 pages (excluding appendices).

a. Staffing

- Please submit the names of the project lead, day-to-day lead (if different), and key staff (subject matter experts) who will be assigned to the underwriting engagement and/or the P3 engagement. Please include résumé and state their relevant experience, with a focus on managed lane and toll-based availability payment structures similar to that under consideration by HPTE.
- Provide the availability and percentage of time that the individuals will be assigned to the engagement.

b. Financing

- Describe in the context of the services you are proposing to provide (i.e. underwriting and/or P3 advisory) the financing alternatives available to the HPTE for the Project.
- Describe in detail your approach to the Project and a project schedule that will result in receipt of Project funding (or a commitment to provide Project funding) for Segment 1 no later than 09/31/2011.
- Briefly describe how your firm resolved particularly challenging issues in financings similar to those you contemplate as available to the HPTE for the Project.

c. References

Please list three relevant references, for each team lead (underwriting or P3) for which you have provided similar services during the last five years. Include the name of the organization, contact person, phone number, e-mail address, contract number and a brief description of the services provided.

2.5 FEES AND EXPENSES

- a. As appropriate to the role you are proposing, please provide the fee structure(s) your firm would be willing to consider for the services you propose, including expressions of your willingness to defer all or a portion of your fees until the relevant financial close.
- b. If proposing to provide underwriting services, please provide your underwriting fees per the table provided below. If using an average takedown fee, please include in an appendix the series by series detail.
 1. Present the fees and expenses the firm would charge for the following issuance. Please provide a separate table for both **taxable** and **tax exempt** bonds:

Fee Table

Assumes Unenhanced or Insured Transaction Rated in the “A” – “BBB” Category
 30-Year Maturity

| | Up to \$50 Million | | \$50 to \$100 Million | | Over \$100 Million | |
|------------------|--------------------|---------------|-----------------------|---------------|--------------------|---------------|
| | Fixed Rate | Variable Rate | Fixed Rate | Variable Rate | Fixed Rate | Variable Rate |
| Management Fee | | | | | | |
| Average Takedown | | | | | | |
| Expenses | | | | | | |
| TOTAL | | | | | | |

2. Provide a remarketing fee for weekly reset variable rate demand bonds
3. Provide a spread to the mid-market rate for a \$100 million forward starting floating-to-fixed swap (13 year average life, swap start) for both a SIFMA and % of LIBOR swap on the proposed bond issue. HPTE reserves the right to procure any interest rate swap on a competitive or quasi-competitive basis.
- c. If proposing to provide P3 advisory services, please provide a fee proposal for such advisory services, recognizing that the HPTE prefers to the greatest degree possible for such costs to be paid on a contingent basis upon financial close of the P3 Transaction. Please also outline any other fees that your firm may propose to provide in association with a P3 Transaction, such as solicitation for stapled financing, or other transaction-related services. In this section, please also provide key contract provisions such as proposed tail, indemnification requirements, conflict of interest provisions and any other key terms and conditions.
- d. Also include an itemized list of all expense reimbursement you will require including but not limited to:
 - Travel (subject to State Travel Policy).
 - Printing.
 - Overnight package delivery.
 - Data room services (for P3 advisor, subject to competitive procurement and HPTE approval).

2.6 VETERANS PREFERENCE

Pursuant to C.R.S. 24-50-511, the State shall give consideration to proposers utilizing a preference for hiring veterans of military service *only* in the following manner:

- To break a tie between proposals following review, scoring and ranking by the evaluation committee. Such tie shall be broken by awarding the resulting contract to the proposer utilizing the greatest quantitative (numerical) preference for veterans in the hiring of its employees.

Veterans' preference will not be used as a scored criterion in the evaluation and ranking of proposals received in response to this RFP solicitation.

2.7 DISADVANTAGED BUSINESS ENTERPRISE

It is the policy of the State and the HPTE to encourage the use of minority and women-owned businesses in government contracting and to encourage their entry into the mainstream of Colorado's economy. C.R.S. 24-49.5-101, et seq. Proposers are encouraged (i) to identify in their proposals opportunities for DBEs and, if selected, to utilize DBEs in performing the work contemplated by this RFP, and (ii) to describe (in an appendix if necessary) any internal policies you have in place as to diversity in employment.

2.8 OTHER

A proposer must state its compliance with all rules of the MSRB, to the extent applicable, and disclose any regulatory inquiry relating to the proposer's compliance with such rules. Firms must also disclose any pending or completed investigation initiated by any governmental or regulatory body including the Securities and Exchange Commission (SEC), the National Association of Security Dealers (NASD), and the Colorado Securities Commission, the status of any such investigation, and any fines/regulatory actions which occurred after completed investigations.

SECTION 3 EVALUATION

3.1 SELECTION:

This section will outline the evaluation criteria to be used by the evaluation committee in the review, ranking, and recommendation of submitted proposals. (Firms proposing underwriting services and P3 advisory services will be rated separately in each such role; and any such firm may be selected for one role and not the other). Following such evaluation, the HPTE Director and Board will determine which firm(s) to select for each role and, if more than one is selected, with which such firms to enter into contract negotiations. Firms will be selected and contracts entered into with those firm(s) whose proposal(s) is/are deemed to best meet the needs of the HPTE, all factors being considered. If more than one proposer is selected for a contract, the HPTE may ask the selected firms to work together or with other HPTE consultants. Failure to cooperate with other consultants can constitute reason for termination of a contract for cause.

3.2 EVALUATION PROCESS:

- 3.2.1 Each member of the evaluation committee will first independently evaluate the merit of proposals received in accordance with the evaluation factors defined in the RFP, followed by panel discussion and final scores ranking (based on a maximum of 100 points). The HPTE Director and Board shall have final selection approval.
- 3.2.2 Failure of the proposer to provide any information requested in the RFP may result in disqualification of the proposal as nonresponsive. It is the responsibility of the proposer to provide all information required by this RFP.
- 3.2.3 The sole objective of the evaluation committee will be to score the responses and recommend the proposer(s) whose proposal(s) best satisfy the evaluation criteria set forth herein. Following such independent review, the successful firm(s) will be those whose proposal(s) is/are deemed by the HPTE Director and Board to best meet the needs of the HPTE, all factors being considered, and who successfully negotiate(s) the ensuing contract.

3.3 EVALUATION CRITERIA:

The following factors are designed to permit specific evaluation of the items presented in Sections 1.5 through 1.7 and Section 2 of this RFP.

Proposals should not simply repeat what is written in Sections 1.5 – 1.7 of this RFP, but rather, as provided in paragraph 2.1, evidence the proposer’s understanding of the HPTE’s requirements in respect of the Project and its ability to provide the services needed in a cost effective manner.

- 1. **Understanding and Approach to the Project** (35%)
 - a. Understanding of the financial requirements of, and innovative approaches to, the Project.
- 2. **Overall Experience & Capabilities** (25%)
 - a. Relevant experience on projects of similar character and scope, for the proposed team assigned to the HPTE.
 - b. For underwriters, experience with positioning and selling toll revenue bonds in the “A” and “BBB” rating categories, with TIFIA loans included in the capital structure; capital position/ability and willingness to underwrite bonds.

- c. For P3 advisors, experience with managed lane/availability payment structures utilizing TIFIA. Experience as sell-side advisor (directly interfacing with bidders) is preferred, but directly relevant buy side experience may also be presented.
- d. Experience with and/or knowledge of TABOR and State Enterprises.

3. Qualifications and Ability to Provide Services: (20%)

- a. Qualification and commitment of personnel, including an experienced lead and day-to-day staffing.

4. Fees: (10%)

- a. Information is provided as requested in Section 2.5 and no unacceptable modifications to the terms and conditions outlined in this RFP are proposed.

5. Feasibility and Completeness: (10%)

- a. The proposal is both adequate and complete, as defined through the RFP.
- b. The proposal inspires confidence in production of a quality-required product, solicited under the RFP.

Attachment A. Terms and Conditions

SPECIAL PROVISIONS

The Special Provisions apply to all contracts except where noted in *italics*.

- 1. CONTROLLER'S APPROVAL. CRS §24-30-202(1).** This contract shall not be valid until it has been approved by the Colorado State Controller or designee.
- 2. FUND AVAILABILITY. CRS §24-30-202(5.5).** Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.
- 3. GOVERNMENTAL IMMUNITY.** No term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, CRS §24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. §§1346(b) and 2671 et seq., as applicable now or hereafter amended.
- 4. INDEPENDENT CONTRACTOR.** Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the State. Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Unemployment insurance benefits will be available to Contractor and its employees and agents only if such coverage is made available by Contractor or a third party. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this contract. Contractor shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. Contractor shall **(a)** provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, **(b)** provide proof thereof when requested by the State, and **(c)** be solely responsible for its acts and those of its employees and agents.
- 5. COMPLIANCE WITH LAW.** Contractor shall strictly comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.
- 6. CHOICE OF LAW.** Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this contract, to the extent capable of execution.
- 7. BINDING ARBITRATION PROHIBITED.** The State of Colorado does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this contract or incorporated herein by reference shall be null and void.
- 8. SOFTWARE PIRACY PROHIBITION. Governor's Executive Order D 002 00.** State or other public funds payable under this contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of this contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this provision, the State may exercise any remedy available at law or in equity or under this contract, including, without

limitation, immediate termination of this contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.

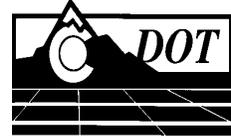
9. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. CRS §§24-18-201 and 24-50-507. The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this contract. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor's services and Contractor shall not employ any person having such known interests.

10. VENDOR OFFSET. CRS §§24-30-202 (1) and 24-30-202.4. [Not Applicable to intergovernmental agreements] Subject to CRS §24-30-202.4 (3.5), the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: **(a)** unpaid child support debts or child support arrearages; **(b)** unpaid balances of tax, accrued interest, or other charges specified in CRS §39-21-101, et seq.; **(c)** unpaid loans due to the Student Loan Division of the Department of Higher Education; **(d)** amounts required to be paid to the Unemployment Compensation Fund; and **(e)** other unpaid debts owing to the State as a result of final agency determination or judicial action.

11. PUBLIC CONTRACTS FOR SERVICES. CRS §8-17.5-101. [Not Applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services] Contractor certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this contract and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this contract, through participation in the E-Verify Program or the Department program established pursuant to CRS §8-17.5-102(5)(c), Contractor shall not knowingly employ or contract with an illegal alien to perform work under this contract or enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract. Contractor **(a)** shall not use E-Verify Program or Department program procedures to undertake pre-employment screening of job applicants while this contract is being performed, **(b)** shall notify the subcontractor and the contracting State agency within three days if Contractor has actual knowledge that a subcontractor is employing or contracting with an illegal alien for work under this contract, **(c)** shall terminate the subcontract if a subcontractor does not stop employing or contracting with the illegal alien within three days of receiving the notice, and **(d)** shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS §8-17.5-102(5), by the Colorado Department of Labor and Employment. If Contractor participates in the Department program, Contractor shall deliver to the contracting State agency, Institution of Higher Education or political subdivision a written, notarized affirmation, affirming that Contractor has examined the legal work status of such employee, and shall comply with all of the other requirements of the Department program. If Contractor fails to comply with any requirement of this provision or CRS §8-17.5-101 et seq., the contracting State agency, institution of higher education or political subdivision may terminate this contract for breach and, if so terminated, Contractor shall be liable for damages.

12. PUBLIC CONTRACTS WITH NATURAL PERSONS. CRS §24-76.5-101. Contractor, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she **(a)** is a citizen or otherwise lawfully present in the United States pursuant to federal law, **(b)** shall comply with the provisions of CRS §24-76.5-101 et seq., and **(c)** has produced one form of identification required by CRS §24-76.5-103 prior to the effective date of this contract.

**HIGH PERFORMANCE TRANSPORTATION ENTERPRISE
REQUEST FOR PROPOSAL
SUBMISSION DEADLINE: 12/13/10, 2:00 PM**



Proposals submitted to: Colorado High Performance Transportation Enterprise, c/o Colorado Department of Transportation, 4201 E. Arkansas Avenue, Room 284; Denver, CO 80222

Proposers delivering their proposal in person must check into the Colorado Department of Transportation (CDOT) Headquarters Building before being allowed to proceed to the High Performance Transportation Enterprise (HPTE) office to submit proposals. Proposers should allow approximately 10 minutes in advance of proposal deadline for check-in procedure.

UNDERWRITERS AND/OR PUBLIC PRIVATE PARTNERSHIP ADVISORS

The Colorado High Performance Transportation Enterprise (HPTE) is requesting proposals from qualified financial firms interested in providing underwriting and/or public private partnership (P3) advisory services to HPTE in connection with the U.S. 36 Project described below in paragraph 1.3 (Project). The HPTE intends to select one or more firms for those purposes and will, as the circumstances require and in its discretion, enter into a contract or contracts with one or all of the selected firms to provide any necessary underwriting services and/or to provide any necessary P3 advisory services.

Please read this Request for Proposal (RFP) thoroughly before responding. Telegraphic or electronic bids (Fax, Western Union, Telexes, etc.) cannot be accepted. Illegible responses may be rejected as non-responsive. **The HPTE reserves the right to reject any and all proposals, in whole or part, and to waive informalities or irregularities.**

By submission of a proposal, the proposer agrees as follows:

- Except as replaced, modified, or supplemented by the HPTE for this solicitation, all applicable contract provisions in the Terms and Conditions (Attachment A) will be accepted by the proposer.
- The proposer guarantees to the State of Colorado (State) that it understands and agrees to the terms and conditions of this RFP and that it will not default from performance by virtue of a mistake or misunderstanding. Proposers must seek clarification from HPTE of any specifications, terms and/or conditions that they determine to be unclear. The failure of a proposer to seek clarification may be deemed a waiver of any such clarification.

All proposals must be submitted on this form and signed in ink by an authorized officer of the firm.

Proposer Name _____ Signature _____

Proposer Address _____ Name (Print) _____

City, State, Zip _____ Title _____ Date _____

Proposer Phone _____ Fax _____ F.E.I.N./SSN _____

NOTE: Results will be posted on the HPTE website (www.coloradodot.info/about/high-performance-transportation-enterprise-hpte) and/or sent via postal system but will not be discussed by phone except as noted in the RFP document.

SECTION 1 GENERAL INFORMATION

1.1 ISSUING OFFICE

This Request for Proposal (RFP) is issued by the Colorado High Performance Transportation Enterprise. All inquiries regarding this RFP are to be directed by email before the date shown in the RFP Schedule below to:

Michael Cheroutes, Director
High Performance Transportation Enterprise
Email: Michael.Cheroutes@dot.state.co.us

There should be no other contact regarding this RFP with the HPTE, its Board, or its advisors or staff after the date this RFP is posted.

1.2 PURPOSE

The purpose of this RFP is to obtain competitive proposals from qualified financial firms interested in providing underwriting and/or P3 advisory services to the HPTE in connection with the following Project.

1.3 PROJECT

The HPTE is assisting CDOT by financing improvements to the existing U.S. 36, between approximately Pecos Street on the east and Foothills Blvd. on the west, a distance of approximately 18 miles. The Project includes improvements to the existing general purpose lanes (two in each directions) and the creation of one buffer-separated Bus Rapid Transit (BRT) lane in each direction. The BRT lanes will also be available without toll to High Occupancy Vehicles (HOV) – currently defined as vehicles occupied by two or more passengers (HOV 2+). Single Occupancy Vehicles (SOV) will be charged a toll for use of these lanes (the Managed Lanes). The Managed Lanes are being designed to connect with reversible High Occupancy Toll (HOT) lanes currently operated by the HPTE on I-25.

The Project is being planned in three segments: the first extending from Pecos Street to approximately Wadsworth Avenue (Segment 1), the second extending from Segment 1 to approximately West Flatirons Circle (Segment 2), and the third from Segment 2 to approximately Foothills Boulevard (Segment 3). Segment 1 is being planned as a design-build project, the total cost of which (general purpose lanes and the Managed Lanes) is estimated to be in the range of \$160. Of this, a total of approximately \$100 million is expected to be provided by CDOT, the Regional Transportation District, the Denver Regional Council of Governments, and other sources. In early 2010, CDOT received a \$10 million TIGER TIFIA Challenge Grant for the Project. The HPTE intends to use the grant to apply by January 31, 2011 for a TIFIA loan from the U.S. Department of Transportation. This and any other debt incurred by the HPTE for the Project are currently planned to be secured by and repaid from the tolls generated by the Managed Lanes

The combined costs of Segments 1 and 2 are estimated to be in the range of \$260 million, and the combined costs of Segments 1, 2, and 3, (i.e. the entire Project), are estimated to be in the range of \$550 million. Additional funds are expected to be available for these components, but the source and amount of these have not yet been identified. The HPTE currently intends to move forward quickly with a design-build contract that will be funded with grants, a TIFIA loan, and/or bond financing for at least Segment 1 but also wants to explore innovative alternatives that would facilitate the completion now, or in the near future, of Segments 2 and 3.

The HPTE has engaged Wilbur Smith & Associates (WSA) as its Traffic & Revenue Consultant to provide indicative traffic and revenue forecasts for (i) the Base Case/Option A – generally tolls from the Managed Lanes included in Segment 1, (ii) Option B – generally tolls from the Managed Lanes included in Segments 1 and 2, combined, and for (iii) Option C – generally tolls from the Managed Lanes in Segments 1, 2, and 3, combined.

WSA also is providing forecasts for each option considering HOV 2+ and HOV 3+ free scenarios as well as certain other revenue enhancement scenarios for each option. The existing I-25 HOT lanes and a possible extension to the north may be made part of the Project later. WSA also has been engaged to prepare an investment grade Traffic & Revenue Study for the purpose of financing the Project.

The WSA indicative forecasts, together with a map of the Project and other relevant material, will be posted on the HPTE website (www.coloradodot.info/about/high-performance-transportation-enterprise-hpte) simultaneously with this RFP. Your attention is called to the assumptions and qualifications included in the WSA forecasts. You should assume for purposes of your proposal that the HOV2+ scenario is preferred and that the I-25 HOT lane revenues are not available for the Project.

Scott Balice Strategies is assisting the HPTE as its Financial Advisor for the Project and the HPTE has engaged nationally recognized legal counsel for the Project. CDOT has engaged Jacobs Engineering in a construction and tolling advisory capacity.

1.4 HIGH PERFORMANCE TRANSPORTATION ENTERPRISE

In March 2009, the General Assembly adopted and the Governor signed into law S.B. 09-108, known as the Funding Advancements for Surface Transportation and Economic Recovery act (FASTER). FASTER established the HPTE to aggressively pursue innovative means of more efficiently financing important surface transportation infrastructure projects in the State that are designed to improve the safety, capacity, and accessibility of the surface transportation system, that can feasibly be commenced in a reasonable amount of time, that will allow more efficient movement of people, goods, and information throughout the State, and that will accelerate the economic recovery of the State.

As an enterprise, the HPTE has the power under FASTER to impose tolls and other user based fees and to borrow money and enter long-term repayment obligations secured by those fees without an election. The FASTER legislation also authorizes the HPTE to implement innovative means of financing projects, including public-private partnerships, operating concession agreements, user fee-based project financing, availability payments and design-build contracts.

1.5 STATEMENT OF WORK/RESPONSIBILITIES

The HPTE seeks qualified firms to provide the services set forth in either or both 1.6 or 1.7 below. The overall goal of the underwriter and P3 advisor services is to develop and execute a financing plan that maximizes the proceeds available for Project, including proceeds available from any potential issuance of public debt (taxable or tax exempt), TIFA loan, P3 or alternative financing structure.

The HPTE intends to select one or more firms for those services and will, as the circumstances require and in its discretion, enter into a contract or contracts with one or all of the selected firms to provide such services. Each firm should clearly identify in its proposal which scope of services (i.e. the services set forth in either 1.6 or 1.7 below) it intends and is qualified to provide. If proposing to provide the services set forth in both 1.6 and 1.7, the proposer should clearly state it has determined that no federal regulatory issues will impair its ability to provide such services.

Separate contracts with HPTE are anticipated for P3 services and for underwriting services.

1.6 SCOPE OF UNDERWRITER SERVICES

1. Work with the HPTE and its advisors to develop a financing plan for at least Segment 1 of the Project, which may include a TIFIA loan or loans and toll revenue bonds. Make recommendations on all aspects of the Project's financing plan, including, but not limited to: the timing of the sale of any revenue bonds, the type of bonds to be issued (Build America Bonds, if available, tax exempt, taxable, bond anticipation notes, etc.) call provisions, expected distribution and marketing plans, credit enhancement and evaluation of alternative issue structures and other elements of the financing.
2. Purchase any revenue bonds upon terms and conditions mutually acceptable to the HPTE and the underwriter(s) pursuant to a mutually acceptable Bond Purchase Agreement.
3. Assist in preparations, discussions and meetings with rating agencies, if requested.
4. Assist with investor relations, including accessing new buyers and market sectors for any proposed revenue bonds(s).
5. Participate in the drafting and review of the Official Statement and other bond documents, as required.
6. Work with the HPTE's Financial Advisor and/or CDOT Chief Financial Officer (acting as the HPTE Chief Financial Officer) in the rating and credit enhancement solicitation process if requested, and offer expert advice on the cost effectiveness of credit enhancement for any proposed revenue bond issuance.
7. Provide specific information as may be requested by HPTE officials regarding orders and allotments of the revenue bonds.
8. Provide such other underwriting services as may be reasonably requested by the HPTE, including, but not limited to, services in connection with an interest rate hedges. HPTE reserves the right to procure any interest rate swap on a competitive or quasi-competitive basis.
9. Review of the underlying financing documents adopted by participating institutions.
10. Provide advice and assistance on all other financing program matters that may affect the sale including issue structure, security features, cross-collateralization, interest rate mode, etc.

1.7 SCOPE OF P3 ADVISORY SERVICES

1. Work with the HPTE and its advisors to evaluate and enhance HPTE's financial plan for the Project. Identify and evaluate possible P3 transactions to fully implement the Project.
2. Evaluate the (contracting, construction, financing and operational) interface between the Project segments and advise on a financial structure and approach to facilitate the overall implementation of an integrated Project.
3. Identify the potential portions of the Project that may be suitable for a P3 Transaction.
4. Assist the HPTE in making its selection of forecasting, operations, design and engineering firms as may be required to assist in developing and executing a P3 Transaction.
5. Develop the process and structure for implementing a P3 Transaction.
6. Work with HPTE and its advisors to identify the key public policy considerations surrounding a P3 Transaction and evaluate the potential impact of such considerations on the potential P3 Transaction economics. Provide valuation estimates for the proposed P3 Transaction under the policy parameters set forth by the HPTE for the purpose of facilitating HPTE's consideration as to whether to proceed with a P3 Transaction.

7. Develop and maintain throughout the P3 Transaction process a financial model to evaluate the potential benefit and cost to the HPTE of the proposed P3 Transaction and to evaluate potential private partners' proposed transaction terms and structure; recommend the optimal structure for the Project to maximize the financial benefit while respecting HPTE's public policy goals and objectives.
8. Identify potential qualified private partners for the P3 Transaction, develop a Request for Qualifications (RFQ) solicitation, coordinate informational or due diligence sessions with such parties; assist in the development, scheduling and management of a transparent and competitive bid process for the P3 Transaction.
9. Negotiate confidentiality agreements with the potential private partners that are qualified as a result of the RFQ.
10. Establish, organize and maintain an electronic data room and manage the data included therein, which would be expected to be used by the potential private partners.
11. Prepare, in conjunction with the HPTE's advisors, a Confidential Information Memorandum for the purpose of briefing qualified bidders. Assist the HPTE's advisors with drafting a Concession Agreement, Operating Standards and other P3 Transaction related documents and negotiate relevant terms with potential private partners.
12. Assist the HPTE in reviewing and analyzing proposals from potential partners with respect to any P3 Transaction and advising and assisting in negotiating financial aspects of the P3 Transaction.
13. Assist the HPTE in briefings to its Board, Project stakeholders or other legislative bodies, as needed.

1.8 RFP SCHEDULE

| Item | Date | Time (MST) |
|---|----------------------|------------|
| 1. RFP published on HPTE's website | November 24, 2010 | N/A |
| 2. Inquiry deadline (No questions accepted after this date) | December 1, 2010 | 5:00 p.m. |
| 3. Response to proposer questions | December 6, 2010 | 5:00 p.m. |
| 4. Proposal submission deadline | December 13, 2010 | 4:00 p.m. |
| 5. Interviews (If requested by HPTE) | December 16-17, 2010 | N/A |
| 6. Intent to Award posted | December 21, 2010 | N/A |
| 7. <i>Desired</i> date of executed contract | December 23, 2010 | N/A |

(The HPTE understands this is an aggressive schedule. It is designed to make advisors available prior to the anticipated January 31, 2011, submission deadline for a TIFIA application. Your cooperation is very much appreciated.)

1.9 PROPOSAL SUBMISSION

All proposals must be received by the HPTE, 4201 East Arkansas Avenue, Room 284, Denver, CO 80222, no later than the date and time shown in the RFP Schedule above. Each proposal shall consist of **one original (identified as such) and five (5) copies** of the proposer's complete proposal. In addition, a PDF version of the full proposal should be emailed for informational purposes to the HPTE at Michael.Cheroutes@dot.state.co.us.

It is the responsibility of each proposer to ensure that its proposal is received in the HPTE office prior to the deadline. Proposers mailing their documents should allow ample mail delivery time to ensure timely receipt of their proposals. **PROPOSALS RECEIVED AFTER THE DEADLINE WILL NOT BE CONSIDERED.**

Proposals must be clearly identified as a proposal to provide Underwriting Services or to provide P3 Advisory Services, or both (i.e., a single proposal may be used to provide both such sets of services), and shall show such information on the **outside** of the proposal packet. Proposals will not be accepted by facsimile transmittal.

Proposals from teams or consortiums will not be accepted. The HPTE prefers that proposals be submitted on recycled paper. In addition, it is requested that proposals be in flat bound form to facilitate filing. Please do not submit proposals in loose-leaf binders.

1.10 INQUIRIES

Prospective proposers may make written inquiries concerning this RFP to obtain clarification of requirements. No inquiries will be accepted after the date and time specified in the RFP Schedule. Questions must be submitted in writing via email to Michael.Cheroutes@dot.state.co.us, with the subject line of the email stating "Questions for Underwriter/Public Private Partnership Advisors RFP" to facilitate handling and distribution. An addendum responding to questions submitted regarding the RFP will be published on HPTE's website.

1.11 AMENDMENTS TO RFP

In the event it is necessary to revise any portion of this RFP, addenda will be published on the HPTE's website. It is the proposer's responsibility to monitor the HPTE's website at <http://www.coloradodot.info/about/high-performance-transportation-enterprise-hpte> and to acknowledge and/or comply with all addenda to this RFP.

1.12 PROPOSAL OWNERSHIP

All material submitted in response to this RFP by the winning proposer(s) becomes the property of the State of Colorado. The selected proposal(s) may be reviewed by any person after the Intent to Award is issued, subject to the terms of Section 24-72-201 . seq., C.R.S., as amended, Public (open) Records. The proposals not selected by the HPTE will be returned, upon request, to the proposing parties.

1.13 PROPRIETARY INFORMATION

All material submitted in the selected proposal(s) in response to RFP will become public record and open to inspection after an Intent to Award is issued. Any material requested to be treated as proprietary or confidential must be clearly identified and easily separable from the rest of the proposal. Such requests must include justification for the request. The request will be reviewed and either approved or denied by the HPTE Director. If denied, the selected proposer(s) will have the opportunity to withdraw its entire proposal, or to remove the proprietary restrictions. **NEITHER COST NOR PRICING INFORMATION NOR A TOTAL PROPOSAL MAY BE DESIGNATED PROPRIETARY.** Refer to Section 1.28 of this RFP for submission of Confidential/Proprietary information.

1.14 REJECTION OF PROPOSALS

The HPTE reserves the right to reject any or all proposals received in response to this RFP, or to cancel this RFP if it is in the best interest of the HPTE to do so. Failure to furnish all information or to follow the

proposal format requested in this RFP may disqualify the proposal. Any exceptions to the Statement of Work must be clearly identified in the proposal. Inclusion of exceptions does not guarantee acceptance by the HPTE of such variation, and may instead lead to rejection of the proposal as non-responsive. Refer to Section 1.17 of this RFP for more information.

1.15 INCURRING COSTS

The HPTE is not liable for any costs incurred by proposers prior to issuance of a legally executed contract or procurement document. All costs to prepare and submit a response to this solicitation shall be borne solely by the proposer.

1.16 EVALUATION CRITERIA

An evaluation will be made by a committee selected to evaluate the merits of all proposals received according to the evaluation criteria. The recommendations of this group will be forwarded to the HPTE Director and the HPTE Board for decision.

- 1.16.1 Failure of the proposer to provide in his/her proposal any information requested in this RFP may result in disqualification of the proposal. It is the sole responsibility of the proposing individual or firm to ensure all information requested in the RFP is included.
- 1.16.2 The sole objective of the evaluation committee will be to recommend the proposer(s) whose proposal(s) is/are most responsive to the HPTE's needs within its available resources.
- 1.16.3 Specific evaluation criteria are outlined in Section 3 of this RFP, entitled Evaluation Criteria.

1.17 ACCEPTANCE OF RFP TERMS

A proposal submitted in response to the RFP shall constitute a binding offer. Acknowledgment of this condition shall be indicated by the autographic signature of the proposer, or an officer of the proposer, legally authorized to execute contractual obligations. A submission in response to the RFP acknowledges acceptance by the proposer of all terms and condition, as set forth herein. Any exceptions and/or variations to the terms and conditions presented in the RFP may be submitted as part of the proposal, with each such exception and/or variation identified clearly and thoroughly. Failure to identify any exceptions and/or variations in the submitted proposal shall be deemed a waiver of any rights to subsequently modify the terms of performance, except as outlined or specified in the RFP, and may result in cancellation of the award and such vendor may be removed from future solicitations. Submission of a proposal containing exceptions and/or variations does not guarantee acceptance of such variations by the HPTE, and may instead lead to the rejection of the proposal as non-responsive if the requested variations are determined to be extensive or unreasonable, by the evaluation committee assigned to this RFP solicitation.

1.18 CONSULTANT CERTIFICATION

Proposers must submit a signed Consultant Certification Form, CDOT Form #637, with their proposal, **Attachment B** to this RFP.

1.19 CONFLICT OF INTEREST

By submission of a proposal, proposer represents that, at the time of the proposal and any subsequent contract, the proposer has and will have no interest, direct or indirect, that would conflict in any manner or

degree with the performance of the required services. The proposer shall further covenant that, in the performance of the contract, it shall not employ any person having any such known interest. Any firm affiliated or related to a member of the HPTE Board or senior staff at either CDOT or the HPTE shall be ineligible to submit a proposal for the required services.

Please, if proposing to provide P3 advisory services and in a separate appendix (which will not count against the page limitation), identify any P3 transactions or client relationships currently in process or closed within the last three years for which your firm is serving in an advisory capacity to any governmental seller or P3 buyer. Please address your firm's process to insure that this is not a conflict, and how your firm would be willing to restrict its activities until any P3 Transaction for the Project is closed.

1.20 AUDIT OF THE SELECTED PROPOSER

Prior to final contract award, an audit may be conducted by the CDOT's External Audit Branch of the selected proposer. This audit will be for the purpose of ensuring that the selected firm is financially capable of performing the contract, and that the selected proposer has adequate accounting practices to assure accurate tracking of contract costs.

Prior to final acceptance of the contract work, a closing audit of the proposer may be performed by the CDOT External Audit Branch. This final closeout audit will be performed upon completion of the contract to verify the accuracy of the billings and compliance with the contract provisions.

1.21 BUDGETED FUNDS

No funds have been budgeted for this solicitation at this time.

1.22 SELECTION OF PROPOSAL

After a proposer is selected, an "Intent to Award" notice will be posted on the HPTE's website. However, "Intent to Award," by itself, does not grant any property interest or right of any nature in the RFP work/services or to a contract for the performance of such work/services. A contract must then be completed and signed by all parties before any such right exists. Therefore, the selected proposer(s) identified in the Intent to Award notice shall not rely on that notice to make commitments to third parties, and the selected proposer(s) shall not take any actions(s) to prepare for or start the performance of the RFP work/services until a contract is so negotiated and executed. In addition, unless extended by the HPTE, a contract must be completed and signed by all parties concerned on or before the date indicated in the RFP Schedule.

If the parties are unable to agree on negotiated terms, for the contract, or if this schedule date is not met through no fault of the HPTE, the HPTE may elect to make the award and enter into a contract with another proposer.

1.23 TERMS AND CONDITIONS

The HPTE has provided in **Attachment A**, State special provisions that must be included in all contracts.

1.24 AWARD

An award will be made on the basis described in Section 3 of this RFP. Interviews may or may not be requested. It is the intent of the HPTE to make its decisions as set forth in the RFP Schedule. However, proposals must be firm and valid for award for at least 120 days after the deadline for receipt of proposals.

1.25 NEWS RELEASES

News releases pertaining to this RFP shall NOT be made prior to execution of a contract, and then will be made only with the approval of the HPTE.

1.26 CERTIFICATION OF INDEPENDENT PRICE DETERMINATION

1.26.1. By submission of this proposal each proposer certifies as to its own organization, that in connection with this procurement:

- (a) The prices in this proposal have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other proposer or with any competitor;
- (b) Unless otherwise required by law, the prices which have been quoted in this proposal have not been knowingly disclosed by the proposer and will not knowingly be disclosed by the proposer prior to opening, directly or indirectly to any other proposer or to any competitor; and
- (c) No attempt has been made by the proposer to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.

1.26.2 Each person signing the Invitation for Bid form of this RFP certifies that:

He/she is the person in the proposer’s organization responsible within that organization for the decision as to the prices being offered herein and that he/she has not participated, and will not participate, in any action contrary to 1.26.1 (a) through (c) above.

or

He/she is not the person in the proposer’s organization responsible within that organization for the decision as to the prices being offered herein but that he/she has been authorized in writing to act as agent for the persons responsible for such decision in certifying that such persons have not participated, and will not participate, in any action contrary to 1.26.1 (a) through (c) above, and as their agent does hereby so certify; and he/she has not participated, and will not participate, in any action contrary to 1.26.1 (a) through (c) above.

1.26.3 A proposal will not be considered for award where 1.26.1 (a) and (c), and 1.26.2 above, have been deleted or modified. Where 1.26.1 (b) above has been deleted or modified, the proposal will not be considered for award unless the proposer furnishes with the proposal a signed statement which sets forth in detail the circumstances of the disclosure and the head of the CDOT’s Purchasing Office, or designee, determines that such disclosure was not made for the purpose of restricting competition.

1.27 COMPENSATION

The HPTE expects that in accordance with customary practice a firm selected to provide underwriting services pursuant to this RFP will be compensated from the proceeds of any bonds issued by the HPTE for the Project. Such compensation arrangements will be negotiated as part of the applicable contract with the firm.

Given its budgetary circumstances, the HPTE requests that a firm selected to provide P3 advisory services pursuant to this RFP will defer most, if not all, of its compensation until the financial close of any P3 transaction for the Project. Such compensation will be negotiated as part of the applicable contract with the firm.

1.28 SUBMISSION OF CONFIDENTIAL/PROPRIETARY INFORMATION

The HPTE neither requests nor encourages the submission of confidential/proprietary information in response to this RFP. Information submitted by the winning proposer(s) will be open for public inspection. However, written requests for confidentiality can be submitted to the HPTE Director, provided that the submission must be in STRICT accordance with the following procedures. The submission of information in strict accordance with such procedures shall be the SOLE RESPONSIBILITY of the proposer.

1. A written request for confidentiality shall be submitted, by the proposer with the proposal documents.
2. The written request will be enclosed in an envelope marked "REQUEST FOR CONFIDENTIALITY," and attached to the cover of the ORIGINAL copy of the proposer's proposal that contains the HPTE invitation for proposal page with the proposer's ORIGINAL autographic signature.
3. The written request must state SPECIFICALLY, AND IDENTIFY BY PAGE NUMBER, what elements of the proposal are to remain confidential. The request must also IDENTIFY THE BASIS for the claim of confidentiality, OTHER than a recitation of a SPECIFIC State or Federal statute.
4. Confidential/propriety information MUST be readily IDENTIFIED, MARKED and SEPARATED/PACKAGED from the rest of the proposal. Co-mingling of confidential/propriety information and other information is NOT acceptable.
5. The HPTE Director will make a written determination as to the apparent validity of any request for confidentiality. The written determination of the HPTE Director will be sent to the proposer.
6. Proposals that are determined to be at variance with this procedure may be declared non-responsive by the HPTE Director, and not given further consideration.

1.29 RFP CANCELLATION

The HPTE reserves the right to cancel this Request for Proposal at any time, without penalty.

1.30 VENUE

The laws of the State of Colorado shall govern in connection with the formation, performance and the legal enforcement of any resulting contract.

SECTION 2.0 INFORMATION REQUIRED FROM PROPOSER

2.1 BACKGROUND

This section of the proposal, should demonstrate the proposer's understanding of, and approach to, the described services, specifically addressing how *each element* of the Statement of Work will be accomplished for the Project. The proposal should include details of the following:

2.2 CONFLICT IDENTIFICATION

Identify all current and former contract activity with:

- a. Any existing State agency or transportation authority relating to this Project,
- b. Any State agency, local agency, or transportation authority relating to a transportation P3 project, as an underwriter, lender or advisor,
- c. Any bidder for a P3 project within the State within the last five years and/or current activity on such projects,
- d. A bidder or a unit of government in another state or commonwealth for any transportation P3 project that is currently ongoing or has closed within the last five years,
- e. Any potential conflicts per section 1.19 of this RFP,
- f. If you provide a positive response to a-e above, how you will ensure no conflict of interest in undertaking this engagement.

Indicate when involvement occurred and length of activity, the type of activity with such transportation, and the extent of involvement with such entities. Please explain why such activity is not a conflict, or steps that your firm has taken to mitigate such conflict.

NOTE: Response to this item does not count toward page limits specified below.

2.3 WORK EXPERIENCE

Using the Project as an example of how expertise will be applied, the proposal should list and describe all relevant work experience and qualifications, including but not limited to:

- a. Describe why your firm and the team devoted to HPTE is qualified to provide the underwriting and/or P3 advisor services that have been described in this RFP.
- b. Describe recent experience by the firm and the team assigned to HPTE in providing such underwriting and/or P3 advisor services in state or municipal financing. In particular, describe any experience with TIFIA Loans, revenue bonds, Private Activity Bonds, P3 financing, Taxpayer's Bill of Rights - TABOR, and state-sponsored enterprises.
- c. If proposing to provide P3 advisory services, please list the P3 financing experience of your firm and the team assigned to HPTE, with a primary focus on closed transactions of a similar nature to the Project where your firm has served the government and directly managed the bidding process. This information may be included in an appendix of not more than 5 pages.

2.4 FORMAT FOR PROPOSALS

Firms responding to this RFP should address the following items in no more than 15 pages (excluding appendices).

a. Staffing

- Please submit the names of the project lead, day-to-day lead (if different), and key staff (subject matter experts) who will be assigned to the underwriting engagement and/or the P3 engagement. Please include résumé and state their relevant experience, with a focus on managed lane and toll-based availability payment structures similar to that under consideration by HPTE.
- Provide the availability and percentage of time that the individuals will be assigned to the engagement.

b. Financing

- Describe in the context of the services you are proposing to provide (i.e. underwriting and/or P3 advisory) the financing alternatives available to the HPTE for the Project.
- Describe in detail your approach to the Project and a project schedule that will result in receipt of Project funding (or a commitment to provide Project funding) for Segment 1 no later than 09/31/2011.
- Briefly describe how your firm resolved particularly challenging issues in financings similar to those you contemplate as available to the HPTE for the Project.

c. References

Please list three relevant references, for each team lead (underwriting or P3) for which you have provided similar services during the last five years. Include the name of the organization, contact person, phone number, e-mail address, contract number and a brief description of the services provided.

2.5 FEES AND EXPENSES

- a. As appropriate to the role you are proposing, please provide the fee structure(s) your firm would be willing to consider for the services you propose, including expressions of your willingness to defer all or a portion of your fees until the relevant financial close.
- b. If proposing to provide underwriting services, please provide your underwriting fees per the table provided below. If using an average takedown fee, please include in an appendix the series by series detail.
 1. Present the fees and expenses the firm would charge for the following issuance. Please provide a separate table for both **taxable** and **tax exempt** bonds:

Fee Table

Assumes Unenhanced or Insured Transaction Rated in the “A” – “BBB” Category
 30-Year Maturity

| | Up to \$50 Million | | \$50 to \$100 Million | | Over \$100 Million | |
|------------------|--------------------|---------------|-----------------------|---------------|--------------------|---------------|
| | Fixed Rate | Variable Rate | Fixed Rate | Variable Rate | Fixed Rate | Variable Rate |
| Management Fee | | | | | | |
| Average Takedown | | | | | | |
| Expenses | | | | | | |
| TOTAL | | | | | | |

2. Provide a remarketing fee for weekly reset variable rate demand bonds
 3. Provide a spread to the mid-market rate for a \$100 million forward starting floating-to-fixed swap (13 year average life, swap start) for both a SIFMA and % of LIBOR swap on the proposed bond issue. HPTE reserves the right to procure any interest rate swap on a competitive or quasi-competitive basis.
- c. If proposing to provide P3 advisory services, please provide a fee proposal for such advisory services, recognizing that the HPTE prefers to the greatest degree possible for such costs to be paid on a contingent basis upon financial close of the P3 Transaction. Please also outline any other fees that your firm may propose to provide in association with a P3 Transaction, such as solicitation for stapled financing, or other transaction-related services. In this section, please also provide key contract provisions such as proposed tail, indemnification requirements, conflict of interest provisions and any other key terms and conditions.
- d. Also include an itemized list of all expense reimbursement you will require including but not limited to:
- Travel (subject to State Travel Policy).
 - Printing.
 - Overnight package delivery.
 - Data room services (for P3 advisor, subject to competitive procurement and HPTE approval).

2.6 VETERANS PREFERENCE

Pursuant to C.R.S. 24-50-511, the State shall give consideration to proposers utilizing a preference for hiring veterans of military service *only* in the following manner:

- To break a tie between proposals following review, scoring and ranking by the evaluation committee. Such tie shall be broken by awarding the resulting contract to the proposer utilizing the greatest quantitative (numerical) preference for veterans in the hiring of its employees.

Veterans' preference will not be used as a scored criterion in the evaluation and ranking of proposals received in response to this RFP solicitation.

2.7 DISADVANTAGED BUSINESS ENTERPRISE

It is the policy of the State and the HPTE to encourage the use of minority and women-owned businesses in government contracting and to encourage their entry into the mainstream of Colorado's economy. C.R.S. 24-49.5-101, et seq. Proposers are encouraged (i) to identify in their proposals opportunities for DBEs and, if selected, to utilize DBEs in performing the work contemplated by this RFP, and (ii) to describe (in an appendix if necessary) any internal policies you have in place as to diversity in employment.

2.8 OTHER

A proposer must state its compliance with all rules of the MSRB, to the extent applicable, and disclose any regulatory inquiry relating to the proposer's compliance with such rules. Firms must also disclose any pending or completed investigation initiated by any governmental or regulatory body including the Securities and Exchange Commission (SEC), the National Association of Security Dealers (NASD), and the Colorado Securities Commission, the status of any such investigation, and any fines/regulatory actions which occurred after completed investigations.

SECTION 3 EVALUATION

3.1 SELECTION:

This section will outline the evaluation criteria to be used by the evaluation committee in the review, ranking, and recommendation of submitted proposals. (Firms proposing underwriting services and P3 advisory services will be rated separately in each such role; and any such firm may be selected for one role and not the other). Following such evaluation, the HPTE Director and Board will determine which firm(s) to select for each role and, if more than one is selected, with which such firms to enter into contract negotiations. Firms will be selected and contracts entered into with those firm(s) whose proposal(s) is/are deemed to best meet the needs of the HPTE, all factors being considered. If more than one proposer is selected for a contract, the HPTE may ask the selected firms to work together or with other HPTE consultants. Failure to cooperate with other consultants can constitute reason for termination of a contract for cause.

3.2 EVALUATION PROCESS:

- 3.2.1 Each member of the evaluation committee will first independently evaluate the merit of proposals received in accordance with the evaluation factors defined in the RFP, followed by panel discussion and final scores ranking (based on a maximum of 100 points). The HPTE Director and Board shall have final selection approval.
- 3.2.2 Failure of the proposer to provide any information requested in the RFP may result in disqualification of the proposal as nonresponsive. It is the responsibility of the proposer to provide all information required by this RFP.
- 3.2.3 The sole objective of the evaluation committee will be to score the responses and recommend the proposer(s) whose proposal(s) best satisfy the evaluation criteria set forth herein. Following such independent review, the successful firm(s) will be those whose proposal(s) is/are deemed by the HPTE Director and Board to best meet the needs of the HPTE, all factors being considered, and who successfully negotiate(s) the ensuing contract.

3.3 EVALUATION CRITERIA:

The following factors are designed to permit specific evaluation of the items presented in Sections 1.5 through 1.7 and Section 2 of this RFP.

Proposals should not simply repeat what is written in Sections 1.5 – 1.7 of this RFP, but rather, as provided in paragraph 2.1, evidence the proposer’s understanding of the HPTE’s requirements in respect of the Project and its ability to provide the services needed in a cost effective manner.

1. **Understanding and Approach to the Project** (35%)
 - a. Understanding of the financial requirements of, and innovative approaches to, the Project.
2. **Overall Experience & Capabilities** (25%)
 - a. Relevant experience on projects of similar character and scope, for the proposed team assigned to the HPTE.
 - b. For underwriters, experience with positioning and selling toll revenue bonds in the “A” and “BBB” rating categories, with TIFIA loans included in the capital structure; capital position/ability and willingness to underwrite bonds.

- c. For P3 advisors, experience with managed lane/availability payment structures utilizing TIFIA. Experience as sell-side advisor (directly interfacing with bidders) is preferred, but directly relevant buy side experience may also be presented.
- d. Experience with and/or knowledge of TABOR and State Enterprises.

3. Qualifications and Ability to Provide Services: (20%)

- a. Qualification and commitment of personnel, including an experienced lead and day-to-day staffing.

4. Fees: (10%)

- a. Information is provided as requested in Section 2.5 and no unacceptable modifications to the terms and conditions outlined in this RFP are proposed.

5. Feasibility and Completeness: (10%)

- a. The proposal is both adequate and complete, as defined through the RFP.
- b. The proposal inspires confidence in production of a quality-required product, solicited under the RFP.

Attachment A. Terms and Conditions

SPECIAL PROVISIONS

The Special Provisions apply to all contracts except where noted in *italics*.

1. **CONTROLLER'S APPROVAL. CRS §24-30-202(1).** This contract shall not be valid until it has been approved by the Colorado State Controller or designee.
2. **FUND AVAILABILITY. CRS §24-30-202(5.5).** Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.
3. **GOVERNMENTAL IMMUNITY.** No term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, CRS §24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. §§1346(b) and 2671 et seq., as applicable now or hereafter amended.
4. **INDEPENDENT CONTRACTOR.** Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the State. Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Unemployment insurance benefits will be available to Contractor and its employees and agents only if such coverage is made available by Contractor or a third party. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this contract. Contractor shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. Contractor shall **(a)** provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, **(b)** provide proof thereof when requested by the State, and **(c)** be solely responsible for its acts and those of its employees and agents.
5. **COMPLIANCE WITH LAW.** Contractor shall strictly comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.
6. **CHOICE OF LAW.** Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this contract, to the extent capable of execution.
7. **BINDING ARBITRATION PROHIBITED.** The State of Colorado does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this contract or incorporated herein by reference shall be null and void.
8. **SOFTWARE PIRACY PROHIBITION. Governor's Executive Order D 002 00.** State or other public funds payable under this contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of this contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this provision, the State may exercise any remedy available at law or in equity or under this contract, including, without

limitation, immediate termination of this contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.

9. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. CRS §§24-18-201 and 24-50-507. The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this contract. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor's services and Contractor shall not employ any person having such known interests.

10. VENDOR OFFSET. CRS §§24-30-202 (1) and 24-30-202.4. [Not Applicable to intergovernmental agreements] Subject to CRS §24-30-202.4 (3.5), the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: **(a)** unpaid child support debts or child support arrearages; **(b)** unpaid balances of tax, accrued interest, or other charges specified in CRS §39-21-101, et seq.; **(c)** unpaid loans due to the Student Loan Division of the Department of Higher Education; **(d)** amounts required to be paid to the Unemployment Compensation Fund; and **(e)** other unpaid debts owing to the State as a result of final agency determination or judicial action.

11. PUBLIC CONTRACTS FOR SERVICES. CRS §8-17.5-101. [Not Applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services] Contractor certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this contract and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this contract, through participation in the E-Verify Program or the Department program established pursuant to CRS §8-17.5-102(5)(c), Contractor shall not knowingly employ or contract with an illegal alien to perform work under this contract or enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract. Contractor **(a)** shall not use E-Verify Program or Department program procedures to undertake pre-employment screening of job applicants while this contract is being performed, **(b)** shall notify the subcontractor and the contracting State agency within three days if Contractor has actual knowledge that a subcontractor is employing or contracting with an illegal alien for work under this contract, **(c)** shall terminate the subcontract if a subcontractor does not stop employing or contracting with the illegal alien within three days of receiving the notice, and **(d)** shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS §8-17.5-102(5), by the Colorado Department of Labor and Employment. If Contractor participates in the Department program, Contractor shall deliver to the contracting State agency, Institution of Higher Education or political subdivision a written, notarized affirmation, affirming that Contractor has examined the legal work status of such employee, and shall comply with all of the other requirements of the Department program. If Contractor fails to comply with any requirement of this provision or CRS §8-17.5-101 et seq., the contracting State agency, institution of higher education or political subdivision may terminate this contract for breach and, if so terminated, Contractor shall be liable for damages.

12. PUBLIC CONTRACTS WITH NATURAL PERSONS. CRS §24-76.5-101. Contractor, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she **(a)** is a citizen or otherwise lawfully present in the United States pursuant to federal law, **(b)** shall comply with the provisions of CRS §24-76.5-101 et seq., and **(c)** has produced one form of identification required by CRS §24-76.5-103 prior to the effective date of this contract.

