

ROCKY MOUNTAIN RAIL AUTHORITY
REQUEST FOR PROPOSALS

TO PERFORM

**CONSULTANT SERVICES FOR ROCKY MOUNTAIN RAIL
AUTHORITY'S
HIGH SPEED RAIL FEASIBILITY STUDY**

RFP NO. 2

**Issued by:
Rocky Mountain Rail Authority**

February 18, 2008

Table of Contents

1.0 SECTION 1 – GENERAL INFORMATION4

1.1 ROCKY MOUNTAIN RAIL AUTHORITY OVERVIEW.....4

1.2 STUDY INTENT4

1.3 STUDY FINDING, SCHEDULE, AND TERM OF AGREEMENT6

1.4 RMRA PROJECT MANAGEMENT CONSULTANT AND FISCAL AGENTS6

1.5 RELATIONSHIP TO COMPLETED AND CURRENT/ON-GOING EFFORTS6

1.5.1 Current/On-Going Studies.....7

1.5.2 Completed Studies.....7

1.5.3 RFP Schedule.....7

1.6 AWARD OF CONTRACT.....8

2.0 SECTION 2 – PROPOSAL INSTRUCTIONS9

2.1 GENERAL INSTRUCTIONS.....9

2.2 SBE/DBE REQUIREMENTS9

2.3 INQUIRIES AND CORRECTIONS.....9

2.4 ADDENDA TO THIS RFP9

2.5 SIGNATURES9

2.6 SUBMITTAL REQUIREMENTS10

2.7 PROPOSAL CONTENTS10

2.8 EVALUATION OF PROPOSALS12

3.0 SECTION 3 – SCOPE OF WORK13

3.1 STUDY BACKGROUND13

3.1.1 Project Objectives13

3.1.2 Study Corridors14

3.1.3 Coordination with Previous and Current/Ongoing Studies.....14

3.1.4 Overall Plan Development14

3.1.5 Future Work15

3.2 WORK TASKS.....15

3.2.1 Task 1 – Project Management15

3.2.2 Task 2 – Peer Review Panel Support.....16

3.2.3 Task 3 – Scoping/Outreach.....16

3.2.4 Methodology, Data Collection and Summary of Existing Conditions (including summary of previous reports)18

3.2.5 Task 5 - Ridership and Revenue Forecasts18

3.2.6 Task 6 – Evaluation of Alternatives19

3.2.7 Task 7 – Feasibility Determination and Documentation.....20

3.2.8 Task 8 – Documentation/Deliverables.....22

List of Figures

Figure 1 Potential Colorado High Speed Rail Corridors..... 5

List of Exhibits

- Exhibit A – Agreement for the Rail Feasibility Study Consultant Services
- Exhibit B – Instructions to Proposers for the RMRA Contracts
- Exhibit C – Resolution Number TC
- Exhibit D – Notice of Award
- Exhibit E – Notice to Proceed
- Exhibit F – Notice of Unsuccessful Response

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ANNOUNCEMENT
REQUEST FOR PROPOSALS
RMRA High Speed Rail Feasibility Study Consultant

Announcement date: February 18, 2008

Description of Services

The Rocky Mountain Rail Authority (RMRA) is seeking proposals from consultants to perform a high speed passenger rail feasibility study.

RMRA is a multi-jurisdictional governmental entity formed by intergovernmental agreement among Colorado local governments. RMRA has received a grant award of \$1,246,000 from the Colorado Department of Transportation (CDOT) with which to conduct a rail feasibility study (RFS or Rail Feasibility Study) and the RMRA member jurisdictions have contributed a local 20% match exceeding \$311,500. The RFS will evaluate the feasibility of high speed passenger rail in the I-25 and I-70 corridors.

The Rail Feasibility Study will be conducted by one consultant or consultant team that will be responsible for the engineering-based systems components and planning components of the study, under the guidance of a Project Management Consultant (PMC) selected by RMRA. The RMRA has selected and awarded a contract to the firm of PBS&J to act as the PMC.

The total study budget is \$1,557,500 broken out as follows:

Rail Feasibility Study	\$1,250,500
PMC Services	\$150,000
Peer Review	\$60,000
Contingency	<u>\$97,000</u>
	\$1,557,500

RMRA is seeking through this RFP to secure the services of the RFS Consultant who will be responsible for conducting the rail feasibility study. The study components are expected to include public outreach, scoping, travel demand modeling, vehicle and guideway technology (on-grade, aerial, or tunnel), ridership forecasting, general station siting, system alignment, guideway design, system design and performance, and overall financing, including estimates of capital and operating costs.

Proposals are due by March 21, 2008 not later than 1:00 PM to the PMC. Proposals not received by 1:00 PM will not be considered. Proposers are required to submit one softcopy CD or DVD and 10 paper copies of the proposal.

Information for Respondents

1. The Scope of Work Section of the RFP describes the services required. RMRA reserves the right to modify the requirements for this RFP. RMRA also reserves the right to cancel the issuance of the RFP at any time.
2. RMRA does not assume responsibility for reimbursement of costs incurred by respondents in responding to this RFP. All proposals submitted will become property of RMRA. RMRA reserves the right to reject any or all responses, or select the response, determined by RMRA in its sole discretion, to be most advantageous to the RMRA.
3. All decisions regarding this RFP will be made by the RMRA Board or by RMRA's RFS steering committee under authorization granted by the Board. As PMC, PBS&J will act as the project management agent for the RMRA, and as agent, will coordinate the distribution of the RFP, will address questions and issue any needed RFP addenda, will receive proposals, and support steering committee review of the proposals.
4. Copies of the complete RFP are available free of charge and will be available on RMRA's web site, (www.rockymountainrail.org) by February 18, 2008. RMRA will keep a list of all requests for a copy by respondent name, address, and email in order to send respondent any updates on the RFP schedule and to reply to requests for clarification. Respondents may request a copy of the RFP by mail, email, or in person from the PMC:

Mark Boggs, P.E.
PBS&J
4601 DTC Blvd, Suite 700
Denver, CO 80218
mmboggs@pbsj.com

5. Correspondence between RMRA and the RFS proposers will be primarily via email. Interested proposers **MUST** provide an email address as their primary contact information along with their Notice of Intent to Bid to the PMC (mmboggs@pbsj.com) by March 4, 2008.
6. A mandatory Pre-Proposal Meeting will be held on February 29, 2008 at 1:00 PM (tentative time):

Douglas County Park Meadows Center
BoCC Hearing Room
9350 Heritage Hills Circle
Lone Tree, CO 80124

In-person attendance is preferred, but participation by telephone will be permitted. Dial-in instructions may be obtained from the PMC.

7. Questions or requests for clarification on the RFP must be submitted by proposers to the PMC via email to the address above by 10 AM on March 7, 2008.

8. Ten copies of the technical proposal shall be submitted to the PMC in a sealed package. In addition to the technical proposal, proposers must acknowledge receipt of the RFP addenda and must submit one copy of the proposer's price proposal in the proposal package. The price proposal shall be enclosed in a separate, sealed envelope labeled "Price Proposal." Each proposal shall be legibly marked in the upper left-hand corner with the name and address of the respondent. Proposals will be received by the PMC at the address shown in #4, above, until 1:00 PM, March 21, 2008. Proposals submitted after this date and time will not be accepted and will be returned unopened. In addition, one copy of the complete proposal including fee schedule shall be provided in a PDF format on a CD-ROM or DVD.
9. RMRA reserves the right to reject any or all proposals, in part or in whole.
10. RMRA Board Chair with approval of the Board will notify the successful proposer by April 25, 2008. The RFP lists a proposed schedule. Note that RMRA reserves the right to change the schedule.
11. Once submitted, all proposals shall be the property of the RMRA, and will not be returned to proposers.

1.0 SECTION 1 – GENERAL INFORMATION

1.1 ROCKY MOUNTAIN RAIL AUTHORITY OVERVIEW

The Rocky Mountain Rail Authority (RMRA) is a multi-jurisdictional governmental entity formed by intergovernmental agreement among Colorado local governments. The RMRA is made up of County and Municipal governments, Transportation Authorities and Transportation Districts along the I-70 and I-25 corridors and secondary corridors, shown in Figure 1 of this document. The RMRA is authorized to receive public funds and to enter into contracts needed to achieve its mission of determining the feasibility of implementing high speed passenger rail service within and through the state of Colorado. RMRA and its member jurisdictions are looking to improve transportation and mobility throughout Colorado for residents and visitors.

1.2 STUDY INTENT

Colorado's current growth and future growth projections in both population and commerce has created the demand to reexamine the state's current transportation system. RMRA believes that a passenger rail backbone in both the state's major east-west and north-south corridors could be important to meet projected travel demand and maintain Colorado's leadership in an increasingly competitive global marketplace.

The Colorado Department of Transportation (CDOT) has awarded state funds to RMRA, to conduct a high speed rail feasibility study for the I-25 and I-70 corridors and secondary corridors within Colorado as shown in Figure 1, and to coordinate with other studies to examine opportunities to extend passenger service into the states of New Mexico and Wyoming. The Rail Feasibility Study (RFS) will consist of planning and conceptual engineering/systems tasks and seek to answer the six feasibility factors posed by the Federal Rail Administration (FRA). The study consultant will be responsible for determining whether the entire system works well together and with other systems and properly serves the travel demands estimated through the planning tasks.

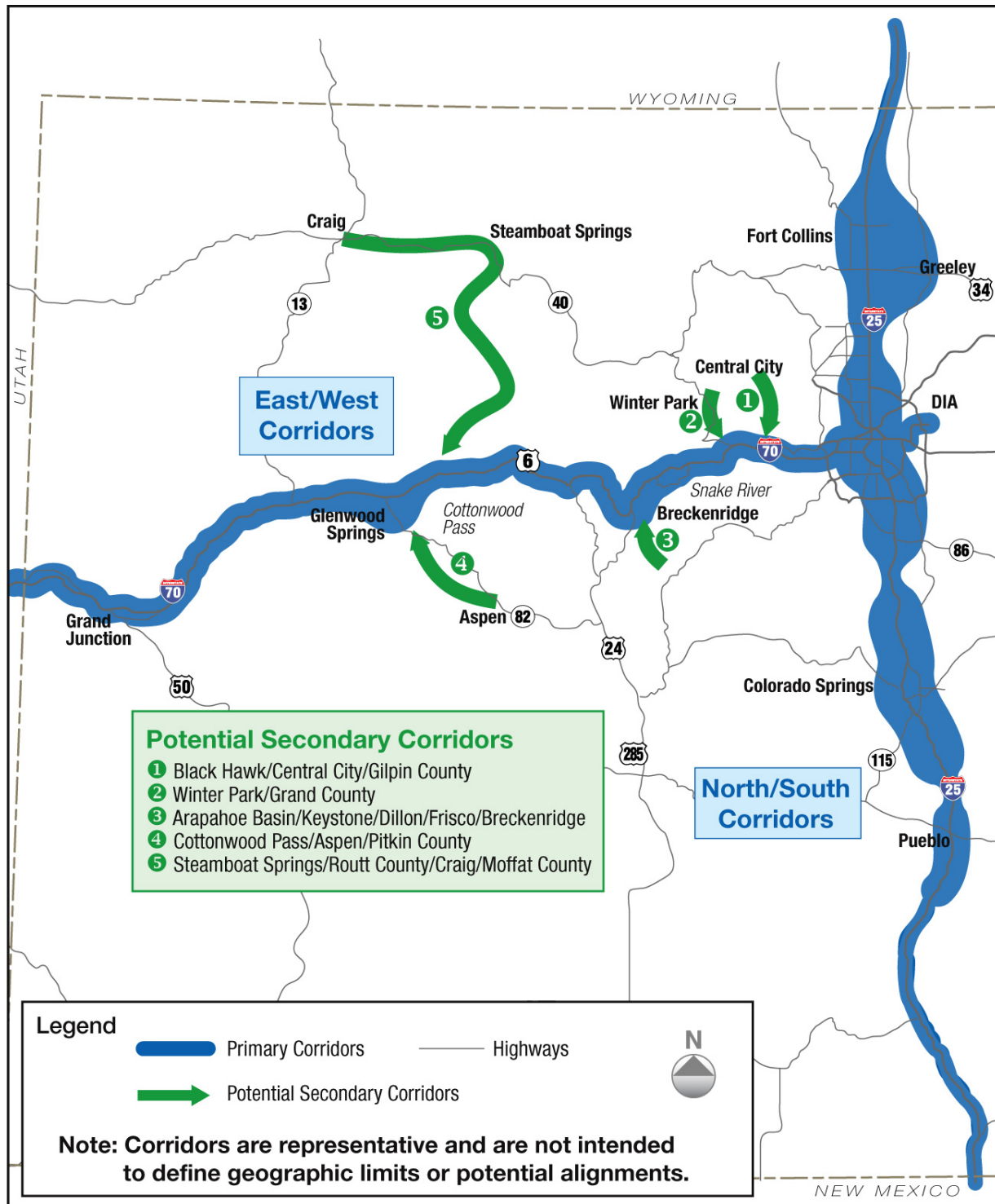
The RMRA intends to award a single contract to prepare the RFS.

Study Feasibility Factors:

As a priority, the rail feasibility study must be consistent with FRA guidelines for conceptual feasibility studies of high speed rail service and address the following feasibility factors:

1. Whether the proposed corridors include rail lines where railroad speeds of 90 miles or more per hour are occurring or can reasonably be expected to occur in the future.
2. The projected ridership associated with the proposed corridors.
3. The percentage of the corridors over which trains will be able to operate at maximum cruise speed, taking into account such factors as topography and other traffic on the line.
4. The projected benefits to non-riders, such as congestion relief on other modes of transportation servicing the corridors.
5. The amount of federal, state and local financial support that can reasonably be anticipated for the improvement of the line and related facilities.
6. The cooperation of the owner of the right of way that can reasonably be expected in the operation of the high-speed rail passenger service in the corridors.

**Figure 1
Potential Colorado High Speed Rail Corridors**



1.3 STUDY FINDING, SCHEDULE, AND TERM OF AGREEMENT

FUNDING: The total budget for the RMRA RFS, including contingency, is \$1,577,500. Project management services have been, and peer review services will be, procured separately. The total RFS consultant budget is \$1,250,500.

SCHEDULE: RMRA intends to contract with the successful proposer for not more than 18 months.

CONTRACT TYPE: It is anticipated that the contract for the Rail Feasibility Study will be a Cost-Plus-Fixed Fee contract, with a maximum not to exceed dollar amount of \$1,250,500.

1.4 RMRA PROJECT MANAGEMENT CONSULTANT AND FISCAL AGENTS

RMRA will manage this contract through the RFS Steering Committee for the RMRA Board of Directors and its Project Management Consultant (PMC). The firm of PBS&J has been selected as the PMC.

The PMC will be the single point of contact between the RMRA organization and the selected study consultant for day-to-day study activities. The PMC will be RMRA's agent in the supervision and direction of the study. The PMC will provide to both the RMRA Steering Committee and the RMRA Board monthly progress and budget reports.

The PMC will oversee the work of the study consultant. The PMC shall work under the direction of the RMRA Rail Feasibility Steering Committee, a subcommittee of the Board, and the RMRA Board of Directors. The study consultant shall be recruited and selected by the RMRA Board through a request for proposals (RFP) procurement process.

The PMC will be responsible for reviewing the RFS Consultant's monthly progress reports and invoices and for recommending payment approval by the Board.

Periodic reviews of the funding allocation for specific tasks will be conducted by the PMC and CDOT staff to insure the most effective use of the budgeted project funds.

1.5 RELATIONSHIP TO COMPLETED AND CURRENT/ON-GOING EFFORTS

Substantial work has already been performed relevant to the conduct of the RFS, and it is expected that the RFS Consultant will utilize these studies to the maximum extent possible. In particular, the RFS will closely monitor the outcomes of CDOT's ongoing Rail Relocation Implementation Study, given its potential impacts on the Front Range portion of the RFS, and will coordinate closely with the I-70 Coalition as that agency undertakes its I-70 Transit/Land Use Planning Study. The RFS Consultant is required to be familiar with and coordinate the Rail Feasibility Study efforts with the following studies.

1.5.1 Current/On-Going Studies

- I-70 Programmatic Environmental Impact Statement & Collaborative Effort
- CDOT I-70 Context Sensitive Design Study
- I-70 Coalition SB1 Transit Land Use Planning Study
- Colorado Railroad Relocation Implementation Study
- RTD East Corridor Environmental Impact Statement
- RTD North Metro Environmental Impact Statement
- RTD Northwest Corridor, DUS to Longmont Environmental Impact Statement
- Wyoming DOT Rail Feasibility Study
- New Mexico Rail Runner Planning and Operations
- Denver Union Station Environmental Impact Statement
- Gaming EIS, from Metro Denver to Black Hawk and Central City
- RTD Gold Line Environmental Impact Statement
- CDOT Northwest Corridor Environmental Impact Statement
- RTD I-225 Corridor Environmental Impact Statement

1.5.2 Completed Studies

- CDOT Colorado Maglev Study
- I-25 North Environmental Impact Statement
- I-25 South Environmental Impact Statement
- CDOT North Metro MIS
- I-25 Through Pueblo Environmental Impact Statement
- RTD West Line Environmental Impact Statement
- Analysis on Funding Options, Charlie Brown Consulting Inc.
- Colorado Passenger Rail Study
- CDOT-Sponsored Rail Governance Study
- FRA Rail Corridor Study Requirements
- Intermountain Connection study, Phase I and II
- 2007 Transportation Finance Implementation Panel Final Report

1.5.3 RFP Schedule

The following is a proposed schedule for the RFP process. It should be noted that dates are subject to change.

February 18 RFP available to prospective proposers.

February 29 Mandatory Pre-Proposal Meeting, 1:00 PM (tentative time)
Douglas County Park Meadows Center, BoCC Hearing Room

9350 Heritage Hills Circle, Lone Tree

- March 4** Notice of Intent to Bid Due to PMC
Email Notice of Intent and Contact Information to PMC at mmboggs@pbsj.com
Bidder Contact Information MUST include an email address.
Future correspondence will be primarily via email.
- March 7** 10:00 AM Requests for Clarification on RFP due via email to the PMC.
- March 12** Questions answered via email and Web Site posting (rockymountainrail.org).
- March 21** Written proposals due to the PMC no later than 1:00 PM to:

Rocky Mountain Rail Authority
c/o Mark Boggs, P.E.
PBS&J
4601 DTC Blvd, Suite 700
Denver, CO 80218
- March 24** Proposals distributed to Evaluation Committee Members.
- April 2** Individual Proposal Ranks due by Evaluation Committee members and Notice of Interviews provided to finalists.
- April 15** Evaluation Committee Interviews (Douglas County/Lone Tree).
- April 18** Evaluation Committee Report to Full steering committee. Steering committee reviews and recommends RFS Consultant selection.
- April 25** RMRA Board award of the contract.
- April 25** RFS consultant notified of selection. RMRA intends to finalize the contract within 30 days of award.

1.6 AWARD OF CONTRACT

The winning proposer will be chosen based upon the proposer's demonstrated competence and qualification for the type of professional services and ability to provide those services at fair and reasonable prices.

2.0 SECTION 2 – PROPOSAL INSTRUCTIONS

2.1 GENERAL INSTRUCTIONS

The RMRA is seeking proposals from qualified firms to provide planning and conceptual systems engineering needed to determine the feasibility of providing high speed rail service in Colorado. A proposed Scope of Work is included in Section 3 of this RFP. The Proposal Contents are described in the following text for the proposer's convenience. Each proposer is solely responsible for submitting any necessary forms and certifications that may be required by the Contract. Exhibit A of this RFP is a copy of the Contract contemplated for award substantially in the form to be executed. Additionally, a cost proposal must be included in a separate, sealed envelope.

Proposers must have experience in intercity passenger rail transit studies with an emphasis on passenger rail vehicle and rail guideway technologies (on-grade and elevated), passenger rail system planning, operations, and financing, station location planning, freight rail operations, and travel demand modeling, ridership and revenue forecasting, and public and stakeholder involvement.

2.2 SBE/DBE REQUIREMENTS

There are no SBE or DBE requirements for this contract. No federal funds are being used.

2.3 INQUIRIES AND CORRECTIONS

Requests for clarification concerning the RFP shall be submitted to RMRA through the PMC in writing, and shall be received by close of business March 4, 2008. Questions should not be submitted until after the pre-proposal conference is held. Questions submitted prior to the pre-proposal conference will not be answered prior to the pre-proposal conference. Responses to questions, if deemed necessary by RMRA, will be in writing (email may be utilized) for the benefit of all prospective proposers in the form of a supplement and without identification of the source of any inquiry. All requests for clarification shall be directed, in writing, to the PMC.

Once the RFP is released, prospective proposers are advised not to contact RMRA Board or steering committee members.

2.4 ADDENDA TO THIS RFP

In the event that it becomes necessary to revise any part of this RFP, or if additional information is necessary to enable the proposer to make an adequate interpretation of the provisions of this RFP, an addendum to the RFP will be provided by email to each proposer who submitted a Notice of Intent to Bid. A written acknowledgement of receipt of addenda to the RFP will be required as part of any submitted proposal.

2.5 SIGNATURES

Proposals must be signed by a duly authorized official of the firm. Proposals submitted by consortiums, joint ventures, or teams, although permitted and encouraged, will not be considered responsive unless it is established that all contractual responsibility rest solely with one contractor or one legal entity which shall not be a subsidiary or affiliate with limited resources.

Each submittal should indicate the entity responsible for execution on behalf of the consortium, joint venture, or team.

2.6 SUBMITTAL REQUIREMENTS

Proposers shall submit ten (10) bound copies of their proposals. In addition, one copy of the complete proposal including fee schedule shall be provided in a PDF format on a CD-ROM or DVD. Submittals shall be limited to 30 8½ x11 pages of printed text. Double-sided text is preferable. Page limits are exclusive of: covers, section dividers, appendices, and fee schedule. However, as noted below, restrictions on appendix content is also imposed. Minimum font size shall be 11 point. Up to two pages will be allowed to be 11x17 inches, which will be included in the page limits.

2.7 PROPOSAL CONTENTS

Proposals shall be relevant to the services requested. Proposals shall be clear, accurate, and comprehensive. Excessive or irrelevant material will not be favorably received. Submittals shall be organized and numbered in the order presented in the following text.

A. Cover Letter (2 pages)

A cover letter signed by a firm principal and the project manager, briefly describing the firm or firms (including subcontractors, if any) on the proposed project team, key personnel, and key elements of the proposer's project approach. The cover letter must also include an itemized acknowledgement of receipt of any RFP addenda.

B. Proposer Qualifications (4 pages)

Proposers shall be fully capable, qualified, insured, and licensed as required to provide these services sought in this RFP. Evidence of insurance shall be submitted as part of the proposal. Proposers shall provide projected workload to demonstrate organizational capability to complete work within schedule.

B1. Description of Team

Respondent shall briefly describe company history, current structure, number of employees, for both prime and sub-consultants, and establish previous working relationships.

B2. Key Personnel

Respondent shall identify all key personnel that would be assigned for performance of these services, their anticipated roles and a brief biography highlighting each individual's related experience. Full resumes if included are to be located in the appendix (2-page limit for each person) Respondent shall identify the Principal-in-Charge and the Project Manager who will coordinate all services with the RMRA project management team.

B3. Staff Organization

Provide organization chart of project team.

B4. Staff Availability

Identify the expected percentage availability of each key team member, including sub-consultants, for the first six months of the contract. It should be noted that RMRA reserves the

right to approve any replacement of the RFS Consultant's project manager or key team members if such replacement is required.

B5. Acceptance of Agreement

Exhibit A contains the agreement that will be used for this contract. Proposers are to indicate their acceptance of the terms of the agreement as a part of this proposal.

B6. Evidence of Insurance

Proposers are to provide evidence of the following insurance:

1. Workers Compensation
2. Personal Injury
3. Professional Errors and Omissions

See Exhibit A, page 6 of 22 for insurance requirements.

C. Response to Scope of Work

This section will clearly demonstrate the proposers understanding of the issues regarding successful completion of the study, and will define the proposers approach to completing the scope of work that is presented in Section 3 of this RFP. The scope of work presented is somewhat general by design, to allow for interpretation and recommendation by the proposers. Upon selection, a more specific scope of services will be developed by the selected consultant and RMRA's PMC. Innovative ideas for addressing issues, timing, and budget are encouraged.

C1. Project Understanding

C2. Discussion of Critical Issues

C3. Management Approach

C4. Technical Approach

C6. Outreach Approach

C7. Optional: In this optional section, proposers are encouraged to comment on the RMRA High Speed Rail Study scope of work document, offering suggestions for more effectively completing the examination of high speed rail feasibility. Proposers are also encouraged to offer comment on what, if any, limitations to the quality, depth and breadth of the project deliverables and limitations to the project scope may result from the budget constraints for this project.

D. Project Controls: Budget, Schedule, and Quality Control (4 pages)

This section should define the proposer's project controls in terms of:

- Expected work effort by identifying labor requirements by task and by personnel category. Work effort allocation by prime consultant and subconsultants should be provided.
- A project schedule including milestones and deliverables will also be provided in this section.
- Quality control procedures

E. Demonstration of Experience (4 pages)

E1. Similar Projects (including relevance)

Describe previous work experience. Lessons learned.

E2. References

Private references can be included, but three local or state government references are requested to include work specific to the areas listed above. Please list all relevant clients and projects. Note reference checking can be conducted before, in conjunction with, or after the evaluation process. The list should contain client's name, location, phone number and contact name.

F. Price Proposal (Separate Sealed Envelope)

Proposals will include a price proposal, to be included in a separate sealed envelope and not counted within the 30-page limit. Please submit cost in spreadsheet format noting which staff members and sub-consultants will be performing each task. Price proposals should clearly identify direct labor, indirect labor, overhead rates, fee, and expenses,

G. Appendices

Proposers may include the following supplemental information in appendices to the proposal. Appendix materials will not count against the 30 page limit (see Section 2.6, Submittal Requirements), but will be restricted as indicated below.

A: Project Experience (10 page limit)

B: Resumes of Key Staff (2 page limit per person)

C: Rail Feasibility Study Report Outline (2 pages)

D: Evidence of Insurance (forms as needed)

2.8 EVALUATION OF PROPOSALS

Proposals will be evaluated on the following criteria:

RFP Consultant Team Experience

- Transit Data Collection and Analysis
- Travel Demand Modeling
- Ridership and Revenue Forecasting
- Passenger Rail and Guideway Technologies (both on-grade and aerial)
- Passenger Rail/Rail Transit Planning Design and Operations
- Computerized Rail Operations Simulation
- Passenger Rail/Rail Transit Financing
- Working with Federal, State and Local Governments
- Public Involvement, Communication and Outreach

Vendor Stability

- Firm Capability and Capacity
- Past Performance, including previous experience with the team's subconsultants
- Financial Resources
- References

Project Approach

- Identification and Response to Critical Issues
- Technical and Management Approach
- Ability to Meet Schedule
- Value

3.0 SECTION 3 – SCOPE OF WORK

3.1 STUDY BACKGROUND

The State of Colorado has awarded funds to Rocky Mountain Rail Authority (RMRA), an intergovernmental authority that was created for the purpose of conducting a study of the feasibility of providing high speed passenger rail service along Colorado's Front Range from Wyoming to New Mexico and along the I-70 Corridor from Denver to the Utah state border including secondary corridors as shown on figure 1, page 5 of this document. The Rail Feasibility Study (RFS), the scope of work for which is described below, will provide an assessment of the feasibility providing intercity rail service in these corridors and will address six feasibility factors relating to Federal Railroad Administration (FRA) High Speed Rail Designation for each project corridor.

3.1.1 Project Objectives

The overall objective of the RFS is to complete a fresh, objective assessment of the feasibility of implementing high speed rail service generally within the I-25 and I-70 west corridors and to identify next steps that should be pursued by RMRA and partner agencies in the implementation of that service. This will be done by building on previous efforts, by coordinating closely other ongoing relevant studies, by surveying stakeholders within the two corridors, and by answering six basic factors relating to High Speed Rail Designation that have been formulated by FRA for each prospective high speed corridor, in order to position the RMRA and Colorado to gain high speed rail corridors recognition with FRA for one or both of the studies corridors. The six factors are as follows:

1. Whether the proposed corridors include rail lines where railroad speeds of 90 miles or more per hour are occurring or can reasonably be expected to occur in the future
2. The projected ridership associated with the proposed corridors
3. The percentage of the corridors over which trains will be able to operate at maximum cruise speed, taking into account such factors as topography and other traffic on the line
4. The projected benefits to non-riders, such as congestion relief on other modes of transportation servicing the corridors.
5. The amount of federal, State and local financial support that can reasonably be anticipated for the improvement of the line and related facilities.
6. The cooperation of the owner of the rights-of-way (ROW) that can reasonably be expected in the operation of the high-speed rail passenger service in the corridors.

Additional objectives for the RFS are as follow:

1. To identify the most feasible technology(s) that are applicable for Colorado (recognizing that these technologies may vary depending on the corridors).
2. To identify the need for and benefits to Colorado of implementing high speed rail service.
3. To identify opportunities and concerns of local governments within the corridors regarding implementation of high speed rail service.
4. To define potential station locations and pros and cons of each.
5. To identify the opportunity to maximize the use of existing transportation corridors.

6. To identify recent and emerging vehicle and guideway technology innovations that have the potential to minimize cost and environmental impacts, particularly in the mountainous terrain of the studied corridors.
7. To identify systems that are inter-operable in the primary corridors and that could be developed in system phases.

3.1.2 Study Corridors

Two primary corridors and several secondary corridors will be examined in the course of preparing the RFS. These corridors are shown on Figure 1. The two primary corridors are Interstate 25 from the New Mexico border to the Wyoming border, and Interstate 70 from Denver International Airport to the Utah border. The RFS will examine the I-25 corridor broadly and generally within existing rail corridors, and examine I-70 generally within the existing I-70 corridor, which has no existing rail corridor east of Minturn (see Figure 1). Consideration will be given to whether the examined intercity service can and should be extended directly to DIA or should be provided by coordinated service by the Denver area's Regional Transportation District.

Secondary corridors within the I-70 corridor are also to be evaluated. The RFS Consultant will develop screening methods consistent with the study budget to assess the potential for rail service in these secondary corridors to support or strengthen service within the primary corridors, as well as to effectively address transportation system needs within those corridors.

3.1.3 Coordination with Previous and Current/Ongoing Studies

The Colorado Transportation Commission on November 16, 2006 adopted a resolution directing CDOT staff to work with RMRA to collaboratively develop a scope of work for the study project that explicitly does not duplicate the efforts of previous or current CDOT studies and published technical reports and makes the best use of the information contained in these studies to further evaluate the feasibility of rail transit in the major east-west and north-south corridors of the State of Colorado. A copy of this resolution is included in this RFP as Exhibit F. The selected consultant's approach to completing the RFS will ensure that findings of previous and ongoing studies are used to the maximum extent possible without duplication of effort. These ongoing studies were described previously in Section 1 of this RFP. Of particular relevance and importance in this regard is coordination with the I-70 Coalition SB1 Transit Land Use Planning Study and CDOT's Colorado Railroad Relocation Implementation Study. In particular, it is intended that the work of the I-70 Coalition will serve to identify potential station locations and general alignments that will then be used by the RFS Consultant to quantify ridership, revenue, and cost estimates within the I-70 corridor.

3.1.4 Overall Plan Development

The RFS will collect sufficient information required to determine the feasibility of high speed rail service on the two study corridors. During the process of addressing study objectives, the RFS shall develop a thorough understanding of local and State expectations for a possible passenger rail project in the Study Corridors, inventory the existing rail infrastructure, develop and evaluate a set of alternative intercity rail corridors that also reflect existing and programmed local transit services, and select the best corridors from among the alternatives considered for

inclusion in the project, with input from CDOT, the NWCOG/I-70 Coalition, the Regional Transportation District, and the various MPOs and TPRs. This work strategy will provide a complete definition of an outline of a potential passenger rail project, including alignments, station and support facility locations, ridership, train speeds and operating schedules, benefits to non-riders, capital and operating costs, and financing. The project will investigate ROW needs and examine the use of CDOT ROW for the high speed corridor, the sharing of existing track with the Class 1 railroads or use of part of their ROW, or use of other ROW. Also included will be cost effectiveness analysis, decision analysis, economic analysis and limited environmental analysis. A more detailed description of this work is provided below.

3.1.5 Future Work

RMRA originally intended to conduct an expanded study that would provide a more detailed examination of potential issues not resolved in the RFS, provide new information concerning economics and other impacts, and provide more detailed alignment and other infrastructure definitions with improved understanding of urban design and transit support opportunities. Depending on success in gaining funding from FRA and neighboring states, that Rail Corridor Study may become the second phase of this rail development effort. However, there is no commitment on the part of RMRA to conduct this second phase of work.

3.2 WORK TASKS

Tasks to be completed during the Rail Feasibility Study are defined below. [Please note, for purposes of this RFP and the resulting proposals, tasks are not fully defined, in order to allow the proposer opportunity to put forward innovative ideas for achieving study objectives within any budget constraints that might be posed by available funding. Upon selection, RMRA will work with the successful proposed to refine scope responsive to proposed approach.]

3.2.1 Task 1 – Project Management

At a minimum, the RFS Consultant will conduct internal project management activities necessary to effectively manage the study effort and to coordinate with the RMRA and its committees and agents:

1. Project Management Plan preparation – a Project Management Plan will be prepared within 10 days of Notice to Proceed and will include at a minimum staffing plans, Quality Control procedures, schedule, communications protocol, and billing procedures.
2. Steering Committee Coordination – the RFS consultant will meet monthly with RMRA's Steering Committee
3. PMC Coordination – the RFS consultant will meet bi-weekly with the PMC.
4. Coordination with other study teams (I-70 coalition, CDOT freight relocation, etc.)
5. Preparation of meeting notes for all official project meetings (excluding Board or Steering Committee meetings)
6. Monthly progress reporting and invoice preparation.

3.2.2 Task 2 – Peer Review Panel Support

This study will be developed by using the services of three (3) Peer Review Panels. The purpose of the peer panels is to increase study credibility, develop new ideas not hindered by existing institutional constraints, improve customer value through value engineering and other similar processes, and suggest ways to develop programs that increase collaboration and seamless flows between the affected agencies; (e.g., local government, RTD, RFTA, PPRTA, CDOT and the Federal agencies). The PMC will coordinate the selection of the panels and panel meeting logistics, but the Panel deliberations will be independent of the RMRA. They will be open to the public, interested Board members and others. A summary of each panel's discussions and a summary of the panel deliberations will be prepared as a technical report by the PMC. The Peer Review Panels will be developed so as to examine the following technical areas:

- Travel Demand, Revenue, and Model integration
- Alternatives Development and Evaluation
- Overall System Design, Cost, Finance and Implementation

Each panel will meet twice, once early in the process to review methods proposed by the RFS consultant to follow with project development and once late in the process to review and assess the project findings.

The PMC will provide logistical support for the Peer Review Panels. The RFS Consultant will work with the PMC to define Peer Review Panel objectives and agendas, and will serve as a resource to each of the panels, providing requested information and meeting with the panels to review study information. Peer Review Panel sessions should be considered to be project milestones for scheduling purposes.

3.2.3 Task 3 – Scoping/Outreach

Scoping: In each of the two primary corridors and secondary corridors specified above, the appropriate local government, MPO, TPR, Transportation District or Authority, Public Land Agency, and the I-70 Coalition will be consulted to define for their jurisdiction how they would prefer passenger rail service to be developed within their jurisdiction including guideway alignment (on-grade or aerial), station and vehicle support facility location, and vehicle technology. Particularly important in the scoping process will be understanding issues and opportunities in the Denver metropolitan area, where it is envisioned that the eastern terminus of the East-West corridor will be DIA, and where RTD is advancing a program of urban passenger rail facilities that include service to DIA. RMRA will take the lead in facilitating scoping discussions that should at a minimum include CDOT, RTD, the City and County of Denver, the Denver Regional Council of Governments (DRCOG), and DIA.

Other considerations for jurisdictional scoping may include the following:

- Identification of potential station locations (note: the I-70 Coalition Land Use Planning Study is expected to provide proposed station locations and potential alignments for the I-70 corridor.)
- Identification of willingness of local governments to implement land use planning and zoning changes necessary to support the rail passenger alignment, location and

development of rail stations and associated Transit Oriented Development, and vehicle support facilities.

- Identification of potential Community Social and Economic issues related to the development of high speed passenger rail service.
- Identification of potential impacts to public lands.

All scoping discussions will be summarized by the RFS Consultant who will create a corridor scoping report for both the I-70 corridor and I-25 corridor including secondary corridors. Common areas of both agreement and disagreement will be identified and documented in the corridor scoping reports. Through the scoping task, the RFS Consultant will develop the following:

- Statements of proposed project purpose and need that will guide development of alternatives.
- Proposed study goals and objectives to serve as the basis for the evaluation of alternatives.

Planning issues will first be addressed at the corridor level and then by the RMRA Board through the Feasibility Study Steering Committee. The RMRA website will be used to facilitate the discussion of this report with local jurisdictions and their general public and capture the requirements for each corridor. The RFS Consultant will provide information that can be posted to the web site, but will not be responsible for maintenance or monitoring of the web site.

Coordination of Public Input: Input relating to the Rail System alternatives evaluated in the RFS needs to be obtained from RMRA member jurisdictions and Colorado's general public and incorporated into the RFS. The RFS Consultant will conduct general outreach, community survey and public open houses to collect public and local government input to the study. The RFS Final Report should contain the areas of concern, outstanding issues and travel needs identified through this public outreach process. Public and local government input may also help determine the future direction and activities for the RMRA organization.

The RFS Consultant should leverage similar scoping and public involvement activities being conducted by the I-70 Coalition Land Use Planning Study team. The RMRA does not intend that the RFS will be conducting separate scoping and public involvement in the I-70 corridor.

Technical and Policy Outreach and Decision Making: The RFS Consultant will conduct at least one public meeting in each corridor and other meetings to enable public and governmental review of each corridor plan and identify areas of potential collaboration.

Deliverables: For this task, the RFS Consultant will prepare for Steering Committee and PMC review the following:

- Stakeholder Outreach Approach technical memorandum
- Scoping Report, including stakeholder meeting results, proposed project purpose and need, and study goals and objectives, that will serve as the basis for identification of alternatives and alternative evaluation measures.

3.2.4 Methodology, Data Collection and Summary of Existing Conditions (including summary of previous reports)

As a first element of this task the RFS Consultant will prepare a methodology technical report that defines methods for scoping, public involvement, ridership/revenue forecasts, railroad operations simulation, and alternatives development screening. This report will be assembled in an iterative fashion, with various scope aspects provided as separate chapters/sections.

Working from existing resources (previously cited studies, railroad records, and other sources as needed), the RFS Consultant will describe previous findings and conclusions relevant to the RFS, and existing conditions relevant to the development of high speed rail service and to the estimation of potential ridership. An inventory of the existing rail system within the primary and secondary rail corridors being evaluated in the RFS will be prepared, to identify current rail speed limits and current and future capacity. The RFS Consultant will create a technical report that summarizes these conditions and provides a synopsis of relevant previous planning efforts.

A key element of this task will be engaging freight rail operators in discussion of constraints and opportunities for using existing rail corridors for new or enhanced passenger service. The RFS Consultant will be responsible for coordinating with CDOT and railroads to gather information regarding existing and future conditions, and specifically will coordinate with CDOT and its consultant for the CDOT Colorado Railroad Relocation Implementation Study.

Deliverables: For this task, the RFS Consultant will prepare for Steering Committee and PMC review the following:

- Methodology Technical Report
- Existing Conditions technical report

3.2.5 Task 5 - Ridership and Revenue Forecasts

3.2.5.1 Methods Development

The RFS consultant will develop cost-effective methods of estimating ridership responsive to anticipated population, employment, and tourism growth in each of the two corridors. This methodology will rely to the maximum extent possible on existing travel demand models covering each of the two corridors, within the limitations of the project budget. The methodology will be documented in a technical report that will become a resource for Travel Demand peer panel. RMRA anticipates the forecasts will identify and quantify travel markets both annually and for peak weekdays and weekends, and should be consistent with available MPO and EIS forecasts.

3.2.5.2 Forecast Ridership and Revenue

Using the approved forecasting methodology, the RFS Consultant will define intrastate and interstate intercity travel markets and forecast corridor travel and rail mode share for 2016 (or presumed opening year) and 2035 (consistent with current CDOT and Colorado MPO forecasts and planning horizons) for all scenarios defined in the Alternatives Development task. The results will be documented in a technical report to be reviewed by the PMC and the peer panel. This task will help explain the answer to FRA factor 2 and factor 4.

Deliverables: For this task, the RFS Consultant will prepare for Steering Committee and PMC review the following:

- Ridership and Revenue Forecasting Methodology Report (part of overall methodology report)
- Ridership and Revenue Forecast technical report

3.2.6 Task 6 – Evaluation of Alternatives

3.2.6.1 Alternatives Development

Previous studies have identified a wide range of technology, alignment, and service options as having feasibility for providing improved intercity transit/rail passenger service in Colorado. A major emphasis of this study is to provide a fresh look at the feasibility of previous proposals, and to reflect recent advances in technology that might be applicable for Colorado. The I-70 PEIS alternative analysis demonstrates the advantage of an aerial system over an on-grade system in reducing impacts to the natural and built environments in the mountain corridor. The RFS Consultant will examine various passenger rail vehicle and guideway technologies, both aerial and on-grade, including class of track and grade crossings; that are best suited for each of the two major corridors. Due to the range of natural and built environments in each corridor, specific corridor segments may require the examination of unique and specialized vehicle and guideway options that are currently outside FRA compliance.

In this task, alternatives will be identified and screened with the RMRA prior to beginning detailed evaluation of those alternatives. Elements of alternatives definition will include at a minimum the following:

- Technology (considering a broad range of traditional and emerging technologies, and providing verifiable operating characteristics of each of the various rail types and technologies)
- Alignment (as needed to optimize use of existing rail facilities and/or to access identified station locations, and considering both at-grade and elevated vertical alignments)
- Need for grade separations with existing streets and highways due to increased rail operating speeds.
- Service frequency and speed
- Service to critical trip destinations [e.g., resorts, major employment centers, intermodal transfers (e.g., DIA or DUS)]
- Station location/frequency
- Interstate rail service assumptions
- In developing the methodology for identifying alternative vehicle and guideway technologies, the RFS Consultant will identify techniques for ensuring that a reasonable basis for cost estimating (i.e., unit pricing) has been established.

3.2.6.2 Alternatives Development Workshop

The RFS Consultant will lead alternatives development workshops for each primary corridor with the RMRA board, to reach consensus on the range of alternatives to be carried into alternatives evaluation, and will prepare meeting notes to document conclusions reached during the workshop. It is anticipated that each workshop will be a full day.

3.2.6.3 Peer Panel Review of Selected Alternatives

Following the Alternatives Development Workshop, the alternatives Peer Panel will be convened to review alternatives. The RFS Consultant will support this panel effort and will report finding and conclusions to the RMRA board and steering committee.

3.2.6.4 Evaluation of Alternatives

The RFS Consultant will prepare a comprehensive evaluation of all alternatives. Because the study must consider feasibility of rail service both in the two primary corridors and in several I-70 secondary corridors, the RFS Consultant will develop an evaluation structure that allows screening of secondary corridors as well as more detailed evaluation of alternatives within the primary corridors. At a minimum, alternatives evaluation will consider the following for the various vehicle/guideway combinations:

- Ridership and revenue annual, peak weekday and peak weekend
- Cost (capital, including right-of-way, and operating/maintenance costs)
- Inter-operability (technology, etc.) between corridors
- Opportunity for system phasing
- Public acceptance
- Environmental impacts
- Safety
- Local development and institutional issues
- Implementation/Construction impacts
- Accommodation of key travel markets
- Potential for use of existing transportation corridors
- Opportunity for achieving high speed objectives

Deliverables: For this task, the RFS Consultant will prepare for Steering Committee and PMC review the following:

- Alternatives Development technical report (including results of Alternatives Development workshop)

3.2.7 Task 7 – Feasibility Determination and Documentation

In Task 7, the RFS Consultant will consolidate the results of the preceding tasks to prepare an overall analysis of the feasibility of implementing high speed intercity rail service in the primary and secondary corridors under consideration and will prepare needed documentation of study findings and conclusions suitable for consideration by RMRA and other decision agencies. This task primarily consists of financial analysis, overall feasibility assessment, and response to FRA's six high speed rail feasibility questions.

3.2.7.1 Finance Requirements

Transportation funding across Colorado and the entire nation is deficient for meeting projected travel demand. For this reason, the RFS consultant should explore new and independent funding streams that are separate from typical highway funding sources (such as a fuel tax) for the construction and operation of the passenger rail system being considered in this study. The

development of this funding stream may require legislative action and/or voter approval of a statewide ballot initiative.

For the optimum alternative(s) identified and evaluated in Task 6, the RFS Consultant will evaluate the financing requirements as they relate to overall feasibility. Assumptions will be developed regarding the timing of program implementation, to establish cash flow requirements, and opportunities for securing private sector financing will be considered. The RFS Consultant will develop a finance plan for the operating and capital cost of the passenger rail system in an iterative manner. Based upon income streams forecasted for each scenario by the ridership model, two finance plans will be developed, using both high and low economic forecasts. The analysis should clearly identify any needed front-end or ongoing public support that would be required to implement and sustain the operations, and identify potential sources of funding.

An analysis of a public private partnership plan will also be developed. This task will help in answering FRA factor 5 by developing a reasonable finance plan.

Consistent with previous direction to make maximum use of existing information, consideration of financing options will begin with review and incorporation of the findings of the recently completed Blue Ribbon Panel on Transportation Finance. However, these finding should not be seen as restricting examination of innovative finance strategies.

3.2.7.2 Final Evaluation and Recommendations

From the alternatives developed and identified in preceding tasks, the RFS Consultant will identify an optimum high speed rail system alternative(s), with a clear rationale for the elimination of screened alternatives, and prepare a final evaluation of the feasibility of that system(s). It is recognized that the feasibility analysis conducted as part of the RFS will contain many contingencies and uncertainties. For this reason, the RFS Consultant must identify and reflect the risks and uncertainties that will influence project feasibility as it progresses through further development. For example, examination of feasibility of rail service in the I-25 corridor must take into account any likelihood for relocation of rail freight service to a new corridor east of Denver. The final evaluation will clearly identify the risks (e.g., availability of freight railroad trackage and right of way) and propose strategies for reducing the impact of those risks.

Because a principal objective of the study is to position the Colorado corridors to be added to the nation's prospective high rail corridors, the final evaluation must provide clear and concise responses to FRA's six factors regarding high speed rail feasibility. During conduct of the study, it will be incumbent on the RFS Consultant to coordinate with FRA and CDOT to ascertain expectations in this regard.

3.2.7.3 Next Steps

While the RFS is expected to provide a reasonable assessment of the feasibility of implementing intercity rail service in Colorado, it is recognized that the RFS will not provide final answers. Reflecting the conclusions reached regarding rail service and program financing feasibility, the RFS Consultant will define needed follow-on studies, and administrative and other governmental actions to be taken by the RMRA or other Colorado agencies. Reflecting RFS analysis and

coordination with the RMRA and other government entities will be documented in the final RFS reporting.

Deliverables: For this task, the RFS Consultant will prepare for Steering Committee and PMC review the following:

- Rail Feasibility Report, summarizing the entire RFS process and the conclusions and recommendations of the alternatives evaluation, with particular emphasis on phasing and financing opportunities

3.2.8 Task 8 – Documentation/Deliverables

The RFS Consultant will be responsible for developing the following documents. It is anticipated that each document will be submitted as a draft report for PMC review and will be revised and resubmitted as a final document, and that electronic copies of all deliverables will be provided.

1. Project Management Plan (5 draft and 10 final)
2. Final Rail Feasibility Report (10 draft and 50 final)
3. Technical Reports (10 draft and 25 final)
 - a. Scoping Report
 - b. Methodology (Outreach, Ridership and Revenue, Cost Estimating, Alternatives Development, and Alternatives Evaluation)
 - c. Existing Conditions (including opportunity to upgrade existing track to accommodate high speed passenger service)
 - d. Alternatives Development (including technology operating and cost assumptions)
 - e. Ridership and Revenue Forecast Results

Exhibit A
**AGREEMENT FOR HIGH SPEED RAIL FEASIBILITY STUDY CONSULTING
SERVICES
BETWEEN _____
AND
THE ROCKY MOUNTAIN RAIL AUTHORITY**

This AGREEMENT FOR PROJECT MANAGEMENT SERVICES (the "Agreement") is entered into effective as of this ____ day of January, 2008, by and between the ROCKY MOUNTAIN RAIL AUTHORITY, a body corporate and political subdivision of the State of Colorado (the "Authority"), and _____ ("_____") a _____ Corporation (the "Consultant").

RECITALS

WHEREAS, The Authority was organized pursuant to the Establishing Agreement for the Rocky Mountain Rail Authority, effective November 20, 2006, under The Authority granted by Section 18 of Article XIV of the Constitution of the State of Colorado and Section 29-1-203 of the Colorado Revised Statutes; and

WHEREAS, The Authority was organized in order to investigate, encourage, develop and bring into being high speed rail systems along the transportation corridors of the State of Colorado; and

WHEREAS, in order to fulfill the purposes for which it was created, The Authority has determined to undertake a study of the feasibility of various high speed rail formulations and options (the "Feasibility Study"); and

WHEREAS, the Board of Directors of The Authority has determined to retain a consultant to perform the Feasibility Study; and

WHEREAS, The Authority desires to engage the Consultant to perform the Feasibility Study according to the terms of this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and stipulations hereinafter set forth, the sufficiency of which is hereby acknowledged, the parties do hereto agree as follows:

COVENANTS AND AGREEMENT

1. **SCOPE OF SERVICES.** For compensation not-to-exceed the amount set forth in paragraph 5(A), the Consultant shall perform high speed rail feasibility study services, as described in the Scope of Services attached hereto as Exhibit A, under the management of the Authority's Project Management Consultant, PBS&J, ("PMC"), (the "Services"). The Consultant shall be responsible for providing, at its cost and expense, all management, supervision, labor, materials, administrative support, supplies and equipment necessary to perform the Services under the direction of the PMC

as required by this Agreement. Consultant shall perform the Services using that degree of skill and knowledge customarily employed by other professionals performing similar services.

2. TERM OF AGREEMENT. The term of this Agreement shall begin on the date of execution set forth above and shall expire on _____, or when the Services have been completely performed to the Authority's satisfaction, whichever first occurs, or otherwise by mutual written agreement of the parties or by the exercise of the termination provisions specified herein.

3. ADDITIONAL SERVICES. The Authority may, in writing, request the Consultant to provide The Authority with certain services not required in Exhibit A (hereinafter the "Additional Services"). Additional Services shall not be performed by the Consultant unless Consultant receives a written request for the performance of Additional Services from The Authority. Upon receipt of the written request, The Authority and the Consultant shall negotiate the scope of the relevant Additional Services, which shall be subject to the mutual written agreement of the Consultant and The Authority. If the Consultant performs any Additional Services prior to or without receiving a written request from The Authority, the Consultant shall not be entitled to any compensation for such Additional Services.

4. TIME OF THE ESSENCE. The Services of the Consultant shall be undertaken and completed in such a manner and in such a sequence as to assure their expeditious completion in light of the purposes of this Agreement. It is agreed that time is of the essence in the performance of this Agreement.

5. COMPENSATION.

A. Services. The Services provided under this Agreement shall be compensated according to the rate schedule attached hereto as Exhibit B, but the compensation for the Services shall not exceed, in the aggregate, and inclusive of direct costs, overhead and fees, one million two hundred fifty thousand five hundred dollars (\$1,250,500) (the "Compensation Amount"). Consultant may bill the Authority only for costs directly attributable to the performance of the Services. Consultant shall not be reimbursed for indirect costs, profit or overhead, and Consultant is not entitled to any compensation, beyond the Compensation Amount, for performing the Services.

B. Additional Services. Compensation for Additional Services of the Consultant shall be negotiated by the parties and included in the written agreement contemplated by paragraph 3.

C. Progress Payments. Consultant shall submit monthly invoices for progress payments of portions of the Services performed during the term of the Agreement. Each invoice shall be submitted directly to the Authority's PMC, and shall contain all of the information specified in paragraph 5(D)(ii). The Authority shall be invoiced only for the actual time (according to the rate schedule attached as Exhibit B) and direct costs incurred for the performance of the Services. The Authority shall make progress payments, conditional upon Consultant's acceptable performance of the Services and satisfactory completion of all requirements for payment contained herein. The PMC shall review the invoices and make recommendation to the Authority regarding their compliance with the Agreement. Thereafter, the Authority's approval of invoices shall be a

condition of payment. Invoices must be received by the 10th day of the month for work performed in that month or the preceding month, for payment by the last day of the month.

D. Requirements for Progress Payment.

i. Invoices. For Services completed, the Consultant shall submit to the Authority's PMC an invoice itemizing the costs of the Services performed. The Consultant's invoices shall be in a format acceptable to the Authority. Invoices shall be supported by cost information in such detail as may be required by The Authority to substantiate the charges being invoiced and for a proper audit and post audit thereof.

ii. Invoice Documentation. Together with each invoice, the Consultant shall submit the following:

(a) A progress report describing the Services performed, results achieved and the status of deliverables;

(b) Certification by the Consultant that the Consultant is current with all sub-consultants and employees through the date of the invoice and, if not current, a description of the non-current items and reasons for such;

E. Unsatisfactory Invoices. Submitted invoices which are not satisfactory to The Authority will be returned to the Consultant for revision, with a description of the unsatisfactory portion(s) of the invoices. Payment of any unsatisfactory invoice may be withheld, in The Authority's discretion, in the amount which remains unsatisfactory until approval of the invoice by The Authority.

F. Unsatisfactory Performance of Services and Right to Withhold Payment. The Authority reserves the right to withhold payment and to continue to withhold any such payment for Services which are not completed as scheduled, completed unsatisfactorily, behind schedule, or otherwise performed in an inadequate or untimely fashion, as determined by The Authority. If any action, duty or service or part thereof has been completed and is determined to be unsatisfactory by The Authority, the Consultant will have an opportunity to immediately correct all deficiencies. All payments previously withheld by The Authority shall be released and paid to the Consultant promptly when the Services are subsequently determined by The Authority to be satisfactory.

6. INDEPENDENT CONSULTANT. The Consultant is an independent Consultant and nothing contained herein shall be construed as constituting any relationship with The Authority other than that of owner and independent Consultant, nor shall it be construed as creating any relationship whatsoever between The Authority and the Consultant's employees. Neither the Consultant nor any of its employees are or shall be deemed employees or agents of The Authority. The Consultant is not, and shall not act as, the agent of The Authority. The employees who assist the Consultant in the performance of the Services shall, as Consultant's employees, be under the Consultant's exclusive direction and control.

7. GENERAL WARRANTIES AND REPRESENTATIONS. The Consultant represents, warrants and covenants that:

A. It has the required authority, ability, skills and capacity to, and shall, perform the Services in a manner consistent with this Agreement. Further, all employees and sub-consultants of Consultant employed in performing the Services shall have the skill, experience and licenses required to perform the Services assigned to them.

B. To the extent the Consultant deems necessary in accordance with prudent engineering practices, it has inspected the sites and all surrounding locations whereupon it may be called to perform its obligations under this Agreement, and is familiar with the requirements of the Services, including the PMC, and accepts them for such performance.

C. It has knowledge of all of the legal requirements and business practices in the State of Colorado that must be followed in performing the Services and the Services shall be performed in conformity with such requirements and practices.

D. It is validly organized and exists in good standing under the laws of the State of Florida, and has all requisite power to own its properties and assets and to carry on its business as now conducted or proposed to be conducted and it is duly qualified, registered to do business and in good standing in the State of Colorado.

E. The execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all necessary action and do not and will not (a) require any further consent or approval of the board of directors or any shareholders of the Consultant or any other person which has not been obtained or (b) result in a breach of or a default under the certificate of incorporation or by-laws of the Consultant or any indenture or loan or credit agreement or other material agreement or instrument to which the Consultant is a party or by which its properties and assets may be bound or affected. All such consents and approvals are in full force and effect.

F. This Agreement constitutes the legal, valid and binding obligation of the Consultant enforceable in accordance with its terms.

8. WARRANTIES AGAINST CONTINGENT FEES, GRATUITIES, KICKBACKS AND CONFLICT OF INTEREST

A. Covenant Against Contingent Fees. The Consultant warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Consultant for the purpose of securing business.

B. Gratuities Prohibited. The Consultant agrees not to give any employee or former employee of the Authority a gratuity or any offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of

advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to this Agreement or SubAgreement, or to any solicitation or proposal therefore.

C. Gratuity. means a payment, loan, subscription, advance deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.

D. Kickbacks Prohibited. It shall be a breach of Agreement for any payment, gratuity, or offer of employment to be made by or on behalf of a subConsultant under a Agreement to the prime Consultant or higher tier subConsultant or any person associated therewith, as an inducement for the award of a subAgreement or order. The Consultant is prohibited from inducing, by any means, any person employed under this Agreement to give up any part of the compensation to which he/she is otherwise entitled. The Consultant shall comply with all applicable local, state and federal "anti-kickback" statutes or regulations.

E. Conflict of Interest Prohibited. No official, officer, employee or representative of the Authority during the term of this Agreement or one (1) year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

F. Sub-Agreement Clause. The prohibitions against contingent fees, gratuities, kickbacks and conflict of interest prescribed in this Agreement shall be made a condition of and conspicuously set forth in every sub-Agreement and solicitation therefore. There should not be an appeal for termination not for cause, which the Authority has the right to do at any time.

G. Conspicuously. means written in such special or distinctive format, print, or manner that a reasonable person against whom it is to operate ought to have noticed it.

H. Remedies. In addition to other remedies it may have for breach of the prohibitions against contingent fees, gratuities, kickbacks and conflict of interest, the Authority shall have the right to:

- (1) Terminate this Agreement without liability by the Authority;
- (2) Debar or suspend the offending parties from being a Consultant or sub-Consultant under the Authority Agreements;
- (3) Deduct from the Agreement price or consideration, or otherwise recover, the value of anything transferred or received by the Consultant; and
- (4) Recover such value from the other offending parties.

9. COMPLIANCE WITH PROCUREMENT CODE AND APPLICABLE STATE AGREEMENTING LAW.

A. The Consultant acknowledges that this Agreement is entered into subject to the requirements of the Authority's procurement code, which has been adopted by the Authority from the Roaring Forks Transportation Authority Procurement Code (the "Procurement Code"). As such, the Consultant agrees to comply with all requirements of said Procurement Code, and such requirements are incorporated herein by this reference.

- Payment Bond 100% of Agreement
- (2) Professional Errors and Omissions
 - (3) Aircraft Liability
 - (4) Owner's Protective
 - (5) Builder's Risk-amount of project
 - (6) Boiler and Machinery
 - (7) Loss of Use Insurance
 - (8) Pollution Liability
 - (9) Crime, including Employee Dishonesty Coverage, or Fidelity Bond

PROOF OF INSURANCE MUST BE SENT TO:

The Authority
Attn: Harry Dale
Clear Creek County
PO Box 2000
Georgetown, CO 80444

with a copy to:

Icenogle, Norton, Smith, Blieszner, Gilida & Pogue, P.C.
821 17th Street, Suite 600
Denver, CO 80202-3040

Attn: Tamara K. Gilida, Esq.

B. To provide evidence of the required insurance coverage, copies of Certificates of Insurance in a form acceptable to the Authority shall be filed with the Authority Insurance Manager no later than ten (10) calendar days prior to commencement of operations affecting the Authority. Failure to file or maintain acceptable Certificates of Insurance with the Authority is agreed to be a material breach of any Agreement and grounds for rescission or termination. These Certificates of Insurance shall contain a provision that coverage afforded under the policies will not be canceled or materially altered unless at least thirty (30) calendar days prior written notice by certified mail, return receipt requested (effective upon proper mailing), has been sent to the Authority (through the Insurance Manager). (For purposes of this provision, "materially altered" shall mean a change affecting the coverage required herein, including a change to policy limits as set out in the then-current policy declarations page).

Simultaneously with the Certificates of Insurance, the Consultant shall file with the Authority evidence of the amount of the full policy limits of the required coverage and the Consultant shall promptly notify the Authority in the event that the amounts remaining on the policy limits are in any way eroded or impaired by claims pending against the required coverage, reserves established on account of the amounts claimed and defense costs expended such that less than five million dollars (\$5,000,000) of the full policy limit remains available to satisfy future claims.

C. In addition, these Certificates of Insurance shall contain the following clauses:

- (1) The clause "other insurance provisions," in a policy in which the Authority holds a Certificate, shall not apply to the Authority.
- (2) The insurance companies issuing the policy or policies hereunder shall have no recourse against the Authority for payment of any premiums or for assessments under any form of policy.
- (3) Any and all deductibles in the above-described insurance policies shall be assumed by and be for the amount of, and at the sole expense of the Consultant.
- (4) Location of operations shall be: "all operations and locations at which work for the referenced Project is being done."

D. Certificates of Insurance for all renewal policies shall be delivered to the Insurance Manager at least fifteen (15) days prior to a policy's expiration date except for any policy expiring on the expiration date of this Agreement or thereafter.

11. INDEMNIFICATION.

A. The Consultant (including, by definition here and anywhere in this Agreement, its officials, employees, agents and representatives, subconsultants and suppliers), shall and hereby does release, discharge, indemnify and hold harmless the Authority of, and its officials, employees, agents and representatives from and against liability for any claim, demand, loss, damages, penalty, judgment, expenses, costs (including costs of investigation and defense), fees (including reasonable attorney and expert witness fees) or compensation in any form or kind whatsoever for any bodily injury, death, personal injury or property damage arising out of or in connection with any negligent act, intentional act, error or omission by the Consultant, and for any consequential liability alleged to accrue against the Authority on account of the Consultant's acts, errors or omissions.

B. The Consultant shall investigate, process, respond to, adjust, provide defense for and defend, pay or settle all claims, demands, or lawsuits related hereto at its sole expense and shall bear all other costs and expenses related thereto, even if the claim, demand or lawsuit is groundless, false or fraudulent.

C. Further, the Consultant hereby agrees to indemnify, defend and hold harmless The Authority and each of its directors and employees from and against any and all claims, demands, suits, actions, proceedings, judgments, losses, damages, injuries, penalties, costs and expenses (including reasonable attorneys' fees) and liabilities of, by or with respect to, third parties ("any claims"), arising directly or indirectly, in whole or in part, from the intentional misconduct or negligent acts or omissions of the Consultant, its employees, subConsultants or agents which causes or allows to continue a condition or event which deprives the Authority or any of its directors or employees of its sovereign immunity under the Colorado Governmental Immunity Act, Sections 24-10-101, et seq., Colorado Revised Statutes. The obligations of the indemnifications extended by the Consultant to the Authority shall survive the termination or expiration of this Agreement.

12. EQUAL EMPLOYMENT OPPORTUNITY AND DISADVANTAGED/
MINORITY/WOMEN BUSINESS ENTERPRISES (DBE/MBE/WBE).

A. Pursuant to local, state and/or federal anti-discrimination and affirmative action programs, Consultant shall meet all applicable requirements with respect to employment and subAgreementing in connection with Disadvantages/Minority/Women individuals and enterprises (DME/MBE/WBE).

B. In connection with the execution and administration of this Agreement, and any subAgreements, the Consultant shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, handicap or status as a veteran.

C. In connection with the performance of this Agreement, the Consultant will cooperate with the Authority in meeting the Authority's commitments and goals with regard to the maximum utilization of disadvantaged, minority and women business enterprises and will use its best efforts to ensure that such business enterprises shall have the maximum practicable opportunity to compete for employment and/or subAgreement work, if any, under this Agreement.

D. The Consultant will furnish all necessary information and reports and will permit access to its books, records, and accounts by the Authority for purpose of investigation to ascertain compliance with the nondiscrimination/affirmative action provisions of any resultant Agreement.

E. Employment Data. If requested, the Consultant agrees to submit on an Employment Data Form to be provided by the Authority, the data showing the utilization of disadvantaged persons, minorities and women by job category within its organization.

F. Noncompliance. In the event of the Consultant's noncompliance with the nondiscrimination/ affirmative action provisions of any resultant Agreement, the Authority shall impose such Agreement sanctions as it may determine to be appropriate, including, but not limited to:

- (1) Withholding of payments under the Agreement until the Consultant complies, and/or
- (2) Cancellation, termination, or suspension of the Agreement, in whole or in part.

13. CONFIDENTIALITY AND CONFLICTS.

A. Confidentiality. During the performance of this Agreement and for all time subsequent to completion of the Services under this Agreement, the Consultant agrees not to use or disclose to anyone, except as required in the performance of this Agreement or by law, or as otherwise authorized by the Authority, any and all information given to the Consultant by the Authority or developed by the Consultant as a result of the performance of this Agreement. The Consultant agrees that, if the Authority so requests, the Consultant will execute a confidentiality agreement, in a form acceptable to the Authority, and will require any employee or sub-consultant performing

work under this Agreement or receiving any information deemed confidential by the Authority to execute such a confidentiality agreement.

B. Avoidance of Conflicts. The Consultant is aware that the Authority comprises multiple counties and cities and that it is in the Authority's best interests to avoid disagreeable surprises involving its consultants representing clients against the Authority's constituent members. To this end, the Consultant expressly agrees that, prior to accepting or undertaking any representation, services or project which is, or could reasonably become adverse to any of the Authority's constituent members or to the Authority itself, the Consultant shall advise the Authority's Executive Director of any such representation, services or project. The Authority's Executive Director shall notify the Consultant if the Authority is concerned or requires further discussion or action on the matter.

14. ASSIGNMENT. This Agreement and all of the covenants hereof shall insure to the benefit of and be binding upon the Authority and the Consultant respectively and their agents, representatives, employees, successors, assigns and legal representatives. The Consultant shall not have the right to assign or transfer its interest or obligations hereunder without the written consent of the Authority; which consent shall not be unreasonably withheld. The Authority may assign its interest in this Agreement to any Colorado quasi-municipal entity or political subdivision of the State of Colorado.

15. SUB-CONSULTANTS. Consultant is solely and fully responsible to the Authority for the Services under this Agreement. Use of any sub-consultant by Consultant shall be pre-approved by the Authority. Consultant agrees that each and every agreement of Consultant with any sub-consultant to perform Services under this Agreement shall be terminable not-for-cause and shall include the insurance required herein.

16. TERMINATION FOR DEFAULT OR FOR CONVENIENCE OF THE AUTHORITY

A. The performance of work under the Agreement may be terminated by the Authority as follows:

(1) Termination for Default. Whenever the Consultant shall default in performance of this Agreement in accordance with its terms, and fails to cure or show cause why such failure to perform should be excused within ten (10) days (or longer as the Authority may allow or shorter, but not less than three (3) days, for failure to provide proof of insurance or maintenance of any dangerous condition) after hand-delivery or mailing to the Consultant of a notice specifying the default. If mailed, said notice shall be sent by certified mail, return receipt requested, to the address specified herein for the Consultant.

The Consultant shall not be in default by reasons of any failure in performance of this Agreement in accordance with its terms if such failure arises out of causes beyond the control and without the fault or negligence of the Consultant. Such causes may include, but are not restricted to, acts of God, natural disasters, strikes, or freight embargoes, but in every case the failure to perform must be beyond the control and without the fault or negligence of the Consultant. Upon request of the Consultant, the Authority shall

ascertain the facts and failure, and, if the Authority shall determine that any failure to perform constituted a valid commercial excuse, the performance shall be revised accordingly and notice of default withdrawn; OR

(2) Termination Not For Cause. In addition to the Authority's right to terminate this Agreement for cause, the Authority shall have the right, at any time, and in its sole discretion, to terminate, not for cause, in whole or in part, this Agreement and further performance of the Services. Such terminations may also be referenced herein as "for convenience".

B. Notice of Termination.

(1) Termination for Default. In the event of termination for a default or other cause, the Authority shall deliver to the Consultant a written notice of termination, specifying the reasons for the termination, and the effective date of such termination. The effective date shall not be earlier than the date of hand-delivery or the date of mailing of the notice, plus three (3) business days. The notice of termination shall be sent regular first-class mail to the address of the Consultant provided in this Agreement.

(2) Termination Not For Cause. In the event of termination for the convenience of the Authority, the Authority shall deliver to the Consultant a written notice of termination, specifying the extent of termination (in full or in part) and the effective date of such termination. The effective date shall not be earlier than the date of hand-delivery or the date of mailing of the notice, plus three (3) business days. The notice of termination shall be sent regular first-class mail to the address of the Consultant provided in this Agreement.

C. Termination Procedure. After the effective date of the notice of termination for default or for the convenience of the Authority, unless otherwise directed by the Authority the Consultant shall:

- (1) Stop work under the Agreement on the date specified in the notice of termination.
- (2) Place no further orders for materials, services or facilities.
- (3) Terminate all orders and subConsultants to the extent that they relate to the performance of work terminated by the notice of termination.
- (4) With the approval or ratification of the Authority, settle all outstanding liabilities and all claims arising out of such termination on orders or subAgreements, the cost of which would be compensable or reimbursable in whole or in part in accordance with this Agreement.

D. Termination Payment. Within thirty (30) days after the effective date of a notice of termination for default or for the Authority's convenience, the Consultant shall submit to the Authority his termination claim in the form of a final invoice in accordance with the provisions in "Method of Payment," including costs incurred to the date of termination, and costs incurred because of termination, which termination costs shall not exceed 10% of the total amount of proposal; provided, however, that in the event of default by the Consultant, no extra costs incurred because of termination shall be paid to the Consultant and any costs paid shall not be a waiver of any claim, counterclaim or set-off by the Authority against the Consultant on account

of any default. Such claim must be submitted promptly, but in no event later than thirty (30) days from the effective date of termination, unless one or more extensions are granted in writing by the Authority. Upon the Consultant's failure to submit a claim in the time allowed, the Authority may review the information available to it and determine the amount due the Consultant, if any, and pay the Consultant the amount as determined.

In arriving at the amount due the Consultant under this paragraph, there shall be deducted any claim which the Authority has against the Consultant under this Agreement.

E. Termination Settlement. Subject to Paragraph 16.D., the Consultant and the Authority may negotiate the whole or any part of the amount or amounts to be paid, upon termination for default or for the convenience of the Authority.

F. Remedies. The Consultant shall have the right of appeal from any determination made by the Authority under when the Consultant has been terminated for default, except that if the Consultant has failed to submit his claim within the time provided in Paragraph 16.D., above, and has failed to properly request extension, he shall have no such right of appeal. In any case where the Authority has made a determination of the amount due under Paragraphs 16.D. or 16.E., above, the Authority shall pay the Consultant: (1) the amount the Authority has determined if there is no right to appeal or if no timely appeal has been taken, or (2) the amount finally determined on such appeal if an appeal has been taken.

G. Method of Appeal. If the Consultant disagrees with the Authority's determination under Paragraphs 16.D. or 16.E., he can appeal this decision in writing to the Authority. Such appeal must be made within twenty (20) days of receipt in writing of the Authority's determination. The Authority shall have twenty (20) days in which to respond in writing to the appeal. The Authority's response shall be final and conclusive unless within thirty (30) days from the date of receipt of such response the Consultant submits the dispute to a court of competent jurisdiction or submits a demand for arbitration if required by the Agreement Documents.

H. Partial Termination. If the termination is partial, the Authority shall make appropriate adjustment of the price of the Services not terminated. Any request by the Consultant for further adjustment of the price shall be submitted in writing within thirty (30) days from the effective date of notice of partial termination or shall be deemed forever waived.

17. RECORD KEEPING REQUIREMENT. The Consultant shall maintain comprehensive, complete and accurate books, records, and documents concerning its performance relating to this Project for a period of three (3) years after final payment on the Project and the Authority shall have the right within the three-year period to inspect and audit these books, records and documents, upon demand, in a reasonable manner and at reasonable times, for the purpose of determining, by accepted accounting and auditing standards, compliance with all provisions of the Agreement and applicable law.

18. WORK PRODUCT. All work product of the Consultant prepared pursuant this Agreement, including but not limited to all maps, plans, drawings, specifications, reports, electronic files and

other documents, in whatever form, shall remain the property of the Authority under all circumstances, whether or not the Services are completed. When requested, all work product shall be delivered to the Authority in a format compatible to the Authority's computer applications. All work product shall be provided to the Authority at the time of completion of any of the discrete tasks specified in the Services or at the time of termination of this Agreement, whichever event first occurs, and shall be provided to the Authority's successor or to any subsequent owners of the Project, only with the Authority's express permission. The Consultant shall maintain copies on file of any such work product involved in the Services for three (3) years, shall make them available for the Authority's use, and shall provide such copies to the Authority, upon request, at commercial printing or reproduction rates. At any time within the three (3) years during which Consultant must retain copies of all work product involved in the Services, the Authority may obtain copies of the Consultant's work product by paying printing or reproduction costs as set forth above.

20. DESIGNATION OF CONSULTANT REPRESENTATIVE. Prior to commencing performance of the Services hereunder, the Consultant shall designate in writing, the Consultant's representative who is authorized to make decisions and bind the Consultant with regard to administration of this Agreement.

21. KEY PERSONNEL.

A. Identification of Key Personnel. The following positions and individuals have been identified by the Consultant and the Authority as key personnel for the performance of the Services:

("Key Personnel"). The Key Personnel are recognized to possess a level of expertise, knowledge and experience as to be a significant factor in the Authority's decision to award this Agreement the Consultant.

B. Employment and Transfer of Key Personnel. The Consultant shall have and maintain such Key Personnel for the performance of the Services throughout the term of this Agreement. The transfer of any Key Personnel shall be subject to written approval by the Authority, in the Authority's sole discretion. The Consultant's failure to obtain written approval from the Authority prior to the transfer of one or more Key Personnel shall be a breach of this Agreement. Notwithstanding anything herein to the contrary, the Authority will not unreasonably withhold its consent to the transfer or dismissal of an individual designated as Key Personnel, if the individual has remained in the position in question for a reasonable length of time (not less than one year) and if the Authority accepts the replacement for such person. Additionally, a person who is designated as Key Personnel may be dismissed for unsatisfactory performance, at the discretion of the Authority. All costs of replacement and retraining of Key Personnel shall be borne by the Consultant.

C. Removal. The Consultant shall not remove, suspend, dismiss, fire, lay off, discharge, or otherwise terminate Key Personnel without the prior notice to the Authority. Upon consent of the Authority, the Consultant shall replace Key Personnel with another employee having comparable

experience and qualifications, which replacement employee has been accepted by the Authority in its sole and absolute discretion.

22. CONSULTANT'S TRADE SECRETS AND OPEN RECORDS REQUESTS.

A. Application of the Act. The Consultant acknowledges and agrees that all documents in the Authority's possession, including documents submitted by the Consultant, are subject to the provisions of the Colorado Open Records Act (§§24-72-101, *et seq.*, C.R.S.)(the "Act"), and the Consultant acknowledges that the Authority shall abide by the Act, including honoring all proper public records requests made thereunder. The Consultant shall be responsible for all costs incurred in connection with any determinations required to be made by a court, pursuant to the Act. The Consultant is advised to contact legal counsel concerning such acts in application of the Act to the Consultant.

B. Confidential or Proprietary Materials. If the Consultant deems any document(s) which the Consultant submits to the Authority to be confidential, proprietary or otherwise protected from disclosure under the Act, then the Consultant shall appropriately label such document(s), and submit such document to the Authority together with a written statement describing the material which is requested to remain protected from disclosure and the justification for such request. This request will either be approved or denied by the Authority; however, the Authority will make a good-faith effort to accommodate all reasonable requests.

C. Stakeholder. In the event of litigation concerning the disclosure of any document(s) submitted by the Consultant to the Authority, the Authority's sole involvement will be as stakeholder retaining the document(s) until otherwise ordered by the court, and the Consultant shall be fully responsible for otherwise prosecuting or defending any actions concerning the document(s) at its sole expense and risk.

23. C.R.S. § 8-17.5-101 ET SEQ., REQUIREMENTS REGARDING ILLEGAL ALIENS.

Consultant shall execute the affidavit attached hereto as Exhibit C, acknowledging notification by the Authority of certain requirements relating to immigration imposed by C.R.S. § 8-17.5-101 *et seq.* and certifying compliance therewith.

24. NOTICES. Any notices or other communications required or permitted by this Agreement or by law to be served on, given to, or delivered to either party hereto, by the other party shall be in writing and shall be deemed duly served, given, or delivered when sent certified mail, return receipt requested, and shall be effective upon receipt or three (3) business days after mailing, whichever is first. Such notices shall be addressed to the Authority at:

Rocky Mountain Rail Authority
Attn: Harry Dale
Clear Creek County
PO Box 2000
Georgetown, CO 80444

with a copy to:

Icenogle, Norton, Smith, Blieszner, Gilida & Pogue, P.C.
821 17th Street, Suite 600
Denver, CO 80202-3040
Attn: Tamara K. Gilida, Esq.

or to the Consultant at:

Attn: _____

The Authority or the Consultant, may change its address for the purpose of this paragraph by giving written notice of such change to the other party in the manner provided in this paragraph.

25. ENTIRE AGREEMENT. This Agreement constitutes the entire Agreement between the parties hereto relating to the Services and sets forth the rights, duties, and obligations of each to the other as of this date. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect.

In addition, the Consultant understands that unless the Agreement is for goods or services of a value less than \$50,000 or has been approved beforehand in the Authority's budget, no the Authority official or employee, other than the Board of the Authority Directors acting as a body at a Board meeting, has authority to enter into a Agreement or to modify the terms of this Agreement on behalf of the Authority. Any such Agreement or modification to this Agreement must be in writing and be executed by the parties hereto.

26. AMENDMENT. This Agreement may not be modified or amended except by a writing executed by both the Consultant and the Authority. With respect to change orders under the Agreement, the Authority and the Consultant shall process and approve/disapprove requests for change orders as otherwise provided in this Agreement, subject to the requirements of the Procurement Code and the Finance Office.

27. BINDING AGREEMENT. This Agreement shall inure to and be binding on the heirs, executors, administrators, successors, and assigns of the parties hereto.

28. NO WAIVER. No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other of the provisions of this Agreement, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided herein, nor shall the waiver of any default hereunder be deemed a waiver of any subsequent default hereunder.

29. CONTROLLING LAW. This Agreement shall be governed by and construed in accordance with the law of the State of Colorado, and any disputes hereunder shall be tried in the courts of the State of Colorado.

30. EXEMPTIONS AND PREFERENCES.

A. All purchases of construction or building or any other materials for any Agreement shall not include Federal Excise Taxes or Colorado State or local sales or use taxes. The Authority is exempt from such taxes.

B. Pursuant to state statute and to the extent permitted by law, Colorado labor shall be employed to perform the work to the extent of not less than eighty percent (80%) of each type or class of labor employed on such project; except for highway construction, which is subject to C.R.S. 43-2-208, which provides that all laborers shall be bona fide residents of Colorado with a preference to residents of the county where the work is performed.

C. Preference is given, to the extent permitted by law, to: materials, supplies and provisions produced, manufactured or grown in Colorado, quality being at least equal to materials, supplies and provisions from outside the state; and to local services and labor of quality at least equal to non-local services and labor.

31. NO THIRD PARTY BENEFICIARIES. This Agreement does not and shall not be deemed or construed to confer upon or grant to any third party or parties, except to parties to whom Consultant or the Authority may assign this Agreement in accordance with the specific written permission, any rights to claim damages or to bring any suit, action or other proceeding against either the Authority or Consultant because of any breach of this Agreement or because of any of the terms, covenants, agreements or conditions herein contained.

32. GOVERNMENTAL IMMUNITY. Consultant agrees and understands that the Authority is relying on and does not waive, by any provision of this Agreement, the monetary limitations or terms (presently \$150,000.00 per person and \$600,000 per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, 24-10-101, et. seq., C.R.S., as from time to time amended, or otherwise available to the Authority or any of its officers, agents or employees. Further, nothing in these Required Clauses or any other Agreement Document shall be construed or interpreted to require or provide for indemnification of the Consultant by the Authority for any injury to any person or any property damage whatsoever which is caused by the negligence or other misconduct of the Authority or its agent or employees.

33. CURRENT YEAR OBLIGATIONS. The parties acknowledge and agree that any payments provided for in this Agreement or requirements for future appropriations shall constitute only currently budgeted expenditures of the Authority. The Authority's obligations under this Agreement are subject to the Authority's annual right to budget and appropriate the sums necessary to provide the services set forth in this Agreement. No provisions of this agreement shall constitute a mandatory charge or requirement in any ensuing fiscal year beyond the then current fiscal year of the Authority. No provision of this agreement shall be construed or interpreted as creating a multiple-fiscal year direct or indirect debt or other financial obligation of the Authority within the meaning of any constitutional or statutory debt limitation. This agreement shall not directly or indirectly obligate to make any payments beyond those appropriated for the Authority's then current fiscal year. No provisions of this agreement shall

CONTRACT - EXHIBIT A
SCOPE OF SERVICES

CONTRACT - EXHIBIT B
RATE SCHEDULE
ROCKY MOUNTAIN RAIL AUTHORITY RAIL FEASIBILITY STUDY

CONTRACT - EXHIBIT C

CERTIFICATION AND AFFIDAVIT REGARDING ILLEGAL ALIENS

CONTRACTOR certifies and agrees as follows:

1.CONTRACTOR shall comply with the provisions of C.R.S. 8-17.5-101 *et seq.* CONTRACTOR shall not knowingly employ or contract with an illegal alien to perform work for RFTA or enter into a contract with a subcontractor that knowingly employs or contracts with an illegal alien.

2.CONTRACTOR represents, warrants, and agrees that it has verified that it does not employ any illegal aliens; that it has participated or attempted to participate in the Basic Pilot Employment Verification Program administered by the Social Security Administration and Department of Homeland Security; and otherwise shall comply with the requirements of C.R.S. 8-17.5-102(2)(b).

3.CONTRACTOR shall comply with all reasonable requests made in the course of an investigation under C.R.S. 8-17.5-102 by the Colorado Department of Labor and Employment. If CONTRACTOR fails to comply with any requirement of this provision or C.R.S. 8-17.5-101 *et seq.*, RFTA may terminate work for breach and CONTRACTOR shall be liable for actual and consequential damages to the State.

4.If CONTRACTOR is a sole proprietor, the undersigned hereby swears or affirms under penalty of perjury under the laws of the State of Colorado that (check one):

I am a United States citizen, or

I am a Permanent Resident of the United States, or

I am lawfully present in the United States pursuant to Federal law.

I understand that this sworn statement is required by law because I am a sole proprietor entering into a contract to perform work for RFTA. I understand that state law requires me to provide proof that I am lawfully present in the United States prior to starting work for RFTA. I further acknowledge that I will comply with the requirements of C.R.S. 24-76.5-101 *et seq.* and will produce the required form of identification prior to starting work.

I acknowledge that making a false, fictitious, or fraudulent statement or representation in this sworn affidavit is punishable under the criminal laws of Colorado as perjury in the second degree under C.R.S. 18-8-503.

CERTIFIED and AGREED to this ___ day of _____, 2008.

CONTRACTOR:

FEIN or Social Security Number

By: _____
Signature of Authorized Rep Title

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Exhibit B

Instructions to Proposers for the Rocky Mountain Rail Authority (RMRA) Contracts

1.
 - a. A “proposal” is a responsive, conforming, unconditional, complete, legible and properly executed offer on the form supplied to do the work in the Request for Proposals (and plans and specifications) for the compensation specified. For the purposes of this document and the procedures specified herein, a “proposal” shall be subject to the same procedural requirements and where only one such term is used, the other is to be implied, as applicable, unless otherwise noted.
 - b. Proposals must be submitted in sealed opaque envelopes and submitted at the time and place designated in the Request for Proposals (RFP). Proposal envelopes must be clearly marked on the front of the envelope as a “sealed proposal” with the project name and the name, contact person, mailing address and telephone number of the proposer.
 - c. It shall be the responsibility of the proposer to insure that the proposal document is in proper form and in RMRA’s possession by or before the scheduled time and date of the public proposal opening. Proposals will not be accepted after the scheduled time and date of opening. Any proposals received late will be returned to the proposer unopened, if possible. In the event that it is impossible to determine who the late proposer is unless the envelope is opened, the envelope will be opened, the address determined, and the envelope and its contents will be returned immediately to the proposer without being considered a proposal.
 - d. All parties who request packages of proposal documents must sign a list and leave the name of the potential proposer, along with the name of a contact person, address, email address and telephone number for the purpose of dissemination of Addenda or additional proposal information.
 - e. If a mistake is made or discovered at or after the public opening, RMRA reserves the right to determine which party made the mistake and whether the mistake is material and, after these determinations, RMRA, in its sole discretion, shall make the decision whether to accept or reject the proposal. No advantage shall be taken by either party of manifest clerical errors or omissions in the proposal documents or the Request for Proposals (and plans and specifications). All proposers are required to notify RMRA immediately of any errors of omissions that may be encountered.
 - f. The signer of the Proposal must initial any interlineations, alteration, or erasure. If provided on the required Proposal Form, the proposal price of each item must be stated in numerals and words; in the case of a conflict, the words will control. In case of conflict between the indicated sum of any addition of figures and the correct sum, the correct sum will control.
 - g. No reimbursement will be made by the RMRA for any costs incurred in the preparation of a statement of qualifications, or proposals, or attendance at a site inspection, pre-bid conference or interviews.

- h. No person, firm or corporation shall be allowed to make, file or be interested in more than one proposal for the same work, unless alternate proposals are called for. A person, firm, or corporation who has submitted a subproposal to Proposer, or who has quoted prices or materials to a Proposer, is hereby disqualified from submitting a subproposal or quoting prices to other Proposers.
2. a. If any person contemplating submitting a Proposal is in doubt as to the meaning of any part of the Drawings, Specifications, or other Proposal or Contract Documents, or finds discrepancies, errors, ambiguities, inconsistencies, incompleteness or omissions in the Drawings or Specifications or the proposal process he/she must submit to the Procurement Officer a written request for an amplification, clarification, explanation, interpretation, or correction thereof.
- b. Proposers may propose substitute materials or techniques if such substitution is equal to or better than the materials or techniques called out in the plans and specifications and if the substitution has been submitted in writing at least (10) days prior to the public proposal opening. The burden of proof of equality or superior quality is on the proposer. If accepted as equal by the RMRA in its discretion, the substitute will be designated as an alternative on a formal addendum.
- c. Any amplification, clarification, explanation, interpretation or correction of the documents will be made only by written Addendum duly issued and a copy of the Addendum will be mailed or delivered to each person receiving a set of the Proposal Documents. Neither the Owner nor the Procurement Officer will be responsible for any information, representations, explanations, or interpretations of the Contract Documents not in written addenda.
- d. The RMRA reserves the right to call a pre-proposal conference; if called and conducted, a summary of the pre-proposal conference will be mailed to all parties receiving a set of Proposal documents.
- e. N/A
- f. Any addenda issued during the time of the proposal process, or forming a part of the Contract Documents, shall be covered in the Proposal, and shall be made a part of the Contract. Receipt of each Addendum shall be acknowledged in the Proposal.
- g. If specified in the RFP, a request for qualifications may precede the RFP process.
3. a. Each proposal, if required by the proposal documents, shall be accompanied by a certified check or bid bond in a form acceptable to the RMRA, in an amount specified, payable without condition to the RMRA as a guarantee that the proposer, if awarded the contract, will promptly execute the Agreement in accordance with the Proposal and the other Contract documents, and will furnish, if required by the proposal or contract documents, good and sufficient bonds for the faithful performance of the contract and for the payment to all persons supplying labor and material for the work. After execution of the Contract and issuance of a Notice to Proceed, the guarantees of the unsuccessful proposers will be returned.

- b. Proposers also, if required by the Proposal Documents, will fully complete and submit with the proposal a RMRA Qualification Statement or an updated Statement if one is already on file. RMRA reserves the right to pre-qualify proposers based on said qualification statements.
 - c. Proposer also must submit with the proposal a list of subcontractors, independent contractors, and suppliers to be employed under the Contract. The list must contain whether or not they are a DBE, their address and contact person.
 - d. Proposals by corporations must be executed in the corporate name by the president or vice-president (or other corporate officer accompanied by evidence of authority to sign) and the corporate seal must be affixed and attested by the secretary or an assistant secretary. The corporate address and state of incorporation shall be shown below the signature.
 - e. Proposals by partnerships or limited liability companies (“LLC”) must be executed in the partnership or LLC name and signed by a partner authorized LLC officer, whose title must appear under the signature and the official address of the partnership or LLC must be shown below the signature. The State in which the entity was formed and whose law governs the entity shall be shown below the signature.
 - f. All names must be typed or printed below the signature.
- 4.
- a. Proposer acknowledges that his/her proposal is solicited and submitted subject to the requirements of the “RMRA Procurement Code”. As such, the Proposer agrees to comply with all applicable requirements of said Procurement Code relating to proposing, contract drafting, contract administration, and ethics. The requirements of the Procurement Code are incorporated herein by this reference.
 - b. The proposer shall immediately notify the RMRA Feasibility Study Committee Chair and Vice Chair of any violation of said Code by the RMRA’s employees or agents, which violation is known or should have been known by proposer, and failure to so notify the RMRA of violations within five (5) days of knowledge of such violations shall disqualify the proposer from award of the Contract being proposed and shall be deemed as a waiver of any action or defense that the proposer may have against the RMRA by reason of such violation of the Procurement Code.
 - c. The submission of a proposal shall be conclusive evidence and legal admission that the proposer (1) has no questions, complaints, or objections in connection with the Proposal process and/or documents, subject to any requests made by Proposer for amplification, clarification, explanation, interpretation, or correction pursuant to Paragraph 2.a. and 2.c. above; (2) has no questions, complaints or objections as to the completeness, sufficiency, scope, or detail of the Proposal Documents; and (3) has full knowledge of the scope, nature, quality, and quantity of work to be performed, the detailed requirements of the proposal documents including any and all contract documents and required clauses and the plans and specifications, the site and conditions under which the work is to be performed, the RMRA Procurement Code, and applicable Colorado law.

5. a. N/A
- b. All proposals submitted must be valid for a minimum period of sixty (60) days after the date of the proposal opening.
6. a. Proposals will be awarded to the most responsible and responsive proposer complying with the terms, conditions, guidelines, selection criteria, plans and specifications presented in the Request for Proposals, and these Instructions. All rights are reserved by the RMRA to determine, in the RMRA's sole reasonable discretion, whether the Proposal meets the needs or a purpose intended and is within the budget.
- b. Although price may be a major consideration in the award of the contract, the RMRA does not award on prices alone. The RMRA also considers the quality of the product as judged by the selection committee, past experience with same proposers, subcontractors, products or suppliers; qualifications of the proposers and/or subcontractors or suppliers; serviced offered, warranties, maintenance considerations, approach to project; long range costs; delivery; and similar considerations as specified in the RFP.
- c. The RMRA reserves the absolute right to conduct such investigations as it deems necessary to assist in the evaluation of any proposal and to establish the experience, responsibility, reliability, references, reputation, business ethics, history, qualifications and financial ability of the Proposers and proposed subcontractors and suppliers. The purpose of such investigation is to satisfy the RMRA that the Proposer has the experience, resources, and commercial reputation necessary to perform the work and support any warranties in accordance with the Contract Documents in the prescribed manner and time.
- d. The RMRA, at its sole discretion, may require the apparent successful Proposer to demonstrate, at a place and time designated by RMRA, that the proposal meets the performance criteria specified, or to otherwise provide documented proof from independent reliable sources acceptable to the RMRA that said performance criteria will be met prior to final acceptance of the proposal. The burden of proof of such a demonstration is on the Proposer. In the event the apparent successful proposer fails to demonstrate or provide acceptable proof of meeting the required performance criteria, that proposal will be rejected and the next eligible proposer in the selection ranking will be invited to participate in the same process until a proposal meeting performance criteria is found within the ranking of eligible proposers. The RMRA reserves the right to reject any or all proposals or to otherwise accept the proposal, which in the RMRA's sole discretion is in the best interest of the RMRA.
- e. RMRA reserves the right, if it deems such action to be in the best interest of the RMRA, to reject any and all proposals or to waive any irregularities or informalities therein. Any incomplete, conclusionary, false or misleading information provided by proposer shall be grounds for rejection of the proposal. If proposals are rejected, the RMRA further reserves the right to investigate and accept the next best proposal in order of ranking or to reject all proposals and re-solicit for additional proposals.

- f. Any questions or disputes involving the documents or procedures not covered by the Instructions or other proposal documents shall be resolved by the above-name Procurement Officer on the basis of fairness, custom in the industry, maximization of competition and the best interests and convenience of the RMRA.
7. Issuance of a Notice of Award, execution of Contract Documents and issuance of a Notice to Proceed shall be as specified in the Contract Documents and RFP.
 8. Contracts will be executed on standard RMRA contract documents including the RMRA's "Required Clauses" and/or by separate agreement with the proposer. Copies of any applicable standard forms are included with the proposal documents. The RMRA reserves the right to negotiate with the proposer for contract terms not specified in the Proposing Documents.
 9. If the contract awarded as a result of a proposal extends beyond the calendar year, nothing herein shall be construed as an obligation by the RMRA beyond any amounts that may be, from time to time, appropriated by the RMRA on an annual basis. It is understood that payment under any contract is conditional upon annual or supplemental statutory appropriation of funds by said governing body and that before providing services, the Proposer, if he/she so requests, will be advised as the status of funds appropriated for services or materials and shall not be obligated to provide services or materials for which funds have not been appropriated.

Exhibit C

DRAFT Resolution Number TC-

WHEREAS, Senate Bill 97-1, House Bill 98-1202, HB 99-1206, and HB 02-1310 directs general fund revenues and specified sales tax revenues to CDOT for construction of the Strategic Transportation Program and that at least 10 percent of SB 97-1 funds be used for transit purposes or for transit related capital improvements in the implementation of the strategic transportation program; and

WHEREAS, by Resolution Number TC-1401, the Transportation Commission of Colorado established a Task Force with the objective of recommending to the Commission a definition of a strategic investment program for transit, eligibility criteria, and a process for project selection and prioritization; and

WHEREAS, the Transit Task Force recommended a list of strategic transit projects totaling \$63 million to be recipients of Strategic Transit Project funds; and

WHEREAS, by Resolution Number TC-1455, the Transportation Commission approved the Task Force Recommendation; and

WHEREAS, a project submitted by Front Range Commuter Rail was among those selected for SB-1 funding, at a total project cost of \$4,380,000, with \$1,246,000 to be paid from SB-1 funds, \$311,500 to be paid as a local cash match by Front Range Commuter Rail, and \$2,822,500 to be provided by the Federal Railroad Administration and the states of Wyoming and New Mexico; and

WHEREAS, the Front Range Commuter Rail project proposed to conduct a High Speed Rail Corridor Feasibility Study along the I-25 and I-70 corridors; and

WHEREAS, the Front Range Commuter Rail project proposed to conduct a study that seeks to answer the following questions:

- Whether the proposed corridor includes rail lines where railroad speeds of 90 miles or more per hour are occurring or can reasonably be expected to occur in the future.
- The projected ridership associated with the proposed corridor.
- The percentage of the corridor over which trains will be able to operate at maximum cruise speed, taking into account such factors as topography and other traffic on the line.
- The projected benefits to non-riders, such as congestion relief on other modes of transportation servicing the corridor.

- The amount of State and local financial support that can reasonably be anticipated for the improvement of the line and related facilities.
- The cooperation of the owner of the right-of-way that can reasonably be expected in the operation of the high-speed rail passenger service in the corridor.

WHEREAS, the Department has developed a Draft Programmatic Environmental Impact Statement for the I-70 corridor from C-470 to the Eagle County Airport, and made it available for public comment on December 10, 2005; and

WHEREAS, the Draft Programmatic Environmental Impact Statement for the I-70 corridor covers the same corridor proposed to be examined by Front Range Commuter Rail; and

WHEREAS, considerable effort was put into the Draft Programmatic Environmental Impact Statement; and

WHEREAS, the Draft Programmatic Environmental Impact Statement includes numerous technical analyses, including analyses that address certain topics, such as operating speeds and potential ridership, that are also proposed for examination by the Front Range Commuter Rail study; and

WHEREAS, the Commission does not believe it is necessary or in the public interest to duplicate technical analyses that were already adequately conducted in the course of developing the Draft PEIS; and

WHEREAS, the Commission believes that allowing State funds to be used for such redundant technical analyses would constitute a poor use of public funds and could also lead to the creation of what could become a competing, confusing and duplicative study along the corridor; and

WHEREAS, the Department will work with Front Range Commuter Rail to develop a scope of work for the High Speed Rail Corridor Feasibility Study that generally sets forth the types of analyses that may be conducted by the study.

NOW THEREFORE BE IT RESOLVED, the Transportation Commission hereby directs staff to work with Front Range Commuter Rail to develop a scope of work for the High Speed Rail Corridor Feasibility Study project that explicitly excludes technical analyses related to potential ridership, operating speeds, rail technology, or any other such technical areas for which the draft PEIS has already provided technical analyses.

Exhibit D

NOTICE OF AWARD

Date:

TO: Awardee

FROM: Harry Dale
Chair, Rocky Mountain Rail Authority
c/o Clear Creek County
P.O. Box 2000
Georgetown, CO 80444

Dear _____,

The Rocky Mountain Rail Authority (RMRA), having duly considered the Proposal submitted on {date} for the Document titled _____ the amount of approximately \$ _____, and it appearing that the Price and other information in your Proposal is fair, equitable and to the best interest of the RMRA, the offer in your Proposal is tentatively accepted.

In accordance with the request for proposal RMRA would like to enter into discussions to negotiate appropriate tailoring of the selected proposal and create a finalized set of terms and conditions for the contract.

Congratulations on being selected to provide the services for this Study.

Sincerely,

Harry Dale,
Chairman of the Board of Directors
Rocky Mountain Rail Authority

Exhibit E

NOTICE TO PROCEED

Date:

TO: Awardee

FROM: Harry Dale
Chair, Rocky Mountain Rail Authority
c/o Clear Creek County
P.O. Box 2000
Georgetown, CO 80444

You are hereby authorized to proceed on _____ or within ten (10) consecutive calendar day thereafter, with the work covered by the Contract Documents titled: _____ for the sum of _____ (\$_____).

All required permitting should be approved and on site prior to commencement of work.

By: _____
PROJECT MANAGER

*IF NON STANDARD CONTRACT ADD ATTORNEY SIGNATURE

Exhibit F

NOTICE OF UNSUCCESSFUL RESPONSE

Date:

TO: Awardee

FROM: Harry Dale
Chair, Rocky Mountain Rail Authority
c/o Clear Creek County
P.O. Box 2000
Georgetown, CO 80444

Delivered

Dear ,

The Rocky Mountain Rail Authority (RMRA), having duly considered the Proposal submitted on {date} for the Document titled _____ (the Proposal) in the amount of approximately _____, wants to inform you that the offer in your Proposal was not selected.

We would like to thank you for taking time to respond to the Proposal.

Sincerely,

Harry Dale,
Chairman of the Board of Directors
Rocky Mountain Rail Authority