



COLORADO HIGH PERFORMANCE TRANSPORTATION ENTERPRISE

REQUEST FOR PROPOSAL

SUBMISSION DEADLINE: April 5, 2013

Proposals submitted to: HPTE; 4201 E. Arkansas, Room 284; Denver, CO 80222

NOTE: Vendors delivering their proposal in person must check into the CDOT's Headquarters Building before being allowed to proceed to **Room 284** to submit their proposals. Vendors should allow approximately 10 minutes in advance of proposal deadline for the check-in procedure. HPTE reserves the right to reject any and all proposals or parts thereof, and to waive informalities or irregularities. By submission of a proposal, vendor agrees to the State of Colorado terms and conditions.

Traffic and Revenue Consultant Services for the Interstate 70 Mountain Corridor

The Colorado High Performance Transportation Enterprise (HPTE), a division of the Colorado Department of Transportation (CDOT), is requesting proposals from qualified individuals and/or firms (the "Contractor") interested in providing traffic and revenue Consultant services for the Interstate 70 West Mountain Corridor in Jefferson, Clear Creek and Summit Counties.

Read this Request for Proposal (RFP) thoroughly before responding. Telegraphic or electronic bids (Fax, Western Union, Telex, electronic mail, etc.) cannot be accepted as a sealed bid. Illegible responses may be rejected as non-responsive.

HPTE reserves the right to reject any and all bids or parts thereof, and to waive informalities or irregularities. By submission of a bid, Contractor agrees to the State of Colorado terms and conditions.

By submission of a proposal, bid or quote, Contractor agrees as follows:

- Except as replaced, modified, or supplemented by HPTE for this solicitation, all items in the State of Colorado Solicitation Instructions/Terms and Conditions are considered part of, and are incorporated by reference into this document.
- Contractor testifies that bid prices were arrived at independently and there was no collusion involved.
- The Contractor guarantees to the State that they understand and agree to the terms and conditions of this RFP and that they will not default from performance by virtue of a mistake or misunderstanding. Contractors shall seek clarification from HPTE of any specifications, terms and/or conditions that they determine to be unclear. The failure of a Contractor to seek clarification may be deemed a waiver of any such clarification.
- Low tie bids shall be decided in accordance with the provision of C.R.S. Section 24-103-202.5, as it currently exists or is hereafter amended, which gives a preference to resident Contractors. Any Contractor who wishes to be considered a "resident Contractor" for purposes of the tie bid procedure provided in C.R.S. Section 24-103-202.5 shall include with their bid, proof that they meet the definition of resident Contractor as set forth in either C.R.S. Section 24-103-101(6)(a) or C.R.S. Section 24-103-101(6)(b).
- Pursuant to CRS 24-30-202.4 (as amended), the State controller may withhold debts owed to State agencies under the vendor offset intercept system for: (a) unpaid child support debt or child support arrearages; (b) unpaid balance of tax, accrued interest, or other charges specified in Article 22, Title 39, CRS; (c) unpaid loans due to the student loan division of the department of higher education; (d) owed amounts required to be paid to the unemployment compensation fund; and (e) other unpaid debts owing to the State or any agency thereof, the amount of which is found to be owing as a result of final agency determination or reduced to judgment as certified by the controller.

- *This award shall be available primarily for use by HPTE. Other State Agencies and Institutions, and Local Governments and Political sub-divisions in the State of Colorado may be allowed to access use of this award **ONLY** if approved by State Purchasing and such use does not conflict with the work required under any contract with HPTE.*

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

Vendor Name _____	Signature _____
Vendor Address _____	Name(Print) _____
City, State, Zip _____	Title _____ Date _____
Vendor Phone _____ Fax _____	F.E.I.N./SSN _____

NOTE: Results will be posted on the HPTE web site and/or sent via postal system but will not be discussed by phone except as noted in the RFP document.

REQUEST FOR PROPOSAL COLORADO HIGH PERFORMANCE TRANSPORTATION ENTERPRISE

SECTION 1 ADMINISTRATIVE INFORMATION

1.1 ISSUING OFFICE:

This request for proposal is issued for the State of Colorado by the High Performance Transportation Enterprise. All contact regarding this Request for Proposal (RFP) is to be directed to:

Mr. Nicholas J. Farber, JD, Enterprise Specialist
High Performance Transportation Enterprise
4201 E. Arkansas Ave., Room 284
Denver, CO 80222
(303) 757-9448
nicholas.farber@state.co.us

1.2 PURPOSE:

The purpose of this RFP is to obtain competitive bid proposals from qualified individuals and/or firms interested in preparing a Traffic and Revenue Analysis and Report¹ for the possible implementation of managed lanes and other transportation improvements on the Interstate 70 Mountain Corridor (the “Project”) as more specifically described below.

This RFP provides prospective proposers (also referred to as “Contractor”) with sufficient information to enable them to prepare and submit proposals for consideration by HPTE to satisfy the needs as outlined in the Scope of Work.

1.3

SCHEDULE OF ACTIVITIES:

	DATE	TIME (MST)
A. RFP Published on HPTE Website	February 22, 2013	2PM
B. Prospective Proposers’ Inquiry Deadline	March 8, 2013	4PM
C. Response to Proposer Questions	March 15, 2013	4PM
D. PROPOSAL SUBMISSION DEADLINE	April 5, 2013	4PM
E. Evaluation of Proposals	April 19, 2013	N/A
F. Top Consultants Selected and Notified of Interview (estimate) <i>if determined necessary.</i>	April 22, 2013	10AM
G. Interviews with short list of Consultants (estimate), <i>if required.</i>	May 7, 2013	9AM
H. Consultant Selection (estimate)	May 9, 2013	12PM

¹ The work being sought is commonly referred to as a Level Two or Phase Two T&R report; however, to avoid confusion because of differing definitions in the industry, HPTE describes it as Traffic and Revenue Analysis Report in this RFP. Please see section 1.34(G) for a description of the work to be provided.

1.4 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 Schedule of Activities, Proposal Submission Deadline for receipt of proposals. Each proposal shall consist of **one (1) original** (identified as such) and **7 copies** of the proposer's *complete* proposal. It is the responsibility of the proposer to ensure that their proposal is received by the HPTE 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 ABOVE DATE AND TIME WILL NOT BE CONSIDERED. Proposals must be clearly identified as a proposal for the **I-70 Mountain Corridor T&R Study** and shall show such information on the **outside** of the proposal packet. Proposals will not be accepted by facsimile or electronic mail transmittal.

Proposals shall not be longer than 25 pages, not including the covers, index, tab sheets, required forms or certifications, resumes and appropriate appendices.

Proposers are advised that HPTE desires that proposals prepared in response to this RFP be submitted on recycled paper, and that all copies be printed on both sides of paper. While the appearance of proposals is important, and professionalism in proposal presentation should not be neglected, non-recyclable, non-recycled glossy materials and clear plastic covers shall not be used. **In addition, proposals should be in flat bound form to facilitate filing.**

PLEASE NOTE: Proposals submitted in loose-leaf binders or 3-ring binders will not be accepted.

1.5 INQUIRIES:

Prospective proposers may make written inquiries concerning this RFP to obtain clarification of requirements. No inquiries will be accepted after the date(s) and time(s) specified in the Schedule of Activities, Section 1.3. Questions must be submitted in writing on the proposer's letterhead to:

Mr. Nicholas J. Farber JD, Enterprise Specialist
High Performance Transportation Enterprise
4201 East Arkansas Avenue, Room 284
Denver, CO 80222
(303) 757-9448
nicholas.farber@state.co.us

All envelopes containing questions must be clearly labeled "**Inquiry for HPTE I-70W T&R Project**" to facilitate handling and distribution. Inquiries sent by fax will be accepted (fax number (303) 757-9656). Email inquiries must be clearly identified and marked "**Inquiry for HPTE I-70W T&R Project**" in the Subject Line. An addendum will be published onto the HPTE website, at <http://www.coloradodot.info/programs/high-performance-transportation-enterprise-hpte>, responding to questions submitted regarding this RFP.

1.6 AMENDMENTS TO RFP:

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

1.7 RESPONSE MATERIAL OWNERSHIP:

All material submitted pursuant to this RFP becomes the property of the State of Colorado. Proposals may be reviewed by any person after the "Notice of Intent to Make an Award" letter has been issued, subject to the terms of Section 24-72-201 et. seq., C.R.S., as amended, Public (open) Records.

1.8 PROPRIETARY INFORMATION:

All material submitted in response to this RFP will become public record and will be subject to inspection after the HPTE executes a contract with the preferred proposer. Any material requested for treatment as proprietary and/or confidential must be clearly identified and easily separable from the rest of the proposal. Such request must include justification for the request. The request will be reviewed and either approved or denied by the HPTE Director. If denied, the proposer will have the opportunity to withdraw its entire proposal, or to remove the proprietary restrictions. Refer to Section 1.32 of this RFP for submission of Confidential/Proprietary information.

1.9 REJECTION OF PROPOSALS:

Pursuant to Procurement Rule 24-103-301, 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 State 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 Scope of Work must be clearly identified and supported in the proposal. Inclusion of such exceptions does not guarantee acceptance by the HPTE of such variation, and may instead lead to rejection of the proposal as non-responsive.

In the event that award is NOT made to any proposer, or the HPTE cancels the RFP solicitation, all received proposals must remain confidential and not open for public inspection. The purpose for this condition is to prevent any future potential proposers an opportunity to review other bidders' proposals and thereby gain any unfair advantage in submitting future proposals.

Any cancellations occurring before the submittal due date will be returned unopened to the appropriate bidder with a notice of cancellation letter.

1.10 ORAL PRESENTATION/SITE VISITS:

Proposers *may be* asked to make oral presentations, and participate in a question and answer period conducted by the evaluation committee, to insure that the proposers have the abilities offered in their proposal, to provide the services solicited specifically by the HPTE and, potentially, other State agencies. The *optional* oral presentation stage of the RFP selection process is designed solely for the benefit of the evaluation committee towards assisting it in making a final proposal selection. Oral presentations will be conducted at the sole discretion of the committee, and be at the proposer's expense. If invited to make a presentation, the proposer should be prepared to answer any possible questions of clarification related to the RFP requirements or the proposal submitted in response to this RFP solicitation. If invited to make an oral presentation, proposer must ensure attendance by those primary staff members anticipated to provide services under any resulting contract, and any other personnel identified by HPTE at the time of invitation.

1.11 PARENT COMPANY:

If a proposer is owned or controlled by a parent company, the name, main office address and parent company's tax identification number must be provided in the proposal.

1.12 EVALUATION CRITERIA:

An evaluation will be made by a committee to determine the merit of proposals received in accordance with the evaluation criteria defined herein. The recommendations of this group will be forwarded to the HPTE Director for approval.

1.12.1 Failure of the proposer to provide in their proposal any information requested in this RFP may result in disqualification of the proposal and shall be the responsibility of the proposing individual or firm.

1.12.2 During the evaluation process, discussions may be conducted with proposers who submit proposals determined to be realistic candidates for the award. It will be the recommendation of the evaluation committee if discussions for clarification are needed, based on their experience with application of these services to HPTE specific projects.

1.12.3 The sole responsibility of the committee will be to recommend the bidder whose proposal is most responsive to the State's needs while within the available resources. The specifications within this RFP represent the minimum performance necessary for response.

1.12.4 Specific evaluation criteria are outlined in Section 3 entitled Evaluation Criteria.

1.13 PROPOSAL CONTENT / 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 conditions including compensation, as set forth herein. Proposer shall identify clearly and thoroughly any variations between its proposal and the RFP. Failure to do so shall be deemed a waiver of any rights to subsequently request modification of the terms of performance, except as outlined or specified in the RFP.

1.14 PROVISION FOR REQUIRED INSURANCE:

Award of a contract will be contingent upon the successful proposer submitting certificates of insurance in accordance with the provisions of the attached Provision for Required Insurance, provided in the Sample Contract, Attachment B to this RFP.

1.15 Consultant CERTIFICATION:
Proposers must submit a signed Consultant Certification Form with their proposal, provided as Attachment A to this RFP.

1.16 CONFLICT OF INTEREST:
By submission of a proposal, proposer agrees that, at the time of contracting, the proposer has 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, they shall not employ any person having any such known interest.

1.17 PROPOSAL PRICES:
Proposed cost information must include, at a minimum, rates associated with each staff position anticipated to work on this Project and any/all overhead multipliers. Although proposers are not asked to provide binding, specific costs at this time, they are urged to submit prices reflective of as accurate and reasonable a prediction of estimated costs as possible based upon the scope of work described in this RFP and the estimate of staff time required to complete. HPTE anticipates negotiating with the successful bidder through the task order process. This will result in final details for each task order in areas such as a detailed work plan, a delivery schedule, the specific work product(s) and compensation amounts which may include a success fee component. Proposers are alerted that any revisions, including costs, will be closely evaluated by the committee and /or licensed professional, to insure the elimination of any inequities and unacceptable conditions. In addition, proposers are advised that if, in the course of performance of a contract resulting from this RFP solicitation, any travel or per diem is required, those costs will be reimbursed at the rates outlined in the State of Colorado Fiscal Rules.

1.18 REQUEST FOR PROPOSAL/INVITATION FOR BID:
The Request For Proposal/Invitation for Bid Form - the cover page of this RFP - must be signed, in ink, by a person authorized to bind the proposer, and returned with the proposal. In addition, any subsequent amendments (such as Responses to Inquiries), made to the RFP as per Section 1.6 must be acknowledged with signature by a person authorized to bind the proposer, and returned with the proposal.

1.19 BUDGETED FUNDS:
The funds for this engagement will be available before a contract has been executed with the preferred proposer.

INCURRED COSTS:
The HPTE is not liable for any cost incurred by proposers prior to issuance of a legally executed contract or procurement document. No property interest of any nature shall occur until a contract is awarded and signed by all concerned parties.

1.20 INTENT TO AWARD:
After a proposer is selected, an "Intent to Award" letter will be emailed to all firms who submitted a proposal. After Intent to Award has been issued, interested parties may review their proposal by making an appointment with:

Mr. Michael Cheroutes, Director
High Performance Transportation Enterprise
4201 East Arkansas Avenue, Room 284
Denver, CO 80222

1.21 PROTESTED SOLICITATIONS AND AWARDS:
Any actual or prospective proposer or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the HPTE Director, Mr. Michael Cheroutes. The protest shall be submitted in writing within seven (7) working days after such aggrieved person knows, or should have known, of the facts giving rise thereto. Ref. Section 24-109-101 et seq., C.R.S., as amended; Section 24-109-201 et. seq., C.R.S. as amended; Section R-24-109-101 through R-24-109-206, Colorado Procurement Rules. Protests received after the seven-working-day period shall not be considered. The written protest shall include, as a minimum, the following:

A. The name and address of the protestor;

- B. Appropriate identification of the procurement by bid, RFP, or award number;
- C. A statement of the reasons for the protest; and
- D. Any available exhibits, evidence or documents substantiating the protest.

1.22 STANDARD CONTRACT:

The HPTE will incorporate standard State contract provisions into any contract resulting from this RFP (see Attachment B, Sample Contract). The HPTE anticipates issuing a contract for an eighteen month term.

1.23 SELECTION OF PROPOSAL:

All proposers will be notified in writing regarding the results of the RFP selection. Upon review and approval of the evaluation committee's recommendation for award, the HPTE Procurement Office will issue a "Notice of Intent to Make an Award" letter to the apparent successful proposer. Provided, however, that all proposers understand that such letter, 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. Contract terms that are consistent with the RFP and that are acceptable to the State must first be discussed, and a contract must then be completed and signed by all parties and the State Controller, before any such right exists. Therefore, the apparent successful proposer receiving a "Notice of Intent to Make an Award" letter shall not rely on that letter to make commitments to third parties, and the apparent successful proposer shall not take any actions(s) to prepare for, or start, the performance of the RFP work/services until a contract is so discussed and executed. If the parties are unable to agree on negotiated terms, for the contract, or if this desired schedule date is not met through no fault of HPTE, HPTE may elect to cancel the "Notice of Intent to Make an Award" letter and make the award to the next most advantageous proposer.

1.24 AWARD OF CONTRACT - MERIT:

The award will be made to that proposer whose proposal conforms to the RFP terms and conditions and is judged by the committee to be the most advantageous to the State of Colorado and HPTE, price and other factors considered, subject to negotiation, successful discussion, and final execution of an acceptable contract as described above.

1.25 AWARD OF CONTRACT - TIMELINE:

It is the intent of HPTE to select a preferred proposal within 60 days of the deadline for receipt of proposals. However, as the evaluation process is dependent upon the number of proposals received, their length, and committee member's schedules, the schedule of activities after the proposal submission deadline, is strictly estimated and therefore, bid proposals must be firm and valid for award for at least 90 days after the deadline for receipt of proposals.

1.26 NEWS RELEASES:

News releases pertaining to this RFP shall NOT be made prior to execution of a contract, and then are to be made only with the approval of HPTE. Selected proposer will not be allowed to discuss this information or to copy records to third parties per State regulation.

1.27 CERTIFICATION OF INDEPENDENT PRICE DETERMINATION:

1.27.1. By submission of this proposal each proposer certifies and, in the case of a joint proposal, each party thereto 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.

1.27.2 Each person signing the Request for Proposal / 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 1.28.1 (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 1.28.1 (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 1.28.1 (a) through (c) above.

1.27.3 A proposal will not be considered for award where 1.28.1 (a) and (c), and/or 1.28.2 above have been deleted or modified. Where 1.28.1 (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 HPTE Procurement Office, or designee, determines that such disclosure was not made for the purpose of restricting competition.

1.28 TAXES:

The State of Colorado, as purchaser, is exempt from all Federal taxes under Chapter 32 of the Internal Revenue Code (Registration No. 84-730123K) and from all State and Local Government Use Taxes (Ref. Colorado Revised Statutes Chapter 39-26.114[a]). Seller is hereby notified that when materials are purchased in certain political subdivisions the seller may be required to pay sales tax even though the ultimate product or service is provided to the State of Colorado. This sales tax will not be reimbursed by the State.

1.29 PROJECT SERVICES AND FUNDING AVAILABILITY:

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. In the event funds are not appropriated, any resulting contract will become null and void, without penalty to the State of Colorado.

1.30 INTELLECTUAL PROPERTY AND OWNERSHIP RIGHTS:

All original materials, including any reports, studies, designs, drawings, specifications, notes, documents, software and documentation, computer-based training modules, electronically or magnetically recorded material and related intellectual property developed or created by the successful Contractor pursuant to the services sought by this RFP, and subsequently provided and integrated by contract between HPTE and the successful proposer, shall become the sole property of the State. Any commercial off-the-shelf software (COTS), required by successful proposer to complete the works described for this Contract, will be licensed to HPTE at HPTE's expense either directly by HPTE, or on behalf of HPTE, by the successful proposer.

1.31 SUBMISSION OF CONFIDENTIAL/PROPRIETARY INFORMATION:

The State neither requests nor encourages the submission of confidential/proprietary information in response to this RFP. Information submitted 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. Adherence to these procedures remains the SOLE RESPONSIBILITY of the proposer.

PROCEDURES FOR SUBMISSION OF CONFIDENTIAL/PROPRIETARY INFORMATION:

- A. Written request for confidentiality shall be submitted, by the proposer, with the proposal documents.
- B. 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.
- C. 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.
- D. Confidential/Proprietary information MUST be readily IDENTIFIED, MARKED and SEPARATED /PACKAGED from the rest of the proposal. Co-mingling of confidential/proprietary information and other information is NOT acceptable.
- E. The HPTE Director will make a written determination as to the apparent validity of any request for confidentiality. The written determination of the Director will be sent to the proposer.
- F. Proposals that are determined to be at variance with this procedure may be declared non-responsive by the Director, and not given further consideration.

1.32 ASSIGNMENT AND DELEGATION:

Except for assignment of antitrust claims, neither party to any resulting contract stemming from this RFP, may assign or delegate any portion of the Contract without the prior written consent of the other party. This restriction

includes contractor use of “out-of-state” personnel that may not have the ability to comply fully with HPTE Project scheduling constraints.

1.33 VENUE:

The laws of the State of Colorado shall govern in connection with the formation, performance and the legal enforcement of any resulting contract. It is the intent of HPTE that the requirements of Title 24, C.R.S. as amended, Article 101 through 112 and Rules adopted to implement those statutes shall govern this procurement to the extent they may be applicable.

1.34 BACKGROUND, OVERVIEW AND GOALS:

A. Statement of Solicitation Request

The HPTE is pleased to request proposals from a qualified individual or firm(s) to prepare a Traffic and Revenue Analysis and Report in support of the CDOT Project as described in Section B below. The engagement will be limited to the Project and will extend through completion of the objectives as set forth below.

HPTE is working closely with CDOT Region 1 and the CDOT Division of Transit and Rail on the Project and will take direction from CDOT on the Consultant’s Scope of Work. HPTE is a government owned business established as a division within CDOT. HPTE has a statutory directive to collaborate with local agencies, communities and private sector entities for the purpose of identifying opportunities for innovative and efficient means of financing and delivering important surface transportation projects in Colorado.

HPTE anticipates that the Consultant selected will assist in preparing a Traffic and Revenue Analysis and Report for the possible implementation of managed lanes and other transportation improvements on the Interstate 70 Mountain Corridor. The HPTE is interested in selecting a firm or team with the demonstrated ability to both formulate and implement the selected traffic and revenue analysis strategy. HPTE will only enter into a contract with a lead Contractor which will be responsible, among other matters, for sub-contracting with other firms whose participation is necessary to complete the full scope of work required in the engagement. HPTE will retain the right to approve any such sub-contractor, with the understanding that certain sub-contractors may only participate in a specific aspect of the overall work plan.

The firm, individual or lead firm selected to provide the services required under this engagement, including sub-contractors, will not be eligible to be a part of a potential co-development team for the corridor or a public-private partnership formed to pursue work contemplated on the I-70 Mountain Corridor once the work is complete. This preclusion provision will expire on April 5, 2016.

Interested parties should review this request for proposals in anticipation of submitting any questions in accordance with the schedule of events presented in Section 1.3.

B. Background Information

In July 2011, the HPTE received an unsolicited proposal for a co-development plan of a phased program of transportation improvements on Interstate 70 between C-470 and Silverthorne initially and extending to Eagle in the future. Parsons Transportation Group (Parsons), an international design, engineering and construction company submitted the unsolicited proposal.

Per its guidelines for unsolicited proposals, CDOT reviewed the Parsons unsolicited proposal and then took the next step to seek comparable proposals by issuing a Request for Statements of Interest (RFSOI) for qualified firms interested in submitting a co-development proposal to assist CDOT in providing a long-term solution to the congestion and mobility issues on the I-70 Mountain Corridor through a program of highway, transit and other improvements. It included helping CDOT to secure a Public-Private Partnership for financing, designing, building, and operating the I-70 improvements through a long-term concession agreement.

While four firms were shortlisted to respond to the Request for Proposal issued in early July, only two, Parsons and HDR, submitted proposals. The submissions were evaluated on their technical plan as well as their cost and risk sharing proposals resulting in the Parsons proposal being deemed “best value.” However, because the proposal included some aspects that would be challenging to overcome and risks that would need to be addressed, CDOT is not yet comfortable moving immediately into a selection and co-development agreement at this time. Instead, CDOT has decided to proceed with a Traffic and Revenue study to model variations of the proposed options and/or new options to determine if there is an alternative which is more economically feasible and publicly acceptable and to verify the financial feasibility of options to minimize the risk of using public dollars. The results of the T&R

study will be used to assist CDOT in determining if aspects of the proposals or other options are financially feasible while minimizing the need for public dollars. If such an alternative emerges, CDOT will get feedback from the I-70 corridor stakeholders and other interested groups prior to entering into any co-development agreement.

The I-70 Mountain Corridor traverses the Rocky Mountains of Colorado. Severe congestion occurs on the Corridor during typical peak weekend conditions and is projected to worsen on weekends and to occur on weekdays in the future. Congestion is defined by a poor Level of Service and is measured over the course of a day at a specific location by the number of hours at the worst level of service (Level of Service F).

Many factors can cause congestion on the Corridor, including, but not limited to:

- High volumes of traffic;
- Deficient roadway geometrics;
- Inadequate interchanges;
- Slower-moving vehicles in areas of steep grades;
- Unsafe conditions or actual crashes; and
- Poor road conditions.

Existing and projected travel demands in this Corridor exceed the design capacity of the facility and result in severe congestion for extended periods of time. In the future, travelers will experience substantial travel time delays that restrict mobility and accessibility along the Corridor.

Drivers traveling in the Corridor (between Silverthorne and C-470) during weekend peak hours typically experience an extra hour of driving time compared to free flow conditions; on weekdays, the extra time occasioned by peak traffic conditions amounts to 20 minutes.

C. Overview

The HPTE will utilize the services of the Consultant to prepare a Traffic and Revenue Analysis and Report for the possible implementation of managed lanes and other transportation improvements on the Interstate 70 Mountain Corridor (hereafter I-70 Mountain Corridor). Generally, the Consultant will prepare the study to assess the plans and ideas submitted to the HPTE as a result of responses to CDOT's solicitation for co-development proposals for the I-70 Mountain Corridor, as well as other concepts as determined by HPTE and CDOT.

D. Project Location and Description of Proposed Capacity Improvements

The purpose of this project is to perform a T&R as described below for the potential addition of managed lane facilities and other improvements on the I-70 Mountain corridor in Jefferson, Clear Creek, and Summit Counties, Colorado. The studies along I-70 will be for the area between the Junctions of C-470 and Silverthorne (SH 6&9) for a distance of approximately 53 miles.

Additional improvements will be considered for the I-70 general purpose lanes. The following new lane configurations will be considered for the analyses:

Interstate 70 Managed lanes

- **Option A:** Addition of two (2) reversible managed lanes with direct connections located as shown in the Parsons I-70 co-development proposal.
- **Option B:** Addition of three (3) reversible managed lanes with direct connections located as shown in the Parsons I-70 co-development proposal.

Other Potential I-70 Concepts

- Tolling of all existing I-70 lanes (to develop a baseline of possible revenues from such an option)
- Other potential scenarios as developed in partnership with the Project Leadership Team (PLT)

E. Traffic Modeling Strategy Process

CDOT is currently developing for the traffic modeling and forecasting efforts for the I-70 Mountain Corridor T&R. An Advanced Guideway System (AGS) feasibility Study and Interregional Connectivity Study (ICS) for transit improvements are already in progress for I-70 and other corridors and it is desirable that the studies (AGS, ICS and this I-70 Mountain Corridor Traffic and Revenue Study) have a consistent basis for traffic forecasts. The I-70 traffic modeling and forecasting studies done by Parsons performing the corridor engineering support services to date have utilized a spreadsheet model to develop sketch level traffic and revenue forecasts. The preliminary toll feasibility study methodology accomplished to date includes the following:

- I-70 Programmatic Environmental Impact Statement (PEIS) and Record of Decision - The Technical Report describes and quantifies the differences in mobility among alternatives, including the No Action Alternative. The 2035 analyses of travel demand, travel time, and congestion including criteria and comparative analyses of alternatives are discussed.
- Previous Traffic Forecasts – The most comprehensive sketch-level traffic and revenue study that was completed prior to the study completed by the Consultant performing the corridor engineering support services described above was the CTE Preliminary Traffic and Revenue Study developed by Wilbur Smith Associates (WSA) for the Colorado Tolling Enterprise (CTE). Its purpose was to consider a number of potential toll projects throughout Colorado, which included the I-70 Mountain Corridor and provided a number of different I-70 scenarios. A two-lane, reversible, express-lane toll option, called Scenario 1, was addressed.
- Adjustments to CTE Preliminary T&R Study – The Consultant performing the corridor engineering support services reviewed the traffic analyses presented for Scenario 1 and used this data (particularly the 2010 traffic forecasts) as a starting point for the development of their traffic forecasts and revenue calculations. Several important revisions were made to the data taken from the CTE T&R study to improve and refine the analysis. Some of these revisions are due to improved industry knowledge from the past seven or eight years (since the report was published) of United States express-lane operations. Much has been learned concerning managed lanes since the time of the WSA report.
- Parsons' Traffic Analysis Utilized Prior CTE 2010 Forecast Data --- The CTE report, released in 2004, set 2010 as the base forecasting year for its study. In order to develop reasonably accurate sketch level traffic forecasts, Consultant performing the corridor engineering support services utilized the CTE report's traffic projections for the general purpose lanes and managed lanes for the 2010 base year. The CTE report's 2010 traffic projections for total traffic volumes have proven to be reasonably accurate when compared with actual traffic counts that were taken during 2010 by CDOT. For the most part, the CTE report's 2010 traffic forecasts for general purpose and managed lanes were utilized as a basis for the Parsons' analysis.
- Parsons' Traffic Forecast Methodology – Future-year traffic forecasts were built using modest growth rate assumptions from the 2010 base traffic year. The forecast methodology used the growth rates outlined in Section 4.1.4. The four periods of growth, which include the project revenue period, are from 2010 to 2018, the years prior to the expected opening of the Phase 1 managed lanes, 2018 to 2022 (the first five years of revenue service) characterized by a jump in corridor traffic growth as a result of pent-up demand, 2023 to 2032 when traffic continues solid growth post ramp-up and 2033 and beyond when growth returns to more typical long-term growth levels.

F. Services to be Performed by Consultant

Consultant shall be responsible for the performance of all the Services outlined in below. Consultant services shall conform to the standards, criteria, and requirements of this Scope of Services, and shall include the studies, reports, traffic analyses and studies necessary to complete the project.

- Consultant shall carry out the directions as received only from HPTE's Project Manager or designee. In addition, Consultant shall cooperate with other agencies, and other Consultants providing services for this project and for adjacent or other related projects, as necessary.
- It is not the intent of the foregoing paragraph to relieve Consultant of professional responsibility during the performance of this Scope of Services. In those instances where Consultant believes a better design or solution to a problem is possible, Consultant shall promptly notify HPTE's Project Manager of these concerns, together with reasons therefore.

- Consultant shall have sole responsibility for the accuracy and completeness of the reports, traffic studies, and related material prepared by Consultant for the Project.
- The exhibits, studies, estimates, calculations, reports and other documents furnished under this Scope of Services shall be of a quality acceptable to HPTE. The criteria for acceptance shall be a product of neat appearance, well organized, technically and grammatically correct.
- Consultant shall maintain a set of project files that are indexed in an appropriate database accessible to HPTE and CDOT.
- HPTE reserves the right to approve all project scope of services changes. Any changes resulting from the addition, deletion, or revisions to the Scope of Services will not be made without prior written approval from HPTE. The Consultant shall not be compensated for making any changes to the project Scope of Services other than those approved in writing by HPTE.
- Consultant shall not suspend performance of this Contract during the negotiations of any change orders except as they may be directed by HPTE. Consultant shall perform all changes in accordance with the terms and conditions of this Contract.
- At the completion of this Scope of Services, all electronic files and correspondence relating to the Project shall be turned over to HPTE and CDOT. This includes all working data, field data, and background information used in creating the deliverables listed in the Scope of Services.
- Consultant shall coordinate with all agencies involved or potentially impacted by the Project only as directed by CDOT and HPTE. CDOT will convene a Project Leadership Team in accordance with the Context Sensitive Solutions (CSS) process established for this corridor. The Consultant will participate in the Project Leadership Team (PLT) activities as directed by CDOT.

G. Scope of Services

A work program has been developed to meet each of the specific objectives of the study, and designed specifically to provide preliminary estimates of toll revenue. As defined in more detail below, the preliminary study will be comprised of a total of 14 tasks:

1. Project Management and Mobilization;
2. Data Collection and Analysis;
3. Stated Preference Alternatives Assessment;
4. Field Reconnaissance, Traffic Counts
5. Socioeconomic Review;
6. Traffic Model Refinement;
7. Traffic and Revenue Forecasts and Modeling;
8. Toll Operations Analysis;
9. Toll Rate Schedule Analysis;
10. Estimate Traffic and Revenue (Gross and Net);
11. Sensitivity Analysis;
12. Financial Analysis;
13. Documentation and Meetings; and
14. Stakeholder Involvement and Decision Making

1. **Project Management and Mobilization:** This task would commence immediately upon receipt of notice-to-proceed. Shortly following NTP, an initial meeting will be scheduled with CDOT and HPTE staff and any other members of the study team. At this initial meeting, lines of communication and other matters

related to project administration will be discussed and agreed upon. Any refinements necessary in study schedule or deliverables will also be discussed. Details on the current approved highway improvement program within the region should also be clarified, as would toll pricing scenarios to be considered in the analysis. Consultant will also visit the project corridor and observe the existing highway/roadway facilities and peak traffic operating conditions.

Consultant's Project Manager will also provide overall project management, coordination, and supervision of project staff to facilitate the performance of the work in accordance with standards and requirements of the HPTE and other applicable standards and requirements. The Project Manager shall prepare and submit monthly project progress reports to the HPTE Project Manager.

2. **Data Collection and Analysis:** Consultant will review historical traffic counts, previous traffic and revenue studies and available reports, information on planned highway improvements in the corridor and plans of potential managed lane configurations for the I-70 Mountain Corridor. This review will help to determine the best locations for tolling points and equipment, ingress and egress points, advance signing and all other anticipated improvements to be considered in conjunction with the managed lanes. The Consultant will study issues or concerns related to managed lanes and tolling in the overall design.

Consultant must also review and be familiar with the PEIS documents, AGS documents and the Interregional Connectivity Study (ICS) travel modeling documents including O-D data, Stated Preference Survey, and Modeling Framework Report.

Relevant reports include:

- **Travel Demand Tech Report (PEIS Volume 1, 2011)** http://www.coloradodot.info/projects/i-70mountaincorridor/final-peis/final-peis-documents/technical-reports/Vol1_I-70_Mntn_Corridor_Final_PEIS_Travel_Demand_TR.pdf
- **Transportation Analysis Tech Report (PEIS Volume 2, 2011)** http://www.coloradodot.info/projects/i-70mountaincorridor/final-peis/final-peis-documents/technical-reports/Vol2_I-70_Mntn_Corridor_Final_PEIS_Transportation_Analysis_TR.pdf
- **Social and Economic Values Tech Report (PEIS Volume 4, 2011)** http://www.coloradodot.info/projects/i-70mountaincorridor/final-peis/final-peis-documents/technical-reports/Vol4_I-70_Mntn_Corridor_Final_PEIS_Social_and_Economic_Values_TR.pdf
- **Financial Considerations Tech Report (PEIS Volume 6, 2011)** http://www.coloradodot.info/projects/i-70mountaincorridor/final-peis/final-peis-documents/technical-reports/Vol6_I-70_Mntn_Corridor_Final_PEIS_Financial_TR.pdf

3. **Stated Preference Alternatives Assessment:** Consultant shall conduct a stated preference survey to ascertain the travelers' willingness to use the managed lane facilities. Information will be gathered on time of day, time of year, trip purpose, vehicle occupancy, payment type and other data that will help form the basis of the toll diversion model.
4. **Field Reconnaissance, Traffic Counts:** Consultant shall perform field reviews as required to gather information necessary to refine the HPTE's tolling concept compatible with that used on other projects in Colorado and the US. Present travel patterns and trip characteristics of motorists using the corridor will be gathered, a limited amount of origin and destination survey information may be required including trip purpose, trip frequency and vehicle occupancy. Travel times will be assessed by time of day periods along the general purpose lanes of I-70 Mountain Corridor and other relevant competing improvements and facilities.

Consultant shall develop a traffic count strategy and appropriate count plan. It should be noted in developing this strategy that recent traffic counts for I-70 (taken by the CDOT) will be available to the Consultant. Both ramp and mainline counts are required covering at least the AM and PM weekday and

weekend peak periods. Counts must have been taken no earlier than Spring 2008 to be considered current. **Note:** Proposers should discuss the need for weekend counts and for vehicle occupancy and classification counts on the mainline.

Based on existing count data, perform conservation of flow for existing count data to ensure appropriate baseline for existing traffic analysis.

- Collect available traffic information from abutting counties and integrate this information into the analyses, as necessary.
5. **Socioeconomic Analysis:** Consultant shall perform a socioeconomic evaluation for the project area within the local economic setting of the area of influence. The local conditions shall be reviewed by utilizing available processed data from multiple sources. The socioeconomic study shall determine the following:
- Trip generation characteristics of current land uses in the study area
 - Short (to 2025) and long term (to 2040) planned developments in the study area, the type of these developments and the probability of their implementation
 - General location and intensity of future development resulting from expected growth and induced by the construction of the managed lanes
6. **Traffic Model Refinement:** Consultant shall coordinate with stakeholders on establishing criteria for developing additional concepts to evaluate. Criteria should be based on operational and regulatory constraints. Consultant shall also establish a process and measures for applying criteria in analysis and evaluation.

Consultant will evaluate alternatives (see task 7) from a traffic and revenue perspective and consider alternatives that satisfy project goals. Issues to be considered will include, but will not be limited to the following:

- Tolling of all vehicles and trucks regardless of occupancy
 - Optimal locations and designs from a tolling perspective for ingress and egress points for the managed lanes
 - Nature of pricing regimes including variable and dynamic regimes
 - Defined measures of effectiveness for the managed lanes such as level of service and minimum desired speeds, and if operationally differentiated, then also differentiate these levels of service for autos, trucks, and bus-transit.
 - Determine potential impacts to managed lane and traffic flow if interconnectivity is achieved between the I-70 managed lanes and transit improvements.
 - Optimal toll collection technology to be utilized for the managed lanes
 - Enforcement mechanisms
 - Estimate of capital and right-of-way costs of each scenario, with costs amortized by classes of lifecycle (for example, mechanical equipment – 10 year life, bridges – 50 year life, right-of-way – 100 year life). Capital costs should also be coordinated with AGS studies and vetted/cross-checked against actual costs incurred by recent I-70 projects such as the Twin Tunnels (this last piece is the cost of CSS above and beyond basic capital costs).
7. **Traffic and Revenue Forecasts and Modeling:** Consultant shall provide traffic and revenue forecasts for the I-70 Mountain Corridor assuming the managed lane configurations for I-70 (described above under “Project Location and Description of Proposed Capacity Improvements”) will be implemented. Geometric and engineering assumptions will be provided by the corridor engineering support consultant (Parsons) or the HPTE including proposed implementation schedules for I-70, geometrics of the ingress and egress lanes, and other necessary information.

A corridor engineering study is already underway for the Project.

Consultant shall:

- Coordinate as necessary with the HPTE, and the consultant providing the corridor engineering support (Parsons) including validation of assumptions used in the model. Consultant will need to become aware of previous work efforts and studies and incorporate this information in its own analyses as appropriate.

- Perform a baseline existing (2008) model run and then validate the travel demand model to replicate existing conditions including base year model output compared to existing count data throughout the I-70 corridor for peak period forecasts. As this will be a managed lane, it will also be required to develop a microsimulation model (the software used will be decided in consultation with the Consultant) and validate to estimate the time-saving variations for various scenarios.
- Recommend appropriate model refinements for validation purposes, in conjunction with the HPTE and the corridor engineering support consultant (Parsons).
- Update baseline future network with alternative scenarios. Networks are needed for both 2021 (assumed to be the opening year) and a 50 year concession term. Update socioeconomic data files to reflect 2021 and 50-year concession forecast years. **Note:** Proposers should describe how they would approach the development of socioeconomic data for the forecast years (as requested in the Work Plan).
- Provide network plots with number of lane and facility type annotations to the Project Manager for concurrence prior to performing model runs.

I-70 Managed lane Project Scenarios:

- Existing Base Model
- 2021 with Managed -Lane Project (utilizing Option A)
- 2021 with Managed -Lane Project (utilizing Option B)
- 2021 with tolling of all existing I-70 lanes (to develop a baseline of possible revenues from such an option)
- Other potential scenarios

8. Toll Operation Analysis

Consultant shall:

- Review the preliminary geometrics developed by the corridor engineering support consultant (Parsons). Based on forecasted traffic volumes and the managed lanes concept, identify potential areas for operational issues such as bottlenecks, weaving or merging issues that may affect the delivery of the intended objectives including free flow speeds in the managed lanes. Special attention shall be placed on managed lane operations, including but not limited to, ingress, egress, weaving, interchanges, interconnectivity issues, project termini, and effects to the general purpose lanes. This needs to be coordinated with and consider what work the AGS study has done to define ROW envelopes for AGS: one on-corridor, one off-corridor, and one hybrid. Even if AGS ends up not being feasible by 2025, ROW implications of the “both-and” eventuality of the PEIS recommendation must be considered.
- Develop a traffic operation analysis model for the identified operational issues. The model shall address the interaction between the managed lanes and other network elements. The objectives of this task may be achieved using a general traffic analysis and a micro simulation of traffic flow.
- Review the proposed geometric design and make recommendations from an operational and revenue optimization perspective.
- Coordinate with the HPTE, CDOT and the corridor engineering support consultant (Parsons) for I-70 regarding recommendations resulting from the operational analyses.

9. Toll Rate Schedule Analysis:

Consultant shall:

- Develop a traffic operation analysis model and toll revenue analysis which addresses issues pertaining to the interaction between the managed lanes and the general purpose lanes based on a variable toll pricing imposed on the managed lanes which would ensure free traffic flow conditions in the managed lanes (free flow is defined as LOS C or better). The objectives of this task can be achieved using a combination of general traffic analysis, macro or micro simulation of traffic flow and revenue analysis.
- Based on existing stated preference data, socioeconomic information and value of time, a project specific toll diversion model shall be developed. Estimate the appropriate pricing for the time periods determined in the analysis, optimized based on a certain acceptable level of service in the managed lanes and accompanied by optimized revenue, given the proposed managed lanes concept.

- Based on the information gathered above, prepare an estimate for additional annual revenue (for 50 years) due to variable pricing of the managed lanes (one with and one without an AGS).

10. Estimate Traffic and Revenue (Gross and Net):

Consultant shall:

- Estimate the Value of Time (VOT) for those demand segments considered in the model using stated preference data developed under task 4 in conjunction with best practices on development of value of time.
- Develop annual traffic and revenue estimates by vehicle class for the defined forecast periods. Traffic projections shall be adjusted to reflect a ramp-up period, ETC penetration, and daily variation within the week. Perform a model run for the scenarios described in Part 3 above (in the order as directed by the HPTE) and summarize model output and traffic forecasts as appropriate:
- Include for all forecasts a clear statement of their underlying assumptions and submit to HPTE and to the corridor engineering support consultant (Parsons) and the financial consultant for review prior to incorporation into the Report.

11. Sensitivity Analysis:

Consultant shall:

- Conduct two (2) sensitivity analyses based on the two options created by changing key parameters such as socioeconomic data assumptions, road network improvements, tolling assumptions, different managed lane concepts, timing of the construction, roadway opening year, AGS implementation or other factors as appropriate. The sensitivity factors will be discussed with the Project Manager in advance and agreed upon prior to beginning this work. **Note:** Proposers shall make specific recommendations as to their approach to conducting this sensitivity analysis (as requested in the Work Plan).

12. Financial Analysis:

The Consultant shall include an assessment of the potential for developing and financing project improvements through the use of toll revenue generated from the project. A preliminary financial analysis shall be conducted to provide an assessment of the bonding capacity of each preferred alternative. An annual net revenue stream shall be calculated for each of the preferred alternatives by subtracting operating costs and revenue leakage from the estimated annual gross toll revenue.

13. Documentation and Meetings:

Consultant shall prepare Draft and Final Tolling Description Report for I-70 including narrative and exhibits of typical tolling facilities which addresses tolling issues and concerns for the managed lanes. On an ongoing basis, Consultant shall assist in revising tolling descriptions and other responses to questions that HPTE receives related to tolling. It is anticipated that one revision will be required during the life of the project. After receipt of review comments, 20 copies of the final report will be provided in hard copy and electronic format.

Consultant shall coordinate closely with the HPTE, CDOT and its Corridor Engineering Support Team to assist preparing project information for release by the HPTE to the public. In addition, the Consultant's project manager will be available to attend and make presentations at the PLT and other public/agency coordination meetings to discuss tolling issues.

14. Stakeholder Involvement and Decision Making:

Consultant shall coordinate closely with Parsons as it provides CSS consultant services for this project life cycle phase. Sample tasks include:

- Apply the CSS Guidance, including a review of the Context Statement, Core Values and Corridor Interactive Map

- Initiate the 6 Step CSS Process for Decision Making.
- Establish a PLT at the beginning of the project that includes community representatives. Consultant shall participate as a PLT member.
- Take a multidisciplinary approach to all aspects of the project by involving representatives from all of the disciplines that may be interested in or affected by the project.
- Develop a Project Work Plan
- Develop a Stakeholder Involvement Plan
- Consider engineering and planning elements completed in earlier life cycle phases
- Conduct Contextual analysis
- Identify the need for additional teams
- Develop Alternative or options evaluation process
- Develop Alternative or options to meet project goals
- Evaluate, select and refine alternatives and options
- Document each step of the 6 step CSS process
- Conduct evaluation of the project and the CSS process

Consultant shall participate in the CSS process. Parsons shall provide consultant services for the application of these principles. Consultant will be aware that the relevant CSS tools and principles to be implemented for this project can be found at: <http://i70mtncorridorcss.com/css>. The project team's application of the following four documents (found on the website) will significantly increase the likelihood of a successful process and solution for this life cycle phase:

- Project Manager Checklist
- PLT Checklist
- Project Leadership Team Overview
- Technical Team Overview

H. Personnel Assigned to the Engagement

Biographical information for the individuals that will be assigned to this engagement should be included with the proposal as an appendix. For lead members of your team, please identify the past experience on specific projects that involved services similar to those requested in this solicitation. Please clearly identify the roles played by key members of your team through an organization chart showing the internal roles and relationships among team members. Proposers will be prohibited from making personnel changes during the engagement without HPTE's approval.

I. Case Studies

Provide up to three examples of past work by your team in supporting client needs similar to those identified in the request. A brief description of these examples should be included in the main section of the proposal with limited additional information presented as an appendix.

J. Communications and Inquiries

Any and all inquiries associated with this request for proposals should be directed to:

Mr. Nicholas J. Farber JD, Enterprise Specialist
 High Performance Transportation Enterprise
 4201 East Arkansas Avenue, Room 284
 Denver, CO 80222
 (303) 757-9448
nicholas.farber@state.co.us

All communications between a proposer and the HPTE contact person above must be by written or electronic communication. Any firm or person associated with a proposing team is prohibited from contacting any person at HPTE or CDOT. Such communication will be considered as creating an unfair process and any firm violating this prohibition will be subject to disqualification.

1.35 DELIVERABLES:

Consultant shall:

1. Prepare a Draft of the “Traffic and Revenue Study Report” to document the forecasting methodology, assumptions, inputs, findings, and results. This report proposes to address: (i) a description of the facility, and other generalities about the project; (ii) the existing travel conditions in the area; (iii) the study methodology including the tasks identified in this scope; (iv) the physical configuration of the present and future networks; (v) the traffic and revenue forecasts; (vi) the impact of dynamic pricing for the express lanes; (vii) recommendations for near-term or long-term operational improvements to the managed lanes; (viii) results of sensitivity analyses; and (ix) concluding remarks.
2. Deliver the models developed for the Project including, but not limited, to the regional, meso and micro models.
3. Submit the final report on a portable electronic storage device (for example, CD, DVD or USB Flash Drive) in addition to the hard copies, using a file format acceptable to HPTE. Consultant shall verify the latest version of software used prior to submittal.
4. Evaluate and respond to comments received during the review period. Based on the comments, Consultant shall update/revise the Report and prepare and present a Final Traffic and Revenue Study Report.

SECTION 2

INFORMATION REQUIRED FROM PROPOSERS

GENERAL OFFEROR RESPONSE – SUBMISSION GUIDELINES

2.0 GENERAL SUBMISSION GUIDELINES:

A “proposal” is a responsive, conforming, unconditional, complete, legible and properly executed offer from a qualified, responsible party interested in providing the services called for, and solicited by, this RFP. It shall be the sole responsibility of the proposer to ensure that the proposal is in the proper form and in HPTE’s possession at the designated location before the scheduled time on the due date of receipt. Proposals will not be returned unless the RFP solicitation is cancelled prior to the submittal due date, in which case such proposals will be returned unopened, or opened for identification purposes only. Any proposal received AFTER the submittal due date and time will be returned unopened, or opened for identification purposes only. It is the primary proposer’s further responsibility to identify any anticipated subcontractors, and their anticipated work responsibilities.

2.1 PROPOSAL REQUIREMENTS:

Proposals must provide details of how your organization anticipates providing the services required. This format will allow for more efficient evaluation by the committee and provide proposers with a means of ensuring all requested information is included as part of the submitted documentation. Proposals must detail the proposer’s understanding of, and approach to, the Project, including how each element of the Scope of Work will be accomplished, identification of any work to be performed, or anticipated to be performed, by subcontractors. This section of the proposal should contain information amounting to more than a mere duplication or rephrasing of the RFP, instead, the proposer should demonstrate an understanding of the State’s needs and objectives. In other words, answer the question: What is the reason for this solicitation and work described herein?

Proposers should organize their material in the following sequence.

- Cover letter and executive summary;
- Identification and brief description of the firm or firms included;
- Individuals assigned to the engagement and an organization chart;
- Relevant experience and skills of the team members;
- Case studies from comparable assignments;
- Recommendation for the organization and sequence of work required to develop for the Scope of Services;

- A work plan and timeline for the specific work elements or any alternative organization of the work plan. This should include any assumptions regarding project events, approvals and decisions that must occur in order for your work plan to proceed at specific stages of your analysis;
- Cost estimate for the Project;
- Identification of any existing contract or relationship with HPTE, CDOT, or other stakeholder entity or group.

Proposers are requested to avoid inclusion of general marketing material or place it in a clearly marked appendix. Proposals are limited to 25 pages as detailed in Section 1.4.

2.2 ADMINISTRATIVE INFORMATION:

Proposal must include a brief statement of the proposer’s understanding and compliance with the Administrative terms and conditions set forth in Section 1 of this RFP.

2.3 CONFLICT IDENTIFICATION:

Proposals must identify all current and former contract activity with any existing State agency or transportation authority, reasonably related to the work described in this RFP. Indicate when involvement occurred and length of such involvement, the specific type of activity with identified agency and/or transportation authority, and indicate the extent of involvement with such entities.

2.4 WORK EXPERIENCE AND CAPABILITY:

HPTE anticipates that the firm or team selected will have a strong knowledge of transportation traffic and revenue analysis, transportation finance matters, expertise in transportation related financing techniques, knowledge of toll road financing and operations, major project development and construction models and different public-private partnership arrangements.

Specifically, the proposal must address/provide each of the following Qualification factors as indicated:

- A brief history of the firm or the lead firm.
- A description of the firm’s or lead firm’s experience in the providing the work described in section 1.35(G).
- A list of similar projects, dates of completion and contract amount.
- At least three references HPTE may contact at its discretion. The references should be selected to discuss the proposer’s breadth of expertise.
- Each reference must include contact names and telephone numbers for individuals familiar with the firms’ or lead firm’s work on similar projects.
- The proposer’s approach to developing and delivering the required work products and deliverables.

2.5 PERSONNEL QUALIFICATIONS:

Proposal must identify all key personnel anticipated to be assigned to work. Those identified personnel must meet the minimum qualifications as described in this RFP. For each individual identified, qualifications and background must be provided, supplemented with resumes on each individual listed, and an estimate of the extent to which such individual will participate in the Project analysis. Staff positions must also be identified for personnel anticipated to be assigned.

Please provide the same information for any sub-contractors identified as members of a proposing team. (Sub-contractors subsequently added to a team will be subject to review and approval by HPTE.)

Proposal will clearly define a strategy for replacement of team members who are no longer working on the Project. Any changes to staff, either before or during the term of the resulting contract, must be provided in writing to HPTE prior to their beginning work as part of the proposer’s staff assigned to this Project.

2.6 COST:

Describe the method and amount of compensation you require for this assignment. Proposers must include the proposed hourly billing rate for any of the core team members identified in a proposal, provided that rates for support categories may be listed without identification of specific personnel. This information must be presented in tabular form. Adding work and team members can require contract amendments; therefore, a comprehensive list is preferred as an element of this submission.

2.7 PROPOSER'S ORGANIZATION:

Proposer is encouraged to provide information regarding its organization which has not been specifically requested, but which the proposer believes relevant and of benefit to the Project.

2.8 MBE/WBE PARTICIPATION:

The State encourages State agencies to utilize minority-owned and women-owned businesses to the greatest extent possible without sacrificing adequate competition. Proposers are reminded of the illegality of discrimination, and the provisions of Procurement Code Section 24-111-02.

SECTION 3 EVALUATION CRITERIA

3.1 AWARD OF BID:

This section will outline the specific evaluation criteria to be used by the evaluation committee in the review and selection of submitted proposals. At the conclusion of the evaluation, HPTE *may* request oral presentations from the top-ranked proposals. The *possible* interview of those top ranked proposals will be held at CDOT Headquarters, with each proposer given fair and equal treatment in this *possible* second phase of the evaluation.

Based on final review and discussion of the proposals, and interview evaluations (IF conducted), the evaluation committee will recommend proposer to enter into contract discussions with the HPTE. Upon review and approval of the evaluation committee's recommendation for award, the HPTE Procurement Office will issue a "Notice of Intent to Make an Award" letter to the apparent successful proposer. It is the intent of HPTE to award a contract to that proposer whose proposal is deemed to be most advantageous to the State of Colorado, price and other factors considered.

3.2 EVALUATION PROCESS:

3.2.1 An evaluation committee will independently evaluate the merit of proposals received in accordance with the evaluation factors defined in the RFP. The recommendations of this committee will be forwarded to the HPTE Director for review and approval.

3.2.2 Failure of the proposer to provide any information requested in the RFP may result in disqualification of the proposal as non-responsive. 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 recommend the proposal most responsive to HPTE and CDOT needs. The specifications detailed in this RFP represent the minimum performance necessary for such response.

3.2.4 The proposal deemed most advantageous for HPTE and CDOT will be recommended for award.

3.2.5 Proposal Scoring:

The sole objective of the evaluation committee will be to score the proposals and recommend the proposer whose response is determined most advantageous to the HPTE and CDOT, taking into consideration the price and all evaluation factors set forth herein.

Oral Presentation:

At the conclusion of evaluation and discussion of the written proposals, HPTE *may* (at the committee's sole discretion) conduct oral interviews.

IF the evaluation committee determines oral presentations will assist them in making a final proposal selection, the committee will conduct oral interviews for the purpose of:

Allowing the proposer an opportunity to verbally present its proposal to the evaluation committee;

Allowing the committee an opportunity to obtain further definition of proposal aspects and attempt to resolve any uncertainties;

Resolving suspected mistakes by calling such perceived errors to proposer's attention without disclosing information concerning other proposers' proposals; and

Allowing the committee an opportunity to ask specific questions of the proposer, regarding its proposal offer.

3.3 EVALUATION CRITERIA:

The complete proposal package will include, *but not be limited to*, evaluation using the factors listed below. These factors are designed to incorporate specific evaluation of the items described in Sections 1.34, 1.35, 2.4, 2.5 and 2.6 of this RFP.

Proposals must provide details of how your organization anticipates providing the services required. Detailed financial information must also be included, specifically addressing the providing of services and including proposed estimated cost(s) for providing each task.

As stated in Section 2.1, proposals should not simply repeat what is written in any Section of this RFP, but rather present evidence to the State as to the proposer's understanding of the RFP requirements, terms and conditions, and

its ability to provide the services needed within a clearly defined and cost-effective budget. (Refer to Section 2.6 of this RFP).

During the evaluation phase, the committee will independently review each proposal and assign a total maximum score within each category, determined solely through the proposer's response to the criteria detailed in the following sections. The evaluation of each proposal will be scored based upon a comparison of the information submitted by each proposer (as described in Sections 1.35 and as requested in Section 2) against the specific evaluation criteria outlined below.

3.3.1 Capabilities, Experience and Qualifications

- The documented experience of the firm or lead firm with comparable engagements and in working effectively with state DOTs;
- The role played by key staff in supporting work product delivery for the comparable engagements;
- The range of staff experience and skills;
- Experience with activity-based models; Experience with DTA models such as DynusT;
- Experience with interaction between DTA and regional models (especially activity-based);
- Experience with microsimulation models and interaction between them and the other model types listed here;
- Experience with stated preference surveys, with particular focus on developing some form of distributed value of time for use in models

3.3.2 Project Approach and Work Plan

- Clarity in the approach and work plan to conduct the required research and analysis of options;
- Demonstration of an understanding of HPTE and CDOT objectives;
- Evidence that the work plan adequately addresses CSS expectations;
- Evidence that the work plan can be completed in the desired timeframe;
- Documented record of assigning key personnel to the analysis and execution of the work plan.

3.3.3 Cost and Compensation Proposal

- The total cost to provide the required services;
- The timing and terms of payment for services.

3.3.4 Feasibility and Completeness

- The proposal is both comprehensive and complete, as defined by this RFP.
- The proposal inspires confidence that the quality of work and deliverables solicited by the RFP will be provided by the proposer,
- The proposal includes no unacceptable modification to the State's standard and special terms and conditions.

General firm or team capabilities in relation to the work required	10%
The specific background and experience of the individuals assigned to the engagement	15%
Relevant project experience with similar engagements	25%
The work plan organization and development	10%

History of successfully developing similar traffic and revenue studies	20%
Compensation amount and structure	20%

SECTION 4 TERMS OF CONTRACT

4.1 CONTRACT:

The successful proposer will be required to enter into a formal contract with HPTE. The contract will incorporate the RFP, standard contract terms, Colorado State Special Provisions, any published addenda and the response/proposal of the successful proposer. Any contract resulting from this RFP may not be modified, amended, extended or augmented except through an authorized contract modification executed by the parties hereto, and any breach or default by a party shall not be waived or released other than in writing signed by the other party. HPTE reserves the right to eliminate or exclude aspects of the successful proposal which may be determined by HPTE as unnecessary, or those aspects HPTE decides to assume itself, or let out by separate contract.

4.2 CONTRACT TERMS:

Standard State of Colorado contract terms outside of the Scope of Work are not negotiable. Contract terms within the Scope of Work *may be* discussed **only if** the proposal includes specific and express requests for modification, including a detailed description for all such requests. If the proposal fails to raise a modification request for discussion, those non-identified portions of the Scope of Work will be considered acceptable to the proposer, and incorporated into the final contract. Submittal of exceptions does not guarantee their acceptance by the State, however, and may, in fact, result in a lower final score, and the State may, in its *sole discretion*, waive the required application of any such term(s), if the State determines that is in its best interests under the circumstances to do so.

The contract will also stipulate that the HPTE will be provided with monthly invoices of actual hours of service and associated costs, and a monthly work statement providing a brief description of the services invoiced, specifically identifying staff member/positions assigned to the Work. The State may make payment to the successful proposer for monthly work actually and satisfactorily performed, such payments subject to the State's receipt and approval of the above mentioned invoices and work statements.

4.3 LENGTH OF CONTRACT:

The term of this contract shall begin on the date indicating Controller approval, and shall extend no more than eighteen months from that date unless otherwise specified, earlier terminated, or extended pursuant to state fiscal rules provided that the vendor shall remain responsible for contract obligations which necessarily continue beyond such termination date, including final audit.

ATTACHMENT B SAMPLE CONTRACT

Note: Attached is a DRAFT State Contract similar to one which the selected Vendor will be required to enter into. It contains terms and conditions that are typical and/or required on State contracts. The terms and conditions contained in the FINAL contract may deviate from this draft depending on the outcome of the Request for Proposal. The State reserves the right to add or delete terms and conditions in accordance with the needs of the State or as may be mandated by State Statute.

STATE OF COLORADO
Department of Transportation
Contract
with
Insert Contractor's Full Legal Name

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1. PARTIES

This Contract (hereinafter called “Contract”) is entered into by and between Insert Contractor's Name, a Enter State Choose Type (hereinafter called “Contractor”), and the STATE OF COLORADO acting by and through the Department of Transportation (hereinafter called the “State” or “CDOT”). Contractor and the State hereby agree to the following terms and conditions.

2. EFFECTIVE DATE AND NOTICE OF NONLIABILITY.

This Contract shall not be effective or enforceable until it is approved and signed by the Colorado State Controller or its designee (hereinafter called the “Effective Date”). The State shall not be liable to pay or reimburse Contractor for any performance hereunder including, but not limited to, costs or expenses incurred, or be bound by any provision hereof prior to the Effective Date.

3. RECITALS

A. Authority, Appropriation, and Approval

Authority to enter into this Contract exists in CRS Choose 202IFB, 203RFP, 205Sole, 801DSetaside and 43-1-106, and funds have been budgeted, appropriated and otherwise made available and a sufficient unencumbered balance thereof remains available for payment. Required approvals, clearance and coordination have been accomplished from and with appropriate agencies.

B. Contractor Selection

Contractor's was selected in accordance with Colorado law and State Procurement Rules pursuant to the State's issuance of Choose Bid Type Bids #.

C. Consideration

The Parties acknowledge that the mutual promises and covenants contained herein and other good and valuable consideration are sufficient and adequate to support this Contract.

D. Contract Purpose

Briefly describe purpose of the appropriation.

E. References

All references in this Contract to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

4. DEFINITIONS

The following terms as used herein shall be construed and interpreted as follows:

A. Budget

"Budget" means the budget for the Work described in Exhibit A.

B. Contract

"Contract" means this Contract for Goods and Services, its provisions, attached exhibits, documents incorporated by reference under the terms of this Contract, and any future modifying agreements, exhibits, attachments or references incorporated herein pursuant to Colorado State law, Fiscal Rules, and State Controller Policies.

C. Contract Funds

"Contract Funds" means funds available for payment by the State to Contractor pursuant to this Contract.

D. Evaluation

"Evaluation" means the process of examining Contractor's Work and rating it based on criteria established in §6 and Exhibit A.

E. Exhibits and other Attachments

The following are attached hereto and incorporated by reference herein: **Exhibit A** (Statement of Work), **Exhibit B** (Prices and Rates), and **Exhibit C** (Option Letter).

F. Goods

"Goods" means tangible material acquired, produced, or delivered by Contractor either separately or in conjunction with the Services Contractor renders hereunder.

G. Party or Parties

"Party" means the State or Contractor and "Parties" means both the State and Contractor.

H. Review

"Review" means examining Contractor's Work to ensure that it is adequate, accurate, correct and in accordance with the criteria established in §6 and Exhibit A.

I. Services

"Services" means the required services to be performed by Contractor pursuant to this Contract.

J. Subcontractor

"Subcontractor" means third-parties, if any, engaged by Contractor to aid in performance of its obligations.

K. Work

"Work" means the tasks and activities Contractor is required to perform to fulfill its obligations under this Contract and **Exhibit A**, including the performance of the Services and delivery of the Goods.

L. Work Product

"Work Product" means the tangible or intangible results of Contractor's Work, including, but not limited to, software, research, reports, studies, data, photographs, negatives or other finished or unfinished documents, drawings, models, surveys, maps, materials, or work product of any type, including drafts.

5. TERM and EARLY TERMINATION

A. Initial Term-Work Commencement

The Parties' respective performances under this Contract shall commence on the Effective Date of this Contract (OR) the later of either the Effective Date or (Enter Start Date). This Contract shall extend for twelve

(12) months from the Effective Date (OR) terminate on (Enter End Date) unless sooner terminated or further extended as specified elsewhere herein.

B. Two Month Extension

The State, at its sole discretion upon written notice to Contractor as provided in §16, may unilaterally extend the term of this Contract for a period not to exceed two months if the Parties are negotiating a replacement Contract (and not merely seeking a term extension) at or near the end of any initial term or renewal term. The provisions of this Contract in effect when such notice is given, including, but not limited to prices, rates, and delivery requirements, shall remain in effect during the two-month extension. The two month extension shall immediately terminate when and if a replacement Contract is approved and signed by the Colorado State Controller.

C. State's Option to Extend

At its sole discretion, the State, upon written notice to Contractor in a form substantially equivalent to Exhibit C, may unilaterally require continued performance of this Contract for up to Choose Number additional Choose Choose at the same rates and terms specified in the Contract. The State shall exercise the option by written notice to the Contractor within 30 to 60 days prior to the end of the current contract term. If exercised, the provisions of the Option Letter shall become part of and be incorporated into the Contract. The total duration of this Contract, including the exercise of any options, shall not exceed 3 Choose.

6. STATEMENT OF WORK

A. Completion

Contractor shall complete the Work and its other obligations as described herein and in Exhibit A within the Term specified in §5. The State shall not be liable to compensate Contractor for any Work performed prior to the Effective Date or after the termination of this Contract.

B. Goods and Services

Contractor shall procure Goods and Services necessary to complete the Work. Such procurement shall be accomplished using the Contract Funds and shall not increase the maximum amount payable hereunder by the State.

C. Employees

All persons employed by Contractor or Subcontractors to perform Work under this Contract shall be Contractor's or Subcontractors' employee(s) for all purposes hereunder and shall not be employees of the State for any purpose as a result of this Contract.

7. PAYMENTS TO CONTRACTOR

The State shall, in accordance with the provisions of this §7, pay Contractor in the amounts and using the methods set forth below:

A. Maximum Amount

The maximum amount payable under this Contract to Contractor by the State is \$0.00, as determined by the State from available funds. Payments to Contractor are limited to the unpaid obligated balance of the Contract set forth in Exhibit B.

B. Payment

i. Advance, Interim and Final Payments

Any advance payment allowed under this Contract or in Exhibit B shall comply with State Fiscal Rules and be made in accordance with the provisions of this Contract or such Exhibit. Contractor shall initiate any payment requests by submitting invoices to the State in the form and manner set forth in approved by the State and shall attach receipts or other documentation as required in Exhibit A.

ii. Interest

The State shall fully pay each invoice within Choose Number days of receipt thereof if the amount invoiced represents performance by Contractor previously accepted by the State. Uncontested amounts not paid by the State within 45 days shall bear interest on the unpaid balance beginning on the 46th day at a rate not to exceed one percent per month until paid in full; provided, however, that interest shall not accrue on unpaid amounts that are subject to a good faith dispute. Contractor shall invoice the State separately for accrued interest on delinquent amounts. The billing shall reference the delinquent payment, the number of day's interest to be paid and the interest rate.

iii. Available Funds-Contingency-Termination

The State is prohibited by law from making commitments beyond the term of the State's current fiscal year. Therefore, Contractor's compensation beyond the State's current Fiscal Year is contingent upon the

continuing availability of State appropriations as provided in the Colorado Special Provisions. If federal funds are used to fund this Contract, in whole or in part, the State's performance hereunder is contingent upon the continuing availability of such funds. Payments pursuant to this Contract shall be made only from available funds encumbered for this Contract and the State's liability for such payments shall be limited to the amount remaining of such encumbered funds. If State or federal funds are not appropriated, or otherwise become unavailable to fund this Contract, the State may terminate this Contract immediately, in whole or in part, without further liability in accordance with the provisions hereof.

iv. Erroneous Payments

At the State's sole discretion, payments made to Contractor in error for any reason, including, but not limited to overpayments or improper payments, and unexpended or excess funds received by Contractor, may be recovered from Contractor by deduction from subsequent payments under this Contract or other contracts, grants or agreements between the State and Contractor or by other appropriate methods and collected as a debt due to the State. Such funds shall not be paid to any party other than the State.

C. Use of Funds

Contract Funds shall be used only for eligible costs identified herein and/or in the Budget.

D. State Option to Increase/Decrease

i. Increase/Decrease Quantities

At its sole discretion, the State, upon written notice to the Contractor in a form substantially equivalent to **Exhibit C**, may unilaterally increase/decrease the quantity of goods/services described in **Exhibit A** at the unit prices established in the contract. The State shall exercise the option by providing a fully executed option to the Contractor within 30 to 60 days before the option begins. Delivery/performance of the goods/services shall continue at the same rate and under the same terms as established in the contract.

ii. Increase/Decrease Total Contract Price

At its sole discretion, the State, upon written notice to the Contractor in a form substantially equivalent to **Exhibit C**, may unilaterally increase/decrease the maximum amount payable under this contract based upon the unit prices established in the contract and the schedule of services required, as set by the State. The State shall exercise the option by providing a fully executed option to the Contractor.

Delivery/performance of the goods/services shall continue at the same rate and under the same terms as established in the contract.

E. Price

Contractor's price, detailed in **Exhibit B**, shall be firm through the initial term of the contract. Requests for proposed price increases must be submitted a minimum of 90 days prior to the proposed effective date, with detailed supporting documentation/justification, to the Department of Transportation, Center for Procurement Office. Only one price increase will be considered during any contract term following the initial contract term. The State, in its sole discretion, may deem the cost/price increase request appropriate and may bilaterally amend the cost/price detailed in Exhibit B. (OR) Contractor's cost/price, detailed in Exhibit B, shall be firm through the entire term of the contract.

8. REPORTING-NOTIFICATION

Reports, Evaluations, and Reviews required under this **§8** shall be in accordance with the procedures of and in such form as prescribed by the State and in accordance with **§19**, if applicable.

A. Performance, Progress, Personnel, and Funds

Contractor shall comply with all reporting requirements, if any, set forth in **Exhibit A**.

B. Litigation Reporting

Within 10 days after being served with any pleading in a legal action filed with a court or administrative agency, related to this Contract or which may affect Contractor's ability to perform its obligations hereunder, Contractor shall notify the State of such action and deliver copies of such pleadings to the State's principal representative as identified herein. If the State's principal representative is not then serving, such notice and copies shall be delivered to the Executive Director of CDOT.

C. Noncompliance

Contractor's failure to provide reports and notify the State in a timely manner in accordance with this **§8** may result in the delay of payment of funds and/or termination as provided under this Contract.

D. Subcontracts

Copies of any and all subcontracts entered into by Contractor to perform its obligations hereunder shall be submitted to the State or its principal representative upon request by the State. Any and all subcontracts

entered into by Contractor related to its performance hereunder shall comply with all applicable federal and state laws and shall provide that such subcontracts be governed by the laws of the State of Colorado.

9. CONTRACTOR RECORDS

A. Maintenance

Contractor shall make, keep, maintain, and allow inspection and monitoring by the State of a complete file of all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to the Work or the delivery of Services or Goods hereunder. Contractor shall maintain such records until the last to occur of: **(i)** a period of three years after the date this Contract expires or is sooner terminated, or **(ii)** final payment is made hereunder, or **(iii)** the resolution of any pending Contract matters, or **(iv)** if an audit is occurring, or Contractor has received notice that an audit is pending, until such audit has been completed and its findings have been resolved (collectively, the “Record Retention Period”).

B. Inspection

Contractor shall permit the State, the federal government and any other duly authorized agent of a governmental agency to audit, inspect, examine, excerpt, copy and/or transcribe Contractor's records related to this Contract during the Record Retention Period for a period of three years following termination of this Contract or final payment hereunder, whichever is later, to assure compliance with the terms hereof or to evaluate performance hereunder. The State reserves the right to inspect the Work at all reasonable times and places during the term of this Contract, including any extensions or renewals. If the Work fails to conform to the requirements of this Contract, the State may require Contractor promptly to bring the Work into conformity with Contract requirements, at Contractor's sole expense. If the Work cannot be brought into conformance by re-performance or other corrective measures, the State may require Contractor to take necessary action to ensure that future performance conforms to Contract requirements and exercise the remedies available under this Contract, at law or in equity, in lieu of or in conjunction with such corrective measures.

C. Monitoring

Contractor shall permit the State, the federal government, and governmental agencies having jurisdiction, in their sole discretion, to monitor all activities conducted by Contractor pursuant to the terms of this Contract using any reasonable procedure, including, but not limited to: internal evaluation procedures, examination of program data, special analyses, on-site checking, formal audit examinations, or any other procedures. All monitoring controlled by the State shall be performed in a manner that shall not unduly interfere with Contractor's performance hereunder.

D. Final Audit Report

If an audit is performed on Contractor's records for any fiscal year covering a portion of the term of this Contract, Contractor shall submit a copy of the final audit report to the State or its principal representative at the address specified herein.

10. CONFIDENTIAL INFORMATION-STATE RECORDS

Contractor shall comply with the provisions on this §10 if it becomes privy to confidential information in connection with its performance hereunder. Confidential information includes, but is not necessarily limited to, any state records, personnel records, and information concerning individuals. Such information shall not include information required to be disclosed pursuant to the Colorado Open Records Act, CRS §24-72-101, et seq.

A. Confidentiality

Contractor shall keep all State records and information confidential at all times and complies with all laws and regulations concerning confidentiality of information. Any request or demand by a third party for State records and information in the possession of Contractor shall be immediately forwarded to the State's principal representative.

B. Notification

Contractor shall notify its agent, employees, Subcontractors and assigns that may come into contact with State records and confidential information that each is subject to the confidentiality requirements set forth herein, and shall provide each with a written explanation of such requirements before permitting them to access such records and information.

C. Use, Security, and Retention

Confidential information of any kind shall not be distributed or sold to any third party or used by Contractor or its agents in any way except as authorized by this Contract or approved in writing by the State. Contractor shall provide and maintain a secure environment that ensures confidentiality of all State records and other confidential information wherever located. Confidential information shall not be retained in any files or otherwise by Contractor or its agents, except as permitted in this Contract or approved in writing by the State.

D. Disclosure-Liability

Disclosure of State records or other confidential information by Contractor for any reason may be cause for legal action by third parties against Contractor, the State or their respective agents. Contractor shall indemnify, save, and hold harmless the State, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees and related costs, incurred as a result of any act or omission by Contractor, or its employees, agents, Subcontractors, or assignees pursuant to this §10.

11. CONFLICT OF INTEREST

Contractor shall not engage in any business or personal activities or practices or maintain any relationships which conflict in any way with the full performance of Contractor's obligations hereunder. Contractor acknowledges that with respect to this Contract, even the appearance of a conflict of interest is harmful to the State's interests. Absent the State's prior written approval, Contractor shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Contractor's obligations to the State hereunder. If a conflict or appearance exists, or if Contractor is uncertain whether a conflict or the appearance of a conflict of interest exists, Contractor shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration. Failure to promptly submit a disclosure statement or to follow the State's direction in regard to the apparent conflict constitutes a breach of this Contract.

12. REPRESENTATIONS AND WARRANTIES

Contractor makes the following specific representations and warranties, each of which was relied on by the State in entering into this Contract.

A. Standard and Manner of Performance

Contractor shall perform its obligations hereunder in accordance with the highest standards of care, skill and diligence in Contractor's industry, trade, or profession and in the sequence and manner set forth in this Contract.

B. Legal Authority – Contractor Signatory

Contractor warrants that it possesses the legal authority to enter into this Contract and that it has taken all actions required by its procedures, and by-laws, and/or applicable laws to exercise that authority, and to lawfully authorize its undersigned signatory to execute this Contract, or any part thereof, and to bind Contractor to its terms. If requested by the State, Contractor shall provide the State with proof of Contractor's authority to enter into this Contract within 15 days of receiving such request.

C. Licenses, Permits, Etc.

Contractor represents and warrants that as of the Effective Date it has, and that at all times during the term hereof it shall have and maintain, at its sole expense, all licenses, certifications, approvals, insurance, permits, and other authorizations required by law to perform its obligations hereunder. Contractor warrants that it shall maintain all necessary licenses, certifications, approvals, insurance, permits, and other authorizations required to properly perform this Contract, without reimbursement by the State or other adjustment in Contract Funds. Additionally, all employees, agents, and Subcontractors of Contractor performing Services under this Contract shall hold all required licenses or certifications, if any, to perform their responsibilities. Contractor, if a foreign corporation or other foreign entity transacting business in the State of Colorado, further warrants that it currently has obtained and shall maintain any applicable certificate of authority to transact business in the State of Colorado and has designated a registered agent in Colorado to accept service of process. Any revocation, withdrawal or non-renewal of licenses, certifications, approvals, insurance, permits or any such similar requirements necessary for Contractor to properly perform the terms of this Contract is a material breach by Contractor and constitutes grounds for termination of this Contract.

13. INSURANCE

Contractor and its Subcontractors shall obtain and maintain insurance as specified in this section at all times during the term of this Contract. All policies evidencing the insurance coverage required hereunder shall be issued by insurance companies satisfactory to Contractor and the State.

A. Contractor

i. Public Entities

If Contractor is a "public entity" within the meaning of the Colorado Governmental Immunity Act, CRS §24-10-101, et seq., as amended (the "GIA"), then Contractor shall maintain at all times during the term of this Contract such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA. Contractor shall show proof of such insurance satisfactory to the State, if requested by the State. Contractor shall require each contract with a Subcontractor that is a public entity, to include the insurance requirements necessary to meet such Subcontractor's liabilities under the GIA

ii. Non-Public Entities

If Contractor is not a "public entity" within the meaning of the GIA, Contractor shall obtain and maintain during the term of this Contract insurance coverage and policies meeting the same requirements set forth in §13(B) with respect to subcontractors that are not "public entities".

B. Contractors - Subcontractors

Contractor shall require each contract with subcontractors other than those that are public entities, providing Goods or Services in connection with this Contract, to include insurance requirements substantially similar to the following:

i. Worker's Compensation

Worker's Compensation Insurance as required by State statute, and Employer's Liability Insurance covering all of Contractor or subcontractor employees acting within the course and scope of their employment.

ii. General Liability

Commercial General Liability Insurance written on ISO occurrence form CG 00 01 10/93 or equivalent, covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows: (a) \$1,000,000 each occurrence; (b) \$1,000,000 general aggregate; (c) \$1,000,000 products and completed operations aggregate; and (d) \$50,000 any one fire.

iii. Automobile Liability

Automobile Liability Insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit of \$1,000,000 each accident combined single limit.

iv. Additional Insured

The State shall be named as additional insured on all Commercial General Liability Insurance policies (leases and construction contracts require additional insured coverage for completed operations on endorsements CG 2010 11/85, CG 2037, or equivalent) required of Contractor and any subcontractors hereunder.

v. Primacy of Coverage

Coverage required of Contractor and subcontractor shall be primary over any insurance or self-insurance program carried by Contractor or the State.

vi. Cancellation

The above insurance policies shall include provisions preventing cancellation or non-renewal without at least 30 days prior notice to Contractor and Contractor shall forward such notice to the State in accordance with §16 (Notices and Representatives) within seven days of Contractor's receipt of such notice.

vii. Subrogation Waiver

All insurance policies in any way related to this Contract and secured and maintained by Contractor or its subcontractors as required herein shall include clauses stating that each carrier shall waive all rights of recovery, under subrogation or otherwise, against Contractor or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

C. Certificates

Contractor and all subcontractors shall provide certificates showing insurance coverage required hereunder to the State within seven business days of the Effective Date of this Contract. No later than 15 days prior to the expiration date of any such coverage, Contractor and each subcontractors shall deliver to the State or Contractor certificates of insurance evidencing renewals thereof. In addition, upon request by the State at any other time during the term of this Contract or any sub-contract, Contractor and each subcontractors shall, within 10 days of such request, supply to the State evidence satisfactory to the State of compliance with the provisions of this §13.

14. BREACH

A. Defined

In addition to any breaches specified in other sections of this Contract, the failure of either Party to perform any of its material obligations hereunder in whole or in part or in a timely or satisfactory manner constitutes a breach. The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Contractor, or the appointment of a receiver or similar officer for Contractor or any of its property, which is not vacated or fully stayed within 20 days after the institution or occurrence thereof, shall also constitute a breach.

B. Notice and Cure Period

In the event of a breach, notice of such shall be given in writing by the aggrieved Party to the other Party in the manner provided in §16. If such breach is not cured within 30 days of receipt of written notice, or if a cure cannot be completed within 30 days, or if cure of the breach has not begun within 30 days and pursued with due diligence, the State may exercise any of the remedies set forth in §15. Notwithstanding anything to the contrary herein, the State, in its sole discretion, need not provide advance notice or a cure period and may immediately terminate this Contract in whole or in part if reasonably necessary to preserve public safety or to prevent immediate public crisis.

15. REMEDIES

If Contractor is in breach under any provision of this Contract, the State shall have all of the remedies listed in this §15 in addition to all other remedies set forth in other sections of this Contract following the notice and cure period set forth in §14(B). The State may exercise any or all of the remedies available to it, in its sole discretion, concurrently or consecutively.

A. Termination for Cause and/or Breach

The State may terminate this entire Contract or any part of this Contract. Exercise by the State of this right shall not be a breach of its obligations hereunder. Contractor shall continue performance of this Contract to the extent not terminated, if any.

i. Obligations and Rights

To the extent specified in any termination notice, Contractor shall not incur further obligations or render further performance hereunder past the effective date of such notice, and shall terminate outstanding orders and subcontracts with third parties. However, Contractor shall complete and deliver to the State all Work, Services and Goods not cancelled by the termination notice and may incur obligations as are necessary to do so within this Contract's terms. At the sole discretion of the State, Contractor shall assign to the State all of Contractor's right, title, and interest under such terminated orders or subcontracts. Upon termination, Contractor shall take timely, reasonable and necessary action to protect and preserve property in the possession of Contractor in which the State has an interest. All materials owned by the State in the possession of Contractor shall be immediately returned to the State. All Work Product, at the option of the State, shall be delivered by Contractor to the State and shall become the State's property.

ii. Payments

The State shall reimburse Contractor only for accepted performance up to the date of termination. If, after termination by the State, it is determined that Contractor was not in breach or that Contractor's action or inaction was excusable, such termination shall be treated as a termination in the public interest and the rights and obligations of the Parties shall be the same as if this Contract had been terminated in the public interest, as described herein.

iii. Damages and Withholding

Notwithstanding any other remedial action by the State, Contractor shall remain liable to the State for any damages sustained by the State by virtue of any breach under this Contract by Contractor and the State may withhold any payment to Contractor for the purpose of mitigating the State's damages, until such time as the exact amount of damages due to the State from Contractor is determined. The State may withhold any amount that may be due Contractor as the State deems necessary to protect the State against loss, including loss as a result of outstanding liens, claims of former lien holders, or for the excess costs incurred in procuring similar goods or services. Contractor shall be liable for excess costs incurred by the State in procuring from third parties replacement Work, Services or substitute Goods as cover.

B. Early Termination in the Public Interest

The State is entering into this Contract for the purpose of carrying out the public policy of the State of Colorado, as determined by its Governor, General Assembly, and/or Courts. If this Contract ceases to further the public policy of the State, the State, in its sole discretion, may terminate this Contract in whole or in part. Exercise by the State of this right shall not constitute a breach of the State's obligations hereunder. This

subsection shall not apply to a termination of this Contract by the State for cause or breach by Contractor, which shall be governed by §15(A) or as otherwise specifically provided for herein.

i. Method and Content

The State shall notify Contractor of such termination in accordance with §16. The notice shall specify the effective date of the termination and whether it affects all or a portion of this Contract.

ii. Obligations and Rights

Upon receipt of a termination notice, Contractor shall be subject to and comply with the same obligations and rights set forth in §15(A) (i).

iii. Payments

If this Contract is terminated by the State pursuant to this §15(B), Contractor shall be paid an amount which bears the same ratio to the total reimbursement under this Contract as Contractor’s obligations that were satisfactorily performed bear to the total obligations set forth in this Contract, less payments previously made. Additionally, if this Contract is less than 60% completed, the State may reimburse Contractor for a portion of actual out-of-pocket expenses (not otherwise reimbursed under this Contract) incurred by Contractor which are directly attributable to the uncompleted portion of Contractor’s obligations hereunder; provided that the sum of any and all reimbursement shall not exceed the maximum amount payable to Contractor hereunder.

C. Remedies Not Involving Termination

The State, its sole discretion, may exercise one or more of the following remedies in addition to other remedies available to it:

i. Suspend Performance

Suspend Contractor’s performance with respect to all or any portion of this Contract pending necessary corrective action as specified by the State without entitling Contractor to an adjustment in price/cost or performance schedule. Contractor shall promptly cease performance and incurring costs in accordance with the State’s directive and the State shall not be liable for costs incurred by Contractor after the suspension of performance under this provision.

ii. Withhold Payment

Withhold payment to Contractor until corrections in Contractor’s performance are satisfactorily made and completed.

iii. Deny Payment

Deny payment for those obligations not performed that due to Contractor’s actions or inactions cannot be performed or, if performed, would be of no value to the State; provided, that any denial of payment shall be reasonably related to the value to the State of the obligations not performed.

iv. Removal

Notwithstanding any other provision herein, the State may demand immediate removal of any of Contractor’s employees, agents, or subcontractors whom the State deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable, or whose continued relation to this Contract is deemed to be contrary to the public interest or the State’s best interest.

v. Intellectual Property

If Contractor infringes on a patent, copyright, trademark, trade secret or other intellectual property right while performing its obligations under this Contract, Contractor shall, at the State’s option (a) obtain for the State or Contractor the right to use such products and services; (b) replace any Goods, Services, or other product involved with non-infringing products or modify them so that they become non-infringing; or, (c) if neither of the foregoing alternatives are reasonably available, remove any infringing Goods, Services, or products and refund the price paid therefore to the State.

16. NOTICES and REPRESENTATIVES

Each individual identified below is the principal representative of the designating Party. All notices required to be given hereunder shall be hand delivered with receipt required or sent by certified or registered mail to such Party’s principal representative at the address set forth below. In addition to, but not in lieu of a hard-copy notice, notice also may be sent by e-mail to the e-mail addresses, if any, set forth below. Either Party may from time to time designate by written notice substitute addresses or persons to whom such notices shall be sent. Unless otherwise provided herein, all notices shall be effective upon receipt.

A. CDOT:

Name and title of Person
Department Name

and CDOT:

Name and title of Person
Department Name

Address
City, State, ZIP
Phone
Email

Address
City, State, ZIP
Phone
Email

B. Contractor:

Name and title of Person
Company or Department Name
Address
City, State, ZIP
Phone
Email

and Contractor:

Name and title of Person
Company or Department Name
Address
City, State, ZIP
Phone
Email

17. RIGHTS IN DATA, DOCUMENTS, AND COMPUTER SOFTWARE

Any software, research, reports, studies, data, photographs, negatives or other documents, drawings, models, materials, or Work Product of any type, including drafts, prepared by Contractor in the performance of its obligations under this Contract shall be the exclusive property of the State and, all Work Product shall be delivered to the State by Contractor upon completion or termination hereof. The State's exclusive rights in such Work Product shall include, but not be limited to, the right to copy, publish, display, transfer, and prepare derivative works. Contractor shall not use, willingly allow, cause or permit such Work Product to be used for any purpose other than the performance of Contractor's obligations hereunder without the prior written consent of the State.

18. GOVERNMENTAL IMMUNITY

Liability for claims for injuries to persons or property arising from the negligence of the State of Colorado, its departments, institutions, agencies, boards, officials, and employees is controlled and limited by the provisions of the Governmental Immunity Act §24-10-101, et seq. and the risk management statutes, CRS §24-30-1501, et seq., as amended.

19. STATEWIDE CONTRACT MANAGEMENT SYSTEM

If the maximum amount payable to Contractor under this Contract is \$100,000 or greater, either on the Effective Date or at anytime thereafter, this §19 applies.

Contractor agrees to be governed, and to abide, by the provisions of CRS §24-102-205, §24-102-206, §24-103-601, §24-103.5-101 and §24-105-102 concerning the monitoring of vendor performance on state contracts and inclusion of contract performance information in a statewide contract management system.

Contractor's performance shall be subject to Evaluation and Review in accordance with the terms and conditions of this Contract, State law, including CRS §24-103.5-101, and State Fiscal Rules, Policies and Guidance. Evaluation and Review of Contractor's performance shall be part of the normal contract administration process and Contractor's performance will be systematically recorded in the statewide Contract Management System. Areas of Evaluation and Review shall include, but shall not be limited to quality, cost and timeliness. Collection of information relevant to the performance of Contractor's obligations under this Contract shall be determined by the specific requirements of such obligations and shall include factors tailored to match the requirements of Contractor's obligations. Such performance information shall be entered into the statewide Contract Management System at intervals established herein and a final Evaluation, Review and Rating shall be rendered within 30 days of the end of the Contract term. Contractor shall be notified following each performance Evaluation and Review, and shall address or correct any identified problem in a timely manner and maintain work progress.

Should the final performance Evaluation and Review determine that Contractor demonstrated a gross failure to meet the performance measures established hereunder, the Executive Director of the Colorado Department of Personnel and Administration (Executive Director), upon request by the CDOT, and showing of good cause, may debar Contractor and prohibit Contractor from bidding on future contracts. Contractor may contest the final Evaluation, Review and Rating by: (a) filing rebuttal statements, which may result in either removal or correction of the evaluation (CRS §24-105-102(6)), or (b) under CRS §24-105-102(6), exercising the debarment protest and

appeal rights provided in CRS §§24-109-106, 107, 201 or 202, which may result in the reversal of the debarment and reinstatement of Contractor, by the Executive Director, upon showing of good cause.

20. GENERAL PROVISIONS

A. Assignment and Subcontracts

Contractor's rights and obligations hereunder are personal and may not be transferred, assigned or subcontracted without the prior, written consent of the State. Any attempt at assignment, transfer, subcontracting without such consent shall be void. All assignments, subcontracts, or subcontractors approved by Contractor or the State are subject to all of the provisions hereof. Contractor shall be solely responsible for all aspects of subcontracting arrangements and performance.

B. Binding Effect

Except as otherwise provided in §20(A), all provisions herein contained, including the benefits and burdens, shall extend to and be binding upon the Parties' respective heirs, legal representatives, successors, and assigns.

C. Captions

The captions and headings in this Contract are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions.

D. Counterparts

This Contract may be executed in multiple identical original counterparts, all of which shall constitute one agreement.

E. Entire Understanding

This Contract represents the complete integration of all understandings between the Parties and all prior representations and understandings, oral or written, are merged herein. Prior or contemporaneous additions, deletions, or other changes hereto shall not have any force or affect whatsoever, unless embodied herein.

F. Indemnification

Contractor shall indemnify, save, and hold harmless the State, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees and related costs, incurred as a result of any act or omission by Contractor, or its employees, agents, subcontractors, or assignees pursuant to the terms of this Contract; however, the provisions hereof shall not be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, 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. 2671 et seq., as applicable, as now or hereafter amended.

G. Jurisdiction and Venue

All suits or actions related to this Contract shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

H. Modification

i. By the Parties

Except as specifically provided in this Contract, modifications of this Contract shall not be effective unless agreed to in writing by both parties in an amendment to this Contract, properly executed and approved in accordance with applicable Colorado State law, State Fiscal Rules. Modifications permitted under this Contract, other than contract amendments, shall conform to the Policies of the Office of the State Controller, including, but not limited to, the policy entitled MODIFICATIONS OF CONTRACTS - TOOLS AND FORMS.

ii. By Operation of Law

This Contract is subject to such modifications as may be required by changes in Federal or Colorado State law, or their implementing regulations. Any such required modification automatically shall be incorporated into and be part of this Contract on the effective date of such change, as if fully set forth herein.

I. Order of Precedence

The provisions of this Contract shall govern the relationship of the State and Contractor. In the event of conflicts or inconsistencies between this Contract and its exhibits and attachments, including, but not limited to, those provided by Contractor, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority:

i. Colorado Special Provisions,

ii. The provisions of the main body of this Contract,

- iii. **Exhibit A,**
- iv. **Exhibit B,**
- v. **Exhibit C.**

J. Severability

Provided this Contract can be executed and performance of the obligations of the Parties accomplished within its intent, the provisions hereof are severable and any provision that is declared invalid or becomes inoperable for any reason shall not affect the validity of any other provision hereof, provided that the Parties can continue to perform their obligations under this Contract in accordance with its intent.

K. Survival of Certain Agreement Terms

Notwithstanding anything herein to the contrary, provisions of this Contract requiring continued performance, compliance, or effect after termination hereof, shall survive such termination and shall be enforceable by the State if Contractor fails to perform or comply as required.

L. Taxes

The State is exempt from all federal excise taxes under IRC Chapter 32 (No. 84-730123K) and from all State and local government sales and use taxes under CRS §§39-26-101 and 201 et seq. Such exemptions apply when materials are purchased or services are rendered to benefit the State; provided however, that certain political subdivisions (e.g., City of Denver) may require payment of sales or use taxes even though the product or service is provided to the State. Contractor shall be solely liable for paying such taxes as the State is prohibited from paying or reimbursing Contractor for such taxes.

M. Third Party Beneficiaries

Enforcement of this Contract and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Contract are incidental to the Contract, and do not create any rights for such third parties.

N. Waiver

Waiver of any breach under a term, provision, or requirement of this Contract, or any right or remedy hereunder, whether explicitly or by lack of enforcement, shall not be construed or deemed as a waiver of any subsequent breach of such term, provision or requirement, or of any other term, provision, or requirement.

O. CORA Disclosure

To the extent not prohibited by federal law, this Contract and the performance measures and standards under CRS §24-103.5-101, if any, are subject to public release through the Colorado Open Records Act, CRS §24-72-101, et seq.

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21. COLORADO SPECIAL PROVISIONS

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

- A. 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.
- B. 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..
- C. 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.
- D. 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.
- E. 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.
- F. 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.
- G. 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.
- H. 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.
- I. 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.
- J. 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.

K. 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.

L. 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.

Revised 1/1/09

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22. SIGNATURE PAGE

THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

*** Persons signing for Contractor hereby swear and affirm that they are authorized to act on Contractor's behalf and acknowledge that the State is relying on their representations to that effect.**

<p style="text-align: center;">CONTRACTOR Legal Name of Contractor</p> <p>By: _____ Name of Authorized Individual</p> <p>Title: _____ Official Title of Authorized Individual</p> <p>_____</p> <p style="text-align: center;">*Signature</p> <p>Date: _____</p> <p style="text-align: center;">2nd Contractor Signature if Needed</p> <p>By: _____ Name of Authorized Individual</p> <p>Title: _____ Official Title of Authorized Individual</p> <p>_____</p> <p style="text-align: center;">*Signature</p> <p>Date: _____</p>	<p style="text-align: center;">STATE OF COLORADO John W. Hickenlooper, GOVERNOR</p> <p style="text-align: center;">Department of Transportation (for) Donald E. Hunt, Executive Director</p> <p>By: _____ Name and Title</p> <p>_____</p> <p style="text-align: center;">Signature</p> <p>Date: _____</p> <p style="text-align: center;">LEGAL REVIEW John W. Suthers, Attorney General</p> <p>By: _____ Signature - Assistant Attorney General</p> <p>Date: _____</p>
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ALL CONTRACTS REQUIRE APPROVAL by the STATE CONTROLLER

CRS §24-30-202 requires the State Controller to approve all State Contracts. This Contract is not valid until signed and dated below by the State Controller or delegate. Contractor is not authorized to begin performance until such time. If Contractor begins performing prior thereto, the State of Colorado is not obligated to pay Contractor for such performance or for any goods and/or services provided hereunder.

STATE CONTROLLER
David J. McDermott, CPA

By: _____

INSERT-Name of Agency or IHE Delegate-Please delete if contract will be routed to OSC for approval

Date: _____

DRAFT

DRAFT

SAMPLE OPTION LETTER

Date:	State Fiscal Year:	Option Letter No.	Routing #
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1) **OPTIONS:** (Choose all applicable options listed in §1 and in §2 and delete the rest.)

- (a) **Option to renew only for an additional term.**
- (b) **Change in the amount of goods within current term**
- (c) **Change in amount of goods in conjunction with renewal for additional term**
- (d) **Level of service change within current term**
- (e) **Level of service change in conjunction with renewal for additional term**
- (f) **Option to initiate next phase in a contract**

2) **PROVISIONS:** (All Option Letters shall contain the appropriate provisions set forth below :)

(For use with Options 1(a-e) : In accordance with Section(s) _____ of the original Contract routing number _____ between the State of Colorado, Department of Transportation, and Contractor's Name, covering the term Insert Orig start date through Insert Current ending date, the State hereby exercises its option for an additional term beginning Insert Option start date and ending on Insert New ending date at a cost/price specified in Identify the Section, Schedule, Attachment, Exhibit etc, AND/OR an increase/decrease in the amount of goods/services at the same rate(s) as specified in Identify the Section, Schedule, Attachment, Exhibit etc.

(For use with Option 1(f), please use the following :) In accordance with Section(s) _____ of the Original Contract routing number _____ between the State of Colorado, Department of Transportation, and Contractor's Name, the State hereby exercises its option to initiate Phase indicate Phase: 2, 3, etc for the term beginning Insert start date and ending on Insert ending date at the cost/price specified in Section _____.

(For use with all Options 1(a-f) : The amount of the current Fiscal Year contract Choose Language (*if change to contract value* is increased/decreased by \$ amount of change to a new) (*if time only* remains unchanged with a) contract Choose Language of Insert New \$ Amt to as consideration for services/goods ordered under the contract for the current fiscal year indicate Fiscal Year. (*if change to contract value* The first sentence in Section _____ is hereby modified accordingly.)

Requisition #	CDOT Document #	Doc Line #	WBS or Fund Center #	Change Amount

The total contract value including all previous amendments, option letters, etc. is Insert New \$ Amt.

3) **EFFECTIVE DATE.** The effective date of this Option Letter is upon approval of the State Controller or _____, whichever is later.

STATE OF COLORADO
John W. Hickenlooper, GOVERNOR
 Department of Transportation

By: _____
 (For) Donald E. Hunt, Executive Director

Date: _____

ALL CONTRACTS REQUIRE APPROVAL BY THE STATE CONTROLLER

CRS §24-30-202 requires the State Controller to approve all State Contracts. This Contract is not valid until signed and dated below by the State Controller or delegate. Contractor is not authorized to begin performance until such time. If Contractor begins performing prior thereto, the State of Colorado is not obligated to pay Contractor for such performance or for any goods and/or services provided hereunder.

STATE CONTROLLER
David J. McDermott, CPA

By: _____
 Department of Transportation

Date: _____