



RFTA Solicitation No. 12-012

BOND UNDERWRITING SERVICES

IMPORTANT DATES:

Date Issued:	Thursday, June 14, 2012
Deadline for Inquiries:	Wednesday, June 20, 2012, 12:00 PM
Proposals Due:	Thursday, June 28, 2012, 12:00 PM (MT)

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RFTA SOLICITATION No. 12-012
UNDERWRITING SERVICES

PART I – Solicitation, Offer & Award

1.1 **Purpose of Procurement.** The Roaring Fork Transportation Authority (“RFTA”) is soliciting proposals from qualified firms to provide Bond Underwriting Services for a single bond issuance by RFTA in summer 2012. The requested services will be conducted in accordance with generally accepted standards and as defined within the Scope of Services in this Request for Proposals (“RFP”). This solicitation does not commit RFTA to award a contract, or pay any cost incurred in preparation of bids/proposals, or to produce or contract for services.

1.2 **Type and Term of Contract.** The successful proposer (the “Underwriter”) will be required to execute the attached Pro Forma Contract (Part III of this RFP). The contract will be a Professional Services contract. RFTA anticipates a Fixed-Price contract with the Underwriter with a maximum, “not to exceed” contract amount.

Time is of the essence in the performance of the services outlined in this solicitation and the attached contract. The contract will require the Underwriter to begin performance under the Contract on the date of contract execution, or as soon thereafter as is practical.

1.3 **Solicitation Schedule.**¹ This solicitation will be governed by the following schedule:

Solicitation Date:	Thursday, June 14, 2012
Deadline for Written Inquiries and/or Requests for Clarifications:	Wednesday, June 20, 2012, 12:00 PM (MT)
RFTA Response to Inquiries and/or Requests for Clarifications:	RFTA will respond to inquiries as they are submitted
Proposals Due:	Thursday, June 28, 2012, 12:00 PM (MT)

¹ Dates denoted with an “*” are tentative and subject to change with no formal modification to the RFP document. Changes to all other dates shall require the issuance of a formal addendum to the RFP document.

- 1.4 **Restrictions on Communications with RFTA during Solicitation, Offer & Award Period.** All official correspondence from RFTA regarding this solicitation shall be transmitted to and from RFTA's Procurement Manager. All inquiries, offers, submissions and/or other correspondence regarding this solicitation, excluding protests, must be directed, in writing, to the Procurement Manager at procurement@rfta.com.

From the date of issuance of this solicitation through the date of contract award by RFTA, all official communications to and from RFTA will be transmitted in writing (defined as being sent or received via electronic mail). Oral communications regarding this solicitation shall not be considered official communications. RFTA is not responsible for any oral statements made by its employees regarding this solicitation.

Please see Part I, Section 1.27 for instructions regarding the submittal of protests.

- 1.5 **Deadline for Submission of Proposals/Late Proposals.** Proposals submitted in response to this solicitation must be received by RFTA no later than **Noon (12:00 p.m. MT) on Thursday, June 28, 2012**. Proposals received after the submission deadline will not be evaluated.
- 1.6 **Format of Proposals.** RFTA requires that proposals be submitted via electronic mail ("e-mail"), with the proposal documents attached in Portable Document Format (".pdf"). All proposals must be prepared and submitted in accordance with the content requirements specified in Part I, Section 1.28 of this solicitation. As a condition of proposal responsiveness, all proposal documents that require the signature of the Proposer must be signed and incorporated into the .pdf document(s). The Price Proposal should be attached as a separate .pdf document within the same e-mail as the other proposal documents.

Any contract award made as a result of this solicitation shall bind the Proposer to all of the terms, conditions, and specifications set forth in this solicitation.

- 1.7 **Method of Delivery/Location for Submission of Proposals.** Proposals must be submitted exclusively to the RFTA Procurement Manager at procurement@rfta.com. The e-mail containing the proposal should not be sent to anyone at RFTA other than the RFTA Procurement Manager. The subject line of the e-mail containing the proposal must reference "**Proposal for RFTA Solicitation No. 12-012**" to ensure that the proposal is properly identified and evaluated by RFTA. Failure to clearly denote your e-mail submission may result in late discovery of your proposal, which will result in your proposal being disqualified from evaluation.

Upon receipt of a proposal by e-mail, RFTA will reply to the e-mail as confirmation of receipt of the proposal. It is the sole responsibility of the

Proposer to ensure that its proposal is successfully delivered to RFTA by the specified date and time.

RFTA will not be responsible for late or lost deliveries of proposals submitted via e-mail, nor will we be held responsible for information technology issues which result in delaying submittals. RFTA shall not be responsible for proposals delayed by non-responsive IT systems; failure of e-mailed submittals to pass through spam or other security screens; or rejection of .pdf files that exceed the RFTA system's size limitations for attachments, which are subject to change.

- 1.8 **Inquiries and/or Requests for Clarifications.** All Inquiries and/or Requests for Clarification regarding this solicitation must be submitted to RFTA in writing via e-mail to procurement@rfta.com by **12:00 PM on Wednesday, June 20, 2012**. Written inquiries/clarifications must be submitted to the attention of the RFTA Procurement Manager, in accordance with Part I, Section 1.4 above. Written inquiries/clarifications must be in the form of questions. There is no prescribed format for the submission of written inquiries/clarifications. Please note that any inquiries/clarifications received after the submission deadline will not be responded to by RFTA.

RFTA staff will review and evaluate all written inquiries and/or requests for clarifications that are received by the submission deadline. **Questions will be responded to as they are received.** All questions received by the submission deadline along with RFTA's answers to those questions will be posted to www.rfta.com by not later than **5:00 p.m. (MT) on June 21, 2012**. If applicable, an addendum to the RFP that incorporates the changes necessitated by RFTA's responses to written inquiries will be issued in accordance with Part I, Section 1.9 below on or after June 21, 2012. It is the sole responsibility of the Proposer to make itself aware of RFTA's responses to written inquiries/clarifications and their impact on the RFP.

- 1.9 **Amendments to Solicitation (Addenda)/Postponement of Proposal Submission Deadline.** RFTA reserves the right to revise or amend the RFP up to the time set for the submission of proposals. Such revisions and amendments, if any, shall be announced by written addendum to the RFP. If an addendum significantly changes the RFP, the date set for the submission of proposals may be postponed by such number of days as in the opinion of RFTA shall enable potential Proposers to revise their proposals. In any case, the proposal submission deadline shall be at least five (5) business days after the last addendum, and the addendum shall include an announcement of the new date, if applicable, for the submission of proposals.

Upon issuance, addenda will be considered part of the RFP and will prevail over inconsistent or conflicting provisions contained in the original RFP. Copies of all addenda will be made available on the RFTA web site at <http://www.RFTA.com/rfps.html>. All potential Proposers that have previously requested and received a copy of the RFP document will be notified via e-mail

that an addendum is available. This process will be repeated each time an addendum is made available by RFTA.

A valid e-mail address must be provided when requesting the original RFP in order for RFTA to notify potential Proposers of the availability of addenda. RFTA will not be responsible for a potential Proposer failing to receive notification of the availability of addenda if an invalid e-mail address is provided to RFTA. RFTA will only be responsible for providing notification of the availability of addenda to potential Proposers who directly request and receive copies of the original RFP document from RFTA.

Proposers shall acknowledge receipt of all addenda by completing and submitting Attachment #2 (Acknowledgement of Addenda), included in Part IV of this RFP as part of its proposal. As with other required documentation, proposals that fail to reference receipt of addenda by inclusion of Attachment #2 may be excluded from consideration for a contract award.

- 1.10 **Proposal Price Validity.** Proposal pricing shall remain valid for a period of ninety (90) calendar days after the deadline for proposal submission identified in Part I, Section 1.5 above.
- 1.11 **Modification of Proposals.** Except at the written request of RFTA, no proposal may be modified after the deadline for proposal submission identified in Part I, Section 1.5 above.
- 1.12 **Conditional Proposals.** Conditional proposals and any proposal taking exception to these instructions, the Pro-Forma Contract, the Scope of Services or to other RFTA requirements will be considered non-responsive and shall be rejected.
- 1.13 **Withdrawal of Proposals.** Proposals previously submitted to RFTA may be withdrawn upon written request by the Proposer prior to the time fixed for the receipt and opening of the proposals. No proposal may be withdrawn for a period of 90 days after the time set herein for the receipt of proposals.
- 1.14 **Single Response to Solicitation.** If only one proposal is received in response to this solicitation, a detailed cost analysis of the single proposal may be requested of the single Proposer. A cost analysis, evaluation, and/or audit of the proposal may also be performed by RFTA in order to determine if the proposal price is fair and reasonable. If RFTA determines that a cost analysis is required, the single Proposer must be prepared to provide, upon request, detailed summaries of estimated costs (i.e., labor, equipment, supplies, overhead costs, profit, etc.) and documentation supporting all cost elements.
- 1.15 **Confidential/Proprietary Information.** All proposals that are received by RFTA in response to this RFP will be considered public records subject to the Colorado Open Records Act (C.R.S. 24-72-201 to 24-72-309) and shall be fully open to public inspection following award of a contract. If a Proposer believes a portion

of the information submitted in its proposal constitutes a trade secret or proprietary information as provided by Colorado state law, the Proposer may request that RFTA consider keeping confidential the trade secrets or proprietary information which the Proposer believes should be legally protected from disclosure. For such information to be so considered, the Proposer must mark in boldface as "PROPRIETARY TRADE SECRET INFORMATION" the top and bottom of each page of its proposal that contains such information. Notwithstanding the Proposer's claim of or designation of information as a trade secret or proprietary information, the determination whether it is or not will be determined by RFTA under Colorado state law.

- 1.16 **Reserved Rights.** RFTA reserves the right to reject any and all proposals or any portion of a specific proposal for any reason. RFTA also reserves the right to award a single or multiple contracts as a result of this solicitation; however, issuance of this RFP and receipt of proposals does not commit RFTA to award a contract or contracts.

RFTA has the sole right to select the successful proposal(s) for contract award; to reject any proposal as unsatisfactory or non-responsive due to non-conformance with the requirements of this RFP; to cancel the solicitation and to advertise for new proposals; to award a contract or contracts to other than the Proposer submitting the lowest price proposal; or not to award a contract as a result of this RFP.

RFTA reserves the right to accept any proposal deemed to be in the best interest of RFTA and to waive any irregularities in any proposal that does not prejudice other Proposers. RFTA further reserves the right to negotiate with any source whatsoever. A contract will be negotiated with the Proposer(s) whose proposal(s) is considered by RFTA in its sole discretion to be most advantageous to RFTA.

RFTA further reserves the rights to retain all proposals submitted and to use any ideas or concepts in any proposal for any purpose regardless of whether that proposal is selected for contract award.

Proposals shall be submitted to RFTA on the most favorable of terms possible from the standpoint of cost, quality, and technical capability. No Proposer shall have any cause of action against RFTA arising out of the methods by which proposals are evaluated.

- 1.17 **Equipment.** The Underwriter shall at its own expense furnish all labor, supplies, equipment and machinery necessary to provide the services required by the Contract.
- 1.18 **Personnel.** The Underwriter represents that he/she has, or will secure at his/her own expense, all personnel required in performing the services under the contract. Such personnel shall not be employees of or have any contractual

relationship with RFTA. All the services required hereunder will be performed by the Underwriter or under his/her supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized or licensed, if applicable, under state and local law to perform such services. None of the work or services covered by this contract shall be sub-contracted without prior written approval by RFTA.

- 1.19 **Knowledge of Conditions.** Each Proposer shall thoroughly examine and be familiar with the contract documents, scope of services and all conditions and requirements that may in any manner affect the work to be performed under the contract. The submission of a proposal shall constitute an acknowledgement that the Proposer has thoroughly examined and is familiar with the contract documents, scope of services, conditions and requirements in every detail.
- 1.20 **Tax Exempt.** RFTA is exempt from payment of Federal and State taxes, and such taxes must not be included in the proposal price. RFTA will furnish the Underwriter with the necessary tax-exempt certificates.
- 1.21 **Prime Contractor Responsibilities.** The Underwriter will be required to assume responsibility for all services offered in its proposal regardless of who provides them. Further, RFTA will consider the Underwriter to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the contract.
- 1.22 **No Geographic Preference.** This procurement will be conducted in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographic preferences in evaluation of proposals or award of contracts, except where Federal statutes expressly mandate or encourage geographic preference. This does not preempt State licensing laws.
- 1.23 **Conflicts of Interest.** RFTA employees and directors are bound by the RFTA Code of Ethics and Standards of Conduct, which were adopted by the RFTA Board of Directors on April 13, 2006. The RFTA Code of Ethics and Standards of Conduct prohibits RFTA employees and directors engaged in the award and administration of contracts, or any person acting on their behalf, from accepting, directly or indirectly, any gift with a value of more than a nominal amount, including meals or tickets to sporting events, from any person with whom the employee interacts on official RFTA business. Therefore, Proposer, or its subcontractors or suppliers, may not make gifts or favors to any RFTA employee or director. It is a violation of the RFTA Code of Ethics and Standards of Conduct for any RFTA employee to accept any such gift or favor.
- 1.24 **Contractual Relationships.** RFTA intends to execute the Pro-Forma Contract, attached as Part III to this RFP, for the provision of the required services with the successful Proposer (the "Underwriter"). The Underwriter's contractual responsibility must solely rest with one firm or legal entity, which shall not be a subsidiary or affiliate with limited resources.

RFTA will not be a party to agreements between the Underwriter and/or any subcontractors it may choose to employ during fulfillment of the contract; however, the Underwriter shall execute fair and reasonable agreements with its subcontractors (if any) and shall provide RFTA with copies of said agreements not later than five (5) business days prior to their execution. Additional contract requirements related to Subcontractors are specified in Article 15 of Part III (Pro-Forma Contract) to this RFP.

- 1.25 **Contractual Provisions.** The contract to be executed between RFTA and the Underwriter as a result of this solicitation is attached as Part III (Pro-Forma Contract) to this RFP. RFTA has no obligation to consider and/or approve exceptions or changes to the Pro-Forma Contract. RFTA reserves the right to modify the Pro-Forma Contract and/or include additional contractual provisions in the contract at its sole discretion.
- 1.26 **Responsibility for Compliance with Legal Requirements.** Underwriter's products, services, and facilities shall be in full compliance with any and all applicable federal, state, and local laws, regulations, ordinances, and standards and any standards adopted by nationally recognized testing facilities regardless of whether or not they are referred to in this RFP.
- 1.27 **Protests.** Protests related to this RFP or resulting contract award must be submitted in writing to the RFTA Procurement Manager. RFTA's protest procedures, as included in the 2010 RFTA Procurement Manual, are as follows:

3.13.1 AUTHORITY TO RESOLVE PROTESTED SOLICITATIONS AND AWARDS

- (1) Right to Protest. Any actual or prospective proposer or contractor who is aggrieved in connection with the solicitation or award of a contract shall first try to resolve the grievance/protest with the RFTA Procurement Manager. If the grievance is not satisfied, the prospective proposer or contractor shall then protest to the RFTA CEO. The protest shall be submitted in writing within 5 days after such aggrieved person knows or should have known of the facts giving rise thereto.
- (2) Authority to Resolve Protests. The RFTA CEO shall have the authority, prior to the commencement of an action in court concerning the controversy, to settle and resolve a protest of an aggrieved proposer or contractor, actual or prospective, concerning the solicitation or award of a contract.
- (3) Decision. If the protest is not resolved by mutual agreement, the RFTA CEO shall promptly issue a decision in writing. The decision shall:
 - a. state the reason for the action taken; and

- b. inform the protestant of its right to administrative review as provided in this Article.
- (4) Notice of Decision. A copy of the decision under Subsection 3.13.1 (3) of this Section shall be mailed or otherwise furnished immediately to the protestant and any other party intervening.
- (5) Finality of Decision. A decision under Subsection 3.13.1 (1) of this Section shall be final and conclusive, unless the protestant appeals administratively to the RFTA Board acting as the Procurement Appeals Board.

In all instances involving FTA funds the RFTA will disclose information regarding the protest to the FTA Region VIII office, and keep them informed about the status of the protest, a protester must exhaust all administrative remedies with the RFTA before pursuing a protest with FTA. The contract resulting from this solicitation will not utilize FTA funds.

- 1.28 **Information Required from the Proposer.** To be eligible for evaluation by RFTA as a complete, responsive proposal in response to RFTA Solicitation No. 12-012, any and all proposals submitted to RFTA must contain all of the information requested below, with documents properly signed (as required), fully completed by the Proposer, numbered and arranged in the order indicated.

Proposals may be ***no more than twelve (12) pages***. Proposals should be presented in a legible font and font size no smaller than 11 pt. The requested numerical analysis may be added in support of the proposal and will not count toward the page limit:

1. **Cover Letter.** The purpose of the cover letter is to briefly describe the Proposer's interest in the Scope of Services for the Engagement and its commitment to the contract and to provide information on the Proposer and its team (if applicable). The Cover Letter must contain the following information:
 - a. The full legal name and address of the entity that will contract with RFTA for the Services, and if applicable, the branches or offices or the subordinate elements that will perform or assist in performing the work;
 - b. If the Proposer is a joint venture or team, provide the full legal names and addresses of all entities that comprise the joint venture or team;
 - c. Name and title of person authorized to submit proposal on behalf of Proposer (this person must sign the appropriate Attachments on behalf of the Proposer);

- d. Telephone number (direct line) and e-mail address of person authorized to submit proposal;
- e. Name and title of contact person for the proposal (if different than the person authorized to submit proposal; please signify if they are or are not the same person);
- f. Telephone number (direct line) and e-mail address of contact person for the proposal;
- g. Description of the roles that each entity comprising the Proposer's team will perform during the Engagement;
- h. Description of the Underwriting services related to bond issues offered by the Proposer;
- i. Description of the Proposer's interest in the Engagement;
- j. Description of the Proposer's commitment to the Engagement;

The cover letter must be signed and dated by the person authorized to submit the proposal as identified on the cover sheet. The person authorized to submit the proposal must be an authorized officer or agent of the Proposer.

There is no prescribed format for this document. The format of the document shall be at the discretion of Proposer; however, the document shall be **limited to two (2) typed pages**.

- 2. Proposer Questionnaire. This document summarizes key information about the Proposer for RFTA's assistance and reference during evaluation of proposals. This document must be fully completed, signed and submitted with the proposal. Blank form is attached as Attachment #1 in Part IV of this RFP.
- 3. Acknowledgement of Addenda to RFP. This document is required by Part I, Section 1.9 of this RFP. This document must be fully completed, signed and submitted with the proposal. If no addenda to the RFP were issued by RFTA, Proposer must still complete the form and include it in its proposal. Blank form is attached as Attachment #2 in Part IV of this RFP.
- 4. Statement of Proposer's Qualifications and Experience. This document shall include a narrative description of the Proposer that includes a brief history of the firm and its Public Finance and Underwriting experience. It should also include the number of employees, lines of business, areas of specialization, office locations, organizational structure, etc. The same information for all members of the Proposer's joint venture or team, if

applicable, as well as contact information for those team members, should also be provided.

- a. Identify the specific individual(s) and all office locations of those who would be assigned to the RFTA account. For each identified person, provide a summary description of his/her background and experience in Public Finance, particularly Underwriting.
- b. Provide a list of recent relevant work performed by the Proposer, including a list of at least three (3) other public sector clients. These references should include tax-exempt issuers as well as at least one (1) QECB or taxable municipal bond issue, if applicable. To the extent possible, the references should also be issuers in Colorado, if applicable. Proposers **must** provide the following information for **each** client referenced:
 1. Name and address of client
 2. Name and title of contact person for the client
 3. Telephone number and e-mail address for contact person for the client
 4. Services provided to client during most recent engagement, including description of bonds sold (i.e. QECB, sales tax revenue bonds, etc.) and transaction volume
 5. Current status of the most recent engagement
- c. Indicate your firm's financial strength. State your firm's total capital and excess net capital for the past three (3) years and explain any significant changes. Also discuss your firm's willingness to commit capital to support its underwriting activities and purchase unsold balances.
- d. Discuss your firm's previous experience with RFTA, if applicable.

There is no prescribed format for this document. The format of the document shall be at the discretion of Proposer; however, the document shall be **limited to 5 typed pages**.

5. Proposer's Approach to Provision of Services. This document shall be a narrative description of the Proposer's approach to and understanding of the requirements described in the Scope of Services (Part II of this RFP). This document must include the following elements:

- a. State in precise terms your understanding of the Scope of Services for the Engagement.

- b. Provide a detailed, narrative description of your proposed services, level of effort and schedule to complete the Scope of Services.
- c. Provide a detailed discussion of your firm's marketing plan and capabilities for the proposed bond issues including (but not limited to) the following:
 - i. Name and location of the individual(s) serving as lead underwriter(s) for both tax-exempt and taxable bonds.
 - ii. Your firm's retail and institutional distribution capabilities.
 - iii. Your recommended plan for marketing the bonds to investors.
- d. Please provide both a tax-exempt and taxable scale with both coupons and yields for the proposed transaction. For each scale assume a par amount of \$8,450,000 with level debt service amortized over 20 years. Base the scale on rates as of June 18, 2012. For the taxable portion assume a 10 year par call, but discuss any potential advantage of using a make whole call. Please assume that the tax exempt bonds will be designated as Bank Qualified.
- e. RFTA does have the option of issuing the QECBs as tax credit bonds instead of taxable with a subsidy. Please discuss your views on the current market for tax credit bonds and if you believe this structure would benefit RFTA. If you do believe it would be beneficial would the structure require additional interest above the tax credit and if so, what is your estimate of the rate?
- f. Indicate whether your firm requires underwriter's counsel. If so, please provide the name of the firm and attorney who will provide these services along with a firm fee quote. Indicate whether this fee is included in your total underwriter's discount, or will your firm expect that this fee be paid from costs of issuance. Please list any additional expenses for which your firm will seek reimbursement;
- g. Describe any past or present civil or criminal legal investigations, pertinent litigation and/or regulatory action, occurring in the past five (5) years and involving your firm or its employees that could have an impact on your role or ability to serve RFTA.

There is no prescribed format for this document. The format of the document shall be at the discretion of Proposer; however, the document shall be **limited to five (5) typed pages**.

- 6. Price Proposal. RFTA anticipates a Fixed-Price contract with the Underwriter with a maximum, "not to exceed" contract amount inclusive of management fees, underwriting fees, expenses and average take down.

In this document, please provide your firm's proposed total underwriting discount for the transaction in a total dollar amount.

In addition, break-out the proposed fee between takedown, management fee, underwriting fee and expenses. Also, please break-out fees separately for tax-exempt and taxable bonds.

Proposers should state its fee break-out in a table similar to the following:

Summary of Fees and Expenses per \$1,000

	Tax-exempt	Taxable bonds
Management Fees	\$ _____	\$ _____
Underwriting Fees	\$ _____	\$ _____
Expenses	\$ _____	\$ _____
Average Take Down	\$ _____	\$ _____

Proposers must state a basis and justification for each element of the proposed price (i.e. management fees, underwriting fees, expenses and average take down).

There is no prescribed format for this document. The format of the document shall be at the discretion of Proposer. This document must be signed and submitted with the proposal.

The Price Proposal must be attached as a separate .pdf document to the e-mail transmitting the proposal to RFTA. Failure to attach the Price Proposal as a separate .pdf document may result in your submittal being deemed non-responsive.

NO PRICING INFORMATION SHOULD BE INCLUDED IN THE .PDF DOCUMENT CONTAINING THE REMAINDER OF THE PROPOSAL.

7. Conflict of Interest Statement. This document, Attachment #3, required for compliance with Part III, Article 35 of this solicitation, shall serve as a list of all entities and/or individuals with which the Proposer has relationships that may create or appear to create conflicts of interest with the work to be performed as a result of the contract. As a condition of proposal responsiveness, this document must be fully completed, signed and submitted with the proposal.

8. Corporate Certification of Illegal Aliens. This document, Attachment #4, is required by C.R.S. § 8-17.5-101, et. seq. (Colorado State House of Representatives Bill No. 06-1343).

1.29 **Proposal Evaluation and Underwriter Selection.**

1. Standards for Award. RFTA Solicitation No. 12-012 is a Request for Proposals (RFP). RFTA intends to award a contract to the Proposer whose proposal conforms to the solicitation and is determined to be the most advantageous to RFTA, taking into consideration price and other evaluation factors set forth below. In order to be eligible for contract award a proposal must meet all of the following criteria:
 - a. The proposal submitted is responsive to the solicitation.
 - A proposal shall be considered responsive if it conforms in all material aspects to the requirements of the solicitation at the scheduled time of submission and does not require further discussions with the Proposer.
 - It shall be at the sole discretion of RFTA to determine if a proposal “conforms in all material aspects to the requirements of the solicitation.”
 - b. The Proposer who submitted the proposal is a responsible Proposer.
 - A Proposer shall be considered responsible if the Proposer possesses, at the time of contract award, the ability to perform successfully and a willingness to comply with the terms and conditions of the proposed contract (attached as Part III – Pro-Forma Contract to this RFP).
 - c. The Proposer is judged, at the sole discretion of RFTA, to be the qualified firm that offers the best value to RFTA for the Services to be provided.
2. Evaluation and Award Process. All proposals shall be evaluated by a Proposal Review Committee to be comprised of professional staff employed by RFTA. Following the receipt of proposals, proposals will be evaluated and a contract will be awarded in accordance with the following process:
 - a. Proposals will first be evaluated by RFTA staff for responsiveness in accordance with the standard set forth in Part I, Section 1.29.1.a above. Only those proposals that are determined to be responsive shall be evaluated for Proposer responsibility.

- b. Proposers who submitted responsive proposals will be evaluated by the Proposal Review Committee for responsibility in accordance with the standard set forth in Part I, Section 1.29.1.b above.
- c. Proposals that are determined to be responsive and that were submitted by responsible Proposers shall be further evaluated by the Proposal Review Committee to determine the proposal that is most advantageous to RFTA. To determine the most advantageous proposal to RFTA, the Proposal Review Committee will rank the proposals taking into consideration the following criteria:
 - i. Proposer Qualifications and Experience. Proposal Review Committee shall specifically consider information submitted in accordance with Part I, Section 1.28.4 when evaluating Proposer Qualifications and Experience.
 - ii. Proposer's Approach to Provision of Services. Proposal Review Committee shall specifically consider information submitted in accordance with Part I, Section 1.28.5 when evaluating Proposer's Approach to Provision of Services.
 - iii. Price Proposal. Proposal Review Committee shall specifically consider information submitted in accordance with Part I, Section 1.28.6 when evaluating the Price Proposal.

As evaluation factors, Proposer Qualifications and Experience and the Proposer's Approach to Provision of Services, when combined, shall be significantly more important than Price.

- d. A Recommendation for Contract Award to the Proposer who submitted the most advantageous proposal to RFTA, as solely determined by the Proposal Review Committee, and that meets the standards for contract award specified above will be forwarded to the RFTA Chief Executive Officer (CEO).
- e. The RFTA CEO will consider the Recommendation for Contract Award.
- f. If the Recommendation for Contract Award is approved by the RFTA CEO, a Notice of Contract Award will be sent to all Proposers and contract negotiations with the successful Proposer will commence.
- g. A contract will be executed with the successful Proposer and a Notice to Proceed will be issued.
- h. The RFTA CEO may, at his sole discretion, delay consideration of the Recommendation for Contract Award or reject the recommendation and award the contract to another Proposer or cancel the procurement altogether.

PART II – Scope of Services

- 2.1 **Organizational Background & Summary.** RFTA is the regional public transportation provider for Garfield and Pitkin Counties as well as a portion of southwestern Eagle County in Colorado. RFTA operates commuter bus service along the 40-mile State Highway 82 corridor from Glenwood Springs to Aspen and the 27-mile Interstate 70 corridor from Glenwood Springs to Rifle. RFTA also owns and maintains the 45-mile Rio Grande Trail, a recreational trail between Glenwood Springs and Aspen.

RFTA consists of eight member jurisdictions, including the municipalities of Aspen, Basalt, Carbondale, Glenwood Springs, New Castle and Snowmass Village and Eagle and Pitkin counties. As the second largest public transit agency in Colorado and one of the largest rural public transit providers in the nation, RFTA transported approximately 4.14 million passengers in 2011. Following a successful regional vote in November 2008, RFTA began implementation of a Bus Rapid Transit (BRT) system (“*VelociRFTA*”) between Glenwood Springs and Aspen that will begin operation in September 2013. More information on RFTA and the *VelociRFTA* project can be found at www.rfta.com or www.rftabrt.com.

- 2.2 **Purpose of the Procurement.** RFTA is soliciting proposals from experienced and qualified Underwriters interested in assisting RFTA with a single bond issuance in the summer of 2012. RFTA will select one firm to serve as RFTA’s Underwriter for the bond issuance. RFTA has retained Piper Jaffray & Co. as its Financial Advisor and Kutak Rock, LLP to provide Bond Counsel services for the bond issuance. RFTA will accept joint or team proposals; however, all proposals must identify the single entity with which RFTA will enter into a contract.

RFTA anticipates that the selected Underwriter will be paid at closing from bond proceeds. The engagement between RFTA and the Underwriter will terminate not later than 30 days following completion of the bond issuance.

RFTA plans to issue up to \$8.35 million in bonds to finance the purchase of equipment and facility improvements required for the future implementation of Compressed Natural Gas (“CNG”) as a source of fuel for its fleet of transit buses. RFTA has received an allocation of \$6.7 million in Qualified Energy Conservation Bonds (“QECCB”) from the Governor’s Energy Office (“GEO”) of Colorado for issuance in support of its CNG project. In addition, RFTA will issue approximately \$1.65 million of tax-exempt sales tax revenue bonds to fund the remaining project costs.

The QECCB’s will be taxable sales tax revenue bonds, for which RFTA will receive a federal direct subsidy payment based on the debt service of the QECCB’s. The remaining bonds will be tax-exempt sales tax revenue bonds. RFTA expects that the QECCB’s and tax-exempt sales tax revenue bonds will function the same in terms of payment and security, will be issued under a single bond resolution, and

will be issued on a parity with RFTA's outstanding Series 2009A and B bonds. Each issue will be secured by a sales tax revenue pledge which was previously approved by a public referendum in 2008. RFTA has approximately \$17.055 million in remaining electoral authorization for sales tax revenue bonds.

RFTA is also considering the possibility of a private placement to fund the proposed projects. A separate RFP has been sent to several financial institutions soliciting proposals for private placement options. RFTA will compare the proposals it receives for Underwriting services to the responses it receives to the RFP for private placement services and will select the option which best helps RFTA complete its financing goals.

2.2.1 Debt Authorization. In November 2008 RFTA voters approved the issuance of debt up to \$44,555,000 with a maximum repayment cost of \$99,162,000. In 2009 RFTA issued \$27,500,000 of bonds under this voted authorization. The Official Statement for the 2009 transaction can be found on the MSRB's EMMA web page (<http://emma.msrb.org>).

2.2.2 Estimated Structure and Credit. RFTA's Series 2009 Sales & Use Tax Revenue Bonds are currently rated AA-. It is anticipated that new bonds will be issued on parity and amortized over 20 years.

2.2.3 RFTA Coverage Table for 2009-2012:

	2009	2010	2011	2012
RFTA Sales Tax	\$ 8,385,713	\$ 8,865,689	\$ 9,100,417	\$ 9,196,000
Series 2009A & B Net Debt Service	\$ 447,229	\$ 1,618,821	\$ 1,619,121	\$ 1,621,746
Series 2012A & B Net Debt Service*	\$ 500,162	\$ 500,162	\$ 500,162	\$ 500,162
Total Estimated Net Debt Service	\$ 947,392	\$ 2,118,983	\$ 2,119,283	\$ 2,121,908
 Sales Tax Coverage	 8.85	 4.18	 4.29	 4.33

2.3 Scope of Services. The Underwriter for the Bonds is expected to provide investment banking and related financial services, including:

2.3.1 Assist in making recommendations to RFTA regarding financing needs, including but not limited to the following:

- 2.3.1.1 Alternative methods of financing available for a particular project;
- 2.3.1.2 The timing and sale (placement) of bonds, notes, and other financing vehicles;
- 2.3.1.3 Maturities and other structuring elements;
- 2.3.1.4 Lien structure;

- 2.3.1.5 Restrictions and covenants to be included in the financing documents;
- 2.3.1.6 The need for reserve funds and similar provisions;
- 2.3.1.7 Potential Credit enhancements;
- 2.3.1.8 Advantages and disadvantages of rating the issue;
- 2.3.1.9 Marketing issues to meet goals
- 2.3.2 Cooperate with RFTA, staff of other cooperative organizations, financial advisors, bond counsels, and other officials as necessary.
- 2.3.3 Participate in communicating programs and offering features (including PowerPoint presentations) to insurers, credit enhancement providers, ratings agencies, and investors.
- 2.3.4 Aid RFTA Legal Counsel, including Bond Counsel, in the preparation of the Official Statement and other documents.
- 2.3.5 Offer to purchase the Bonds upon terms and conditions mutually acceptable to RFTA and the underwriter(s).
- 2.3.6 Provide technical assistance to RFTA in policy development and responding to inquiries.

PART III – PRO-FORMA CONTRACT
PROFESSIONAL SERVICES CONTRACT
RFTA CONTRACT NO. 12-012

This Contract is made and entered into this _____ day of _____, 2012 (“Effective Date”) between the ROARING FORK TRANSPORTATION AUTHORITY, a body corporate and politic, (“RFTA”) and _____, a **[Indicate corporation, partnership or sole proprietorship]** (the “CONTRACTOR”) organized pursuant to the laws of the State of Colorado

WHEREAS, RFTA desires to engage a qualified and experienced CONTRACTOR to furnish services as described in Exhibit A – Scope of Services attached hereto (“Services or Work”); and

WHEREAS, RFTA has chosen CONTRACTOR to provide the Services following a competitive procurement process wherein RFTA issued a Request for Proposals, attached hereto as Exhibit C and incorporated herein, and CONTRACTOR submitted a proposal in response to the Request for Proposals, attached hereto as Exhibit D and incorporated herein, that was determined by RFTA to be the most advantageous proposal to RFTA; and

WHEREAS, the CONTRACTOR has represented to RFTA that it is sufficiently qualified and experienced to provide those Services described in Exhibit A and RFTA has relied on such representations.

NOW, THEREFORE, in consideration of the mutual understandings and agreements set forth, RFTA and the CONTRACTOR agree as follows:

ARTICLE 1 – SCOPE OF SERVICES

The required Services are as enumerated and described in Exhibit A – Scope of Services, which document is attached hereto and incorporated as if fully set out herein.

ARTICLE 2 – COMPENSATION AND PAYMENT

The terms for Compensation and Payment are set forth in Exhibit B – Compensation and Method of Payment for Professional Services, attached hereto and incorporated as if fully set out herein.

ARTICLE 3 – TERM OF CONTRACT

CONTRACTOR shall commence the Services on the Effective Date set forth above. Time is of the essence in performing the Services.

CONTRACTOR will be engaged beginning on the Effective Date set forth above until not more than thirty (30) days after the bond issuance for which CONTRACTOR was hired to provide financial advisory services. Any extension of the Term of Contract will

be in writing and signed by both parties to the Contract in the form of a Contract Amendment as set forth in Article 11 below.

Notwithstanding anything to the contrary contained in this Contract, no charges shall be made to RFTA nor shall any payment be made to the CONTRACTOR in excess of the amount for any work done without written approval in accordance with a budget adopted by the RFTA Board of Directors in accordance with provisions of the Colorado Revised Statutes. Moreover, the parties agree that RFTA is a governmental entity and that all obligations beyond the current fiscal year are subject to funds being budgeted and appropriated.

ARTICLE 4 – COMPENSATION

The contract will be a Fixed-Price, Professional Services contract. The total dollar amount of the Contract as specified in Exhibit B – Compensation and Method of Payment may only be modified by written agreement of both parties to the Contract in the form of a Contract Amendment as specified in Article 11 below.

ARTICLE 5 – PROJECT AUTHORIZATION AND PERFORMANCE

The CONTRACTOR agrees to perform the required Services in accordance with the Project Schedule as agreed upon by RFTA and the CONTRACTOR prior to contract execution. Following contract execution, RFTA will issue a “Notice to Proceed” to CONTRACTOR, which shall authorize and direct CONTRACTOR to begin work on the Contract. The CONTRACTOR shall begin work on the Services not later than seven (7) calendar days after the effective date of the Notice to Proceed for the Contract, or three (3) calendar days after receipt of the Notice to Proceed, whichever is later, and shall complete all work within the Project Schedule.

ARTICLE 6 – RFTA PROJECT MANAGER

The RFTA Project Manager for this Contract is Michael Yang, Director of Finance unless otherwise designated in writing by the RFTA Chief Executive Officer.

ARTICLE 7 – INDEPENDENT CONTRACTOR

CONTRACTOR shall perform the Services required under this Contract as an independent contractor, not as an agent or employee of RFTA. CONTRACTOR has no authority to make any statement, representation, or commitment of any kind or to take any action binding upon RFTA, without RFTA’s written authorization. RFTA is only interested in the results achieved by the Services performed by the CONTRACTOR; the manner of legally achieving those results is the responsibility of the CONTRACTOR.

All of the Services required by this Contract shall be performed by CONTRACTOR or under its supervision, and all personnel engaged in the Services shall be fully qualified.

Furthermore, it is understood that RFTA will not provide insurance or benefits of any nature to the CONTRACTOR, its employees, or subcontractors.

The CONTRACTOR agrees that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its Services hereunder. The CONTRACTOR further agrees that in the performance of the Contract, no person having any such interests shall be employed.

ARTICLE 8 – INVOICING AND PAYMENT

- (1) CONTRACTOR, as full and complete compensation for completion of the Services and assuming all duties, responsibilities, and obligations under the Contract, shall be paid costs pursuant to Exhibit B – Compensation and Method of Payment for Professional Services of this Contract. CONTRACTOR shall deduct its compensation from the proceeds of the bond issue at closing with prior written approval by RFTA.
- (2) In accordance with the requirements of Exhibit B – Compensation and Method of Payment for Professional Services of this Contract, CONTRACTOR shall submit to RFTA's Project Manager one (1) complete, properly supported and audit-worthy Settlement Statement for the Services performed at least five (5) business days prior to the closing date of the bond issue.
- (3) RFTA will approve payment to CONTRACTOR, conditioned upon compliance by CONTRACTOR with all other provisions of the Contract and CONTRACTOR furnishing RFTA with the following:
 - (a) CONTRACTOR's properly supported and audit-worthy Settlement Statement for the Services performed.
 - (b) Proof satisfactory to RFTA that there are no unsatisfied claims and that no other indebtedness exists in connection with the Services.
 - (c) All documents, records, correspondence, and deliverables which CONTRACTOR and other persons performing the Services are required to provide to RFTA under the Contract.
- (4) The Settlement Statement shall be in a form satisfactory to RFTA and shall reference this RFTA Contract No. 12-012. The Settlement Statement shall be submitted to RFTA's Project Manager at the following address:

Original Invoice to: Roaring Fork Transportation Authority
0766 Industry Way
Carbondale, CO 81623
ATTN: Michael Yang, Director of Finance

Copy to: Collina Washington, Procurement Manager
- (5) The Settlement Statement submitted to RFTA for approval shall include the applicable RFTA contract number; total amount to be paid to CONTRACTOR at closing (including itemized amounts charged for management fees, underwriting fees, expenses and take down); invoice billing period; description of the Services

performed during the invoice billing period (including completed Deliverables); and any other information that RFTA may reasonably require.

- (6) The presentation of the Settlement Statement by CONTRACTOR to RFTA as set forth in this Article constitutes an express warranty and representation by CONTRACTOR to RFTA that the Services have progressed to the point indicated and that the quality of the Services is in accordance with this Contract.
- (7) No approval of any Settlement Statement, nor any payment, final or otherwise, nor any use or approval of deliverables by RFTA shall itself constitute Acceptance of the Services.
- (8) RFTA may withhold all or part of any amounts due CONTRACTOR to protect RFTA from a loss, including but not limited to, losses caused by the following:
 - (a) Failure of CONTRACTOR to make proper payments to its subcontractors for Services.
 - (b) Failure of CONTRACTOR to carry out and/or remedy the Services in accordance with the Contract.
 - (c) CONTRACTOR's breach of warranties.
- (9) By acceptance of final payment under the Contract, CONTRACTOR waives any and all further claims against RFTA arising out of or in connection with performance of the Services performed under the Contract.
- (10) CONTRACTOR shall maintain books and records supporting all amounts invoiced to RFTA. CONTRACTOR shall preserve such books and records for the duration of this Contract and for three (3) years thereafter, during which time RFTA and its representatives shall have access to such books and records and shall have the right to make any copies thereof for the purpose of auditing or verifying invoices or for any other reasonable business purpose.
- (11) CONTRACTOR warrants and represents that all books and records specified above shall be complete and accurate and that RFTA may rely on such records and books for any purposes. If CONTRACTOR becomes aware that such records are inaccurate or incomplete, CONTRACTOR will promptly notify RFTA in writing.

ARTICLE 9 – EMPLOYMENT OF AUTHORITY'S PERSONNEL

The CONTRACTOR shall not employ any person or persons in the employ of RFTA for any work required by the terms of this Contract without the written permission of RFTA, except as may otherwise be provided for herein.

ARTICLE 10 – REVIEW OF WORK

Authorized representatives of RFTA may, at all reasonable times review and inspect the Services, financial reports, and data collected under the terms of this Contract and any amendments thereto. All reports, drawings, studies, specifications, estimates, maps, and computations prepared by or for the CONTRACTOR pursuant to this Contract, shall be available to authorized representatives of RFTA for inspection and review at all reasonable times. Acceptance shall not relieve the CONTRACTOR of its professional obligation to correct, at its expense, any of its negligent errors in the work.

ARTICLE 11 – CHANGES

- (1) RFTA shall have the right, without additional consent from CONTRACTOR and without invalidating the Contract, to add, delete, or change the required Services.
- (2) Contract Amendments. RFTA shall issue Contract Amendments to make additions, deletions, or changes to the required Services. To initiate a Contract Amendment, RFTA shall send CONTRACTOR a Request for Contract Amendment. Upon receipt, CONTRACTOR shall prepare an estimate of the effects of the change on the Contract Budget and/or Term of Contract. Upon agreement between CONTRACTOR and RFTA on the effects of the change, RFTA will issue a Contract Amendment specifying any change to the Contract Budget or the Term of Contract.
- (3) The Contract Budget and/or Term of Contract shall be subject to adjustment only by Contract Amendment(s).

ARTICLE 12 – SUBSTANTIAL CHANGES

If, prior to the satisfactory completion of the Services required under this Contract, RFTA materially alters the scope, character, complexity, or duration of the Services from those required under the Contract, a Contract Amendment may be executed between the parties.

Minor changes in the Services which do not involve increased compensation, extensions of time or changes in the goals and objectives of the Services may be made by written notification of such change by either RFTA or the CONTRACTOR with written approval by the other party.

ARTICLE 13 – INDEMNIFICATION

- (1) Professional Liability. The CONTRACTOR shall exercise in its performance of the Services the standard of care normally exercised by nationally recognized organizations engaged in performing comparable services. The CONTRACTOR shall be liable to RFTA for any loss, damages or costs incurred by RFTA for the repair, replacement or correction of any part of the project which is deficient or defective as a result of any failure of the CONTRACTOR to comply with this standard.

- (2) Indemnification. To the fullest extent permitted by law and except for all professional liability claims, damages, losses and expenses, the CONTRACTOR shall indemnify, defend, and hold harmless RFTA and its agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from the performance of the Services, provided that any such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the project itself) including the loss of use resulting there from, but only to the extent caused by the negligent act or omission of, or breach of contract by, the CONTRACTOR, any subcontractor of the CONTRACTOR, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

To the fullest extent permitted by law, the CONTRACTOR shall indemnify and hold harmless RFTA and its agents and employees from and against all professional liability claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from the performance of the Services, provided that any such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the project itself) including the loss of use resulting there from, but only to the extent caused by the negligent act or omission of, or breach of contract by, the CONTRACTOR, any subcontractor of the CONTRACTOR, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

Such obligations shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Contract. RFTA may, if it so desires, withhold the payments due the CONTRACTOR so long as shall be reasonably necessary to indemnify RFTA on account of such injuries.

In any and all claims against RFTA or any of its agents or employees by any employee of the CONTRACTOR, any subcontractor of the CONTRACTOR, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligations under this Contract shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the CONTRACTOR or any subcontractor.

ARTICLE 14 – INSURANCE

- (1) Procurement – CONTRACTOR and its subcontractors shall procure and maintain, until all of their obligations have been discharged, including until any warranty periods under this Contract are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the Work performed hereunder by the CONTRACTOR, its agents, representatives, employees, or subcontractors.

- (2) Minimum Requirements – The insurance requirements herein are minimum requirements for this Contract. RFTA in no way warrants that the minimum limits contained herein are sufficient to protect the CONTRACTOR from liabilities that might arise out of the performance of the Work under this Contract by the CONTRACTOR, its agents, representatives, employees, or subcontractors and CONTRACTOR is free to purchase such additional insurance as may be determined necessary.

CONTRACTOR shall procure and maintain in effect the following types of insurance at least as broad and with limits of liability not less than those stated below.

- a. Commercial General Liability Insurance - Occurrence form including bodily injury, property damage, premises and operations coverage, products and completed operations coverage, coverage for independent contractors, personal and advertising injury coverage, and broad form contractual liability.

Limits of Liability

General Aggregate: \$2,000,000
Each Occurrence: \$1,000,000

- b. Workers Compensation and Employer's Liability Insurance

Limits of Liability

Workers Compensation:	Colorado Statutory Limits
EL: Bodily Injury by Accident – per employee:	\$100,000
EL: Bodily Injury by Disease – per employee:	\$100,000
Employer's Liability (EL) Policy Limits:	\$500,000

- c. Business Automobile Liability

Limits of Liability

Combined Single Limit (Bodily Injury & Property Damage): \$1,000,000

- d. Professional Liability

Limits of Liability

General Aggregate: \$1,000,000

- (3) Primary Insurance – The CONTRACTOR's insurance coverage shall be primary insurance with respect to RFTA, its Board of Directors, officials, agents, and employees. Any insurance or self-insurance maintained by RFTA, its officers, officials, agents, or employees shall be in excess to the coverage of the CONTRACTOR's insurance and shall not contribute to it.

- (4) RFTA as Additional Insured – RFTA shall be named as an additional insured party under the CONTRACTOR's Business Automobile Liability and Commercial General Liability policies, providing that such insurance is primary with respect to claims made by RFTA, and these policies shall be occurrence-based policies,

and shall specifically provide that all coverage limits are exclusive of costs of defense, including attorney fees. The CONTRACTOR shall provide certificates of insurance to RFTA indicating compliance with this paragraph.

- (5) Waiver of Subrogation – CONTRACTOR shall obtain from its insurers a waiver of subrogation against RFTA, its Board of Directors, officials, agents and employees for all insurance policies required by this Contract except its Professional Liability and Workers Compensation insurance policies.
- (6) CONTRACTOR and Subcontractors – CONTRACTOR shall require all of its subcontractors to provide the aforementioned coverage at levels that the CONTRACTOR and its subcontractors may consider necessary and any deficiency in the coverage or policy limits of the subcontractors will be the sole responsibility of CONTRACTOR.
- (7) Contractual Liability – The insurance provisions in this Contract in no way affect the liability of CONTRACTOR or the indemnity covenants stated elsewhere in this Contract.
- (8) Deductibles and Self-Insured Retention – All deductibles and/or self-insured retention amounts must be declared to and approved by RFTA. At the option of RFTA, the insurer shall either reduce or eliminate such deductibles or self-insured retentions with respect to RFTA, its Board of Directors, officials, agents, or employees.
- (9) Acceptability of Insurers – Insurance is to be placed with insurers duly licensed in the State of Colorado and with an “A.M. Best” rating of not less than “A:VII” at the time of placement of the insurance policies. RFTA in no way warrants that the above required minimum insurer rating is sufficient to protect the CONTRACTOR from potential insurer insolvency.
- (10) Certificates of Insurance – Before commencing performance on the Contract, CONTRACTOR and its subcontractors must furnish certificate(s) of insurance (using ACORD form or equivalent) to RFTA evidencing:
 - (a) Insurance coverage acceptable to RFTA.
 - (b) Signature by person authorized by insurer to bind coverage on its behalf.
 - (c) Effective expiration dates of policies.
 - (d) RFTA must be given 30 days written notice of all cancellation, non-renewable, or material changes in policy.
 - (e) RFTA is added as Additional Insured party on the Commercial General Liability and Business Automobile Liability insurance policies.

- (f) A waiver of subrogation endorsement has been attached to all the Commercial General Liability and Worker's Compensation insurance policies.
- (g) Any deductible and/or self-insured retention.
- (h) Any policy endorsements that restrict or limit coverage.
- (i) Any exclusion(s) to the policy which are not part of the standard form.
- (j) Certificate of Insurance title block format is as follows: Roaring Fork Transportation Authority, 0051 Service Center Drive, Aspen, Colorado 81611.

Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of the Contract.

ARTICLE 15 – SUBLETTING, ASSIGNMENT, OR TRANSFER

It is understood by the parties to this Contract that the work of the CONTRACTOR is considered personal by RFTA. The CONTRACTOR agrees not to assign, sublet, or transfer any or all of its interest in this Contract without prior written approval by RFTA.

RFTA reserves the right to review all subcontracts prepared in connection with the Contract, and the CONTRACTOR agrees that it shall submit to RFTA any proposed subcontract documents together with subcontractor cost estimates for review and written concurrence of RFTA no later than five (5) business days in advance of their execution.

Any contract between the CONTRACTOR and any subcontractor shall comply with all provisions of this Contract. RFTA's approval of any assignment, sublet, or transfer shall not release the CONTRACTOR of any obligation under this Contract. As between RFTA and the CONTRACTOR, the CONTRACTOR shall be fully responsible for the acts and omissions of the subcontractors and persons either directly or indirectly employed by the CONTRACTOR. Nothing contained in this Contract shall create any contractual relation between any subcontractor and RFTA.

All subcontracts in the amount of \$10,000.00 or more shall include the provisions set forth in this Contract.

ARTICLE 16 – TERMINATION

- (1) Termination for Cause: If the CONTRACTOR fails to perform in the manner called for in this Contract or if the CONTRACTOR fails to comply with any other provisions of this Contract, RFTA may terminate this Contract for cause. Termination shall be effected by serving a notice of termination on the CONTRACTOR setting forth the manner in which the CONTRACTOR has breached or is in default. The CONTRACTOR will only be paid the contract price

for services performed in accordance with the manner of performance set forth in this Contract.

If it is later determined by RFTA that the CONTRACTOR has an excusable reason for not performing, such as a strike, fire, flood or other events which are not the fault of or are beyond the control of the CONTRACTOR, RFTA, after setting up a new delivery of performance schedule, may allow the CONTRACTOR to continue work or treat the termination as a termination of convenience.

RFTA in its sole discretion may, in the case of a termination for cause, allow the CONTRACTOR an appropriate period of time to cure the breach or default. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions. If the CONTRACTOR fails to remedy to RFTA's satisfaction the breach or default, RFTA shall have the right to terminate this Contract without any further obligation to the CONTRACTOR. Any such termination for breach or default shall not in any way operate to preclude RFTA from also pursuing all available remedies against the CONTRACTOR and its sureties for said breach or default.

- (2) Termination for Convenience: RFTA may terminate this Contract for its convenience at any time by giving written notice to the CONTRACTOR of such termination and specifying the effective date thereof, at least five (5) business days before the effective date of such termination. If the Contract is terminated by RFTA for convenience, the CONTRACTOR will be paid compensation for those Services actually performed. Partially completed tasks will be compensated for based on a signed statement of completion to be submitted by the CONTRACTOR which shall itemize each task element and briefly state what work has been completed and what work remains to be done.

ARTICLE 17 – APPLICABLE LAWS AND VENUE AND CONTRACT DISPUTES

This Contract shall be governed by the laws of the State of Colorado. This Contract shall be deemed entered into in Garfield and Pitkin County, State of Colorado, as RFTA is located in both counties. At RFTA's option, the location for settlement of any and all claims, controversies and disputes arising out of or related to this Contract or any breach thereof, whether by alternative dispute resolution or litigation, shall be proper only in either county.

Disputes arising in the performance of this Contract, which are not resolved by agreement of the parties, shall be decided in writing by the RFTA Chief Executive Officer (CEO) prior to any commencement of an action in court or arbitration concerning any disputes. The decision of the RFTA CEO will state the reason for the action taken and shall inform the CONTRACTOR of its right to administrative review by the RFTA Board of Directors acting as the RFTA Procurement Appeals Board. The decision of the RFTA CEO shall be final and conclusive unless within 60 calendar days from the date of delivery of the decision to the CONTRACTOR, the CONTRACTOR delivers a

written appeal to the RFTA General Counsel for consideration by the RFTA Procurement Appeals Board.

In connection with any such appeal, the CONTRACTOR shall be afforded an opportunity to submit written evidence in support of its position. The appeals proceeding shall be ***de novo***. A decision on the appeal shall be made by the RFTA Board acting as the RFTA Procurement Appeals Board and shall become binding upon the CONTRACTOR and the CONTRACTOR shall abide by the decision. Unless otherwise directed by RFTA, CONTRACTOR shall continue performance under this Contract while matters in dispute are being resolved.

In addition to the requirements of Article 20 in this Contract entitled "Notices", a copy of any written notices, appeals, and documents pertaining to a contract dispute under this Article shall also be delivered to RFTA's Procurement Manager and General Counsel.

CONTRACTOR agrees that the economic loss rule shall not serve as a limitation on RFTA's right to pursue tort remedies in addition to other remedies it may have against CONTRACTOR. Such rights and remedies shall survive the project or any termination of this Contract.

ARTICLE 18 – SEVERABILITY

If any provision of this Contract is held to be invalid, illegal, or unenforceable for any reason, the validity, legality, and enforceability of the remaining provisions of this Contract will not be adversely affected.

ARTICLE 19 – ASSIGNABILITY

The covenants herein contained shall, except as otherwise provided, accrue to the benefit of and be binding upon the successors and assigns of the parties hereto.

ARTICLE 20 – NOTICES

- (1) All official notices and communications under this Contract shall be in writing and shall be deemed to have been duly given (i) on the date of delivery if delivered personally to the party to whom notice is given, or (ii) at the date of actual receipt if mailed by U.S. Postal Service, postage prepaid, return receipt requested.
- (2) Notices and other communications shall be directed to the parties at the addresses listed below:

Notice to CONTRACTOR:

[Insert Name of CONTRACTOR]

[Insert Mailing Address of CONTRACTOR]

[Insert City, State and ZIP Code of CONTRACTOR]

ATTN: ***[Insert Name of CONTRACTOR Employee]***

Notice to RFTA:

Roaring Fork Transportation Authority

0766 Industry Way

Carbondale, CO 81623

ATTN: Michael Yang, Director of Finance

Copy to: Collina Washington, Procurement Manager

- (3) Telephonic and electronic mail communications and facsimile transmittals may be used to expedite communications, but neither shall be considered official communications under this Contract unless and until confirmed in writing in accordance with this Article 20, paragraph (1) above.

ARTICLE 21 – OWNERSHIP OF DOCUMENTS

The CONTRACTOR agrees that all reports, drawings, computer disks, specifications, survey notes, estimates, maps, computations, and other data prepared by or for it under the terms of this Contract shall be delivered to, become, and remain the property of RFTA upon termination or completion of the work. RFTA shall have the right, at its sole risk, to use the same without restriction or limitation and without compensation to the CONTRACTOR other than that provided for in this Contract. The CONTRACTOR shall not have the right to use same for sale or other benefit without express written permission from RFTA.

ARTICLE 22 – PATENT AND RIGHTS IN DATA

If patentable discoveries or inventions should result from work described herein, all rights accruing from such discoveries or inventions will be the sole property of RFTA. However, RFTA agrees to and does hereby grant to the CONTRACTOR an irrevocable, non-exclusive, non-transferable, and royalty-free license to practice each invention in the manufacture, use, and disposition according to law of any article or material and in use of any method that may be developed as a part of the work under this Contract.

ARTICLE 23 – COPYRIGHTING

The CONTRACTOR and RFTA agree that any papers, interim reports, forms, and any other material which are part of the Services under this Contract are to be deemed a “work for hire,” as such term is defined in the Copyright Laws of the United States. As a “work made for hire”, all copyright interests in said works will vest in RFTA upon creation of the copyrightable work. If any papers, interim reports, forms, or other material which are a part of work under this Contract are deemed by law not to be a “work for hire”, any copyright interests of the CONTRACTOR are hereby assigned completely and solely to RFTA. Publication rights to any works produced under this Contract are reserved by RFTA.

ARTICLE 24 – PUBLICATION AND PUBLICITY

Articles, papers, bulletins, data, studies, statistics, interim or final reports, oral transmittals, or any other materials reporting the plans, progress, analyses, results, or findings of work conducted under this Contract shall not be presented publicly or published without prior written approval by RFTA.

All releases of information, findings, and recommendations shall include a disclaimer provision and all published reports shall include that disclaimer on the cover and title page in the following form:

"The contents of this publication reflect the views of the author(s), who is (are) responsible for the facts and accuracy of the data presented herein. The opinions, findings, and conclusions in this publication are those of the author(s) and do not necessarily reflect the official views or policies of those of the Roaring Fork Transportation Authority or the Federal Transit Administration. This publication does not constitute a standard, specification, or regulation."

If any information concerning the Services, their conduct, results, or data gathered or processed should be released by the CONTRACTOR without prior approval from RFTA, the release of same shall constitute grounds for termination of this Contract without indemnity to the CONTRACTOR. In addition, the CONTRACTOR shall indemnify and hold harmless RFTA, its officers, employees, and agents from any liability arising from such unauthorized release of data.

ARTICLE 25 – COVENANT AGAINST CONTINGENT FEES

The CONTRACTOR shall comply with all relevant requirements of all Federal, State, and local laws. The CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR, to solicit or secure this Contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONTRACTOR, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, RFTA shall have the right to annul this Contract without liability, or in its discretion, to deduct from the Contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

ARTICLE 26 – CONFLICTS OF INTEREST

RFTA employees and directors are bound by the RFTA Code of Ethics and Standards of Conduct, which were adopted by the RFTA Board of Directors on April 13, 2006. The RFTA Code of Ethics and Standards of Conduct prohibits RFTA employees and directors engaged in the award and administration of contracts, or any person acting on their behalf, from accepting, directly or indirectly, any gift with a value of more than a nominal amount, including meals or tickets to sporting events, from any person with whom the employee interacts on official RFTA business. Therefore, CONTRACTOR, or

its subcontractors or suppliers, may not make gifts or favors to any RFTA employee or director. It is a violation of the RFTA Code of Ethics and Standards of Conduct for any RFTA employee to accept any such gift or favor.

ARTICLE 27 – WARRANTIES

The CONTRACTOR warrants that it shall use the highest professional principles and practice in the performance of its obligations under this Contract and that its performance shall reflect the highest professional knowledge, skill, and judgment. CONTRACTOR further warrants and agrees that it, and any persons assigned by CONTRACTOR, shall perform this Contract in compliance with all federal, state, and local laws, statutes, acts, ordinances, rules, regulations, codes, or standards.

ARTICLE 28 – NONWAIVER

No failure or waiver or successive failures or waivers on the part of either party, its successors or permitted assigns, in the enforcement of any condition, covenants, or article of this Contract shall operate as a discharge of any such condition, covenant, or article nor render the same invalid, nor impair the right of either party hereto, their successors or permitted assigns, to enforce the same in the event of any subsequent breaches by the other party hereto, its successors or permitted assigns.

ARTICLE 29 – MERGER

This Contract constitutes the entire agreement of the parties, all prior discussions, representations, and agreements being merged herein. The Contract may not be changed, modified, extended, or amended, nor any provision thereof waived, except by a written amendment executed by duly authorized representatives of the respective parties. The captions in this Contract are for convenience only and shall not affect the substantive meaning of any provision herein.

ARTICLE 30 – NO THIRD PARTY RIGHTS

Except as expressly set forth herein, the representations, warranties, terms, and provisions of this Contract are for the exclusive benefit of the parties hereto and no other person or entity shall have any right or claim against either party by reason of any of these terms and provisions or be entitled to enforce any of these terms and provisions against either party.

ARTICLE 31 – ATTACHMENTS

Any attachment or exhibit to this Contract will be incorporated into and made a part of this Contract. In the event of a conflict between the provisions contained in the body of this Contract and any attachment or exhibit, the terms in the body of this Contract will control.

ARTICLE 32 – SEPARATE COUNTERPARTS

This Contract may be executed in one or more counterparts, each of which, when so executed, shall be deemed to be an original. Such counterparts shall together constitute and be one and the same instrument.

ARTICLE 33 – IMMIGRATION COMPLIANCE

To the extent this Contract constitutes a public contract for services pursuant to C.R.S. 8-17.5-101 et seq., the following provisions shall apply:

- (1) CONTRACTOR certifies that, prior to executing this Contract, it has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Contract through participation in either the E-verify program administered by the United States Department of Homeland Security and the Social Security Administration (the “E-verify Program”), or the employment verification program administered by the Colorado Department of Labor and Employment (the “Colorado Verification Program”).
- (2) CONTRACTOR shall comply with all reasonable requests by the Colorado Department of Labor and Employment made in the course of an investigation undertaken pursuant to the authority established in C.R.S. 8-17.5-102(5).
- (3) To the extent required by C.R.S. 8-17.5-102(1), by submitting a proposal or bid, the CONTRACTOR certifies that at the time of proposal or bid submission it did not knowingly employ or contract with an illegal alien who will perform work under this Contract, and that the CONTRACTOR will participate in the E-verify Program or the Colorado Verification Program in order to verify the employment eligibility of all employees who are newly hired for employment to perform work under this Contract.

ARTICLE 34 – CONFIDENTIAL INFORMATION

Access to government records is governed by the Colorado Open Records Act, C.R.S. 24-72-201 through 24-72-309 et seq. Except as otherwise required by the Colorado Open Records Act, RFTA will exempt from disclosure proprietary information, trade secrets and confidential commercial and financial information submitted or disclosed during the term of the Contract. Any such proprietary information, trade secrets or confidential commercial and financial information that the CONTRACTOR believes should be exempted from disclosure shall be specifically identified and marked as such. Blanket-type identification by designating whole pages or sections as containing proprietary information, trade secrets or confidential commercial and financial information will not ensure confidentiality. The specific proprietary information, trade secrets or confidential commercial and financial information must be clearly identified as such. Notwithstanding the CONTRACTOR’s claim of or designation of information as proprietary, confidential or a trade secret, the determination whether it is or not will be determined by RFTA under Colorado state law.

Any request for information directed to the CONTRACTOR, pursuant to the Colorado Open Records Act, by the public shall be immediately redirected to RFTA for handling. RFTA shall be responsible for providing the response to requests under the Colorado Open Records Act. The CONTRACTOR acknowledges and agrees that all records of the Services and the work, including records of the CONTRACTOR and its subcontractors are subject to the Colorado Open Records Act, C.R.S. 24-72-201 through 24-72-309 et seq.

This Confidentiality section shall survive the termination or expiration of the Contract.

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IN WITNESS WHEREOF, said parties have hereunto set their hand and affixed their seals the day and year above first written.

	ROARING FORK TRANSPORTATION AUTHORITY
By: _____	By: _____
Printed Name: _____	Dan Blankenship
Title: _____	Chief Executive Officer
Address: _____	Address: _____
_____	2307 Wulfsohn Road
_____	Glenwood Springs, Colorado 81601
ATTEST: _____	ATTEST: _____
_____	_____
Title: _____	Secretary to the Board of Directors
	APPROVED AS TO FORM AND LEGALITY
	By: _____
	RFTA General Counsel

EXHIBIT A
SCOPE OF SERVICES

[Scope of Services to be inserted into final contract. Scope of Services will be a negotiated version of the Scope of Services included as Part II of the Request for Proposals document.]

EXHIBIT B

COMPENSATION AND METHOD OF PAYMENT FOR PROFESSIONAL SERVICES

1. Total Compensation

This Contract is a fixed-price contract. CONTRACTOR will be paid the negotiated rates per \$1,000 of the total bond issue, as agreed upon and listed below.

Fees and Expenses per \$1,000

	Tax-exempt	Taxable bonds
Management Fees	\$ _____	\$ _____
Underwriting Fees	\$ _____	\$ _____
Expenses	\$ _____	\$ _____
Average Take Down	\$ _____	\$ _____

It is understood by the parties that the maximum compensation under this Contract is \$ _____, which is inclusive of all costs, including management fees, underwriting fees, expenses and take down. The maximum compensation under this Contract may only be modified by written agreement of both parties to the Contract in the form of a Contract Amendment as specified in Article 11 of the Contract.

2. General Terms and Conditions

- A. For full and complete compensation for all work, materials, and services furnished under the terms of this Contract, the CONTRACTOR shall be paid according to the Fees and Expenses per \$1,000 Schedule specified in Exhibit B, Section 1 above.
- B. The agreed upon rates for management fees, underwriting fees, expenses and take down for the Contract shall not be exceeded unless RFTA determines that there is a requirement for a substantial change in the scope, character, or complexity of the work from that originally negotiated for the Contract and issues a Contract Amendment.
- C. RFTA shall pay the CONTRACTOR for Services performed in accordance with Article 8 of the Contract.

- D. CONTRACTOR shall deduct its compensation from the proceeds of the bond issue at closing with prior written approval by RFTA.
- E. The CONTRACTOR expressly agrees that he shall do, perform and carry out in a satisfactory and proper manner, as determined by RFTA, all of the work and services described in the Contract.
- F. Should the Services under the Contract be terminated for convenience by RFTA, pursuant to Article 16 of the Contract, the CONTRACTOR shall be paid based upon the percentage of Services completed at the point of termination.

EXHIBIT C
REQUEST FOR PROPOSALS FOR
UNDERWRITING SERVICES FOR BOND ISSUE

[RFP document to be attached prior to contract execution.]

EXHIBIT D

PROPOSAL SUBMITTED BY CONTRACTOR IN RESPONSE TO RFP

[Proposal submitted by CONTRACTOR to be attached prior to contract execution.]

PART IV – Attachments

CHECKLIST²

The following items must be included in your proposal in order to receive consideration. Failure to complete all forms included in this package may result in your proposal being ruled non-responsive. Non-Responsive proposals will not be awarded the contract. Please sign and date each form and/or certifications.

- ☐ Cover Letter
- ☐ Attachment #1 - Proposer Questionnaire
- ☐ Attachment #2 - Acknowledgement of Addenda
- ☐ Statement of Proposer's Qualifications and Experience
- ☐ Proposer's Approach to Provision of Services
- ☐ Price Proposal **(IN SEPARATE .PDF)**
- ☐ Attachment #3 – Conflict of Interest Statement
- ☐ Attachment #4 - Corporate Certification of Illegal Aliens

² This form is for your information only and is not to be returned with your proposal.

ATTACHMENT #1
PROPOSER QUESTIONNAIRE

A. SUBMITTING BUSINESS ENTITY IDENTIFICATION & OWNERSHIP DISCLOSURE

Company: _____

Contact Person: _____

Title: _____

Address: _____

Telephone No.: _____

Organized under the laws of the State of _____

Principal place of business located at _____

Taxpayer Identification Number: _____

Indicate which of the following apply (mark all that apply):

- ☐ Corporation
- ☐ Partnership
- ☐ Sole Proprietor
- ☐ Small Business
- ☐ Disadvantaged Business Enterprise (DBE)

Certified by _____

B. OTHER INFORMATION

1. General character of work performed by your firm:

2. Has your firm ever failed to complete any work awarded to you? If yes, explain.

Attachment #1 – Continued

3. Has your firm ever defaulted on a contract? If yes, explain.
- _____
- _____
- _____
4. Indicate the names of subcontractors, if any, proposed for this project and whether the subcontractor is a certified Disadvantaged Business Enterprise (DBE) and by whom they are certified.
- _____
- _____
- _____
5. Please indicate if your firm, subcontractor or any persons associated therewith in the capacity of owner, partner, director, officer or any other position involving the administration of federal funds³:
- ☐ is currently under suspension, debarment, voluntary exclusion, or determination of ineligibility of any federal agency;
- ☐ has been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the last three (3) years;
- ☐ has a proposed debarment pending; or
- ☐ has been indicted, convicted, or had a civil judgment rendered against it or them by a court competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

CERTIFICATION

I certify that this proposal is made without prior understanding, agreement, or connection with any corporation, firm or person submitting a proposal for the same services, materials, supplies or equipment, and is in all respects fair and without collusion or fraud. I understand collusive bidding is a violation of the State and Federal law and can result in fines, prison, sentences, and civil damage awards.

I hereby certify that the responses to the above representations, certifications, and other statements are accurate and complete. I agree to abide by all conditions of this Request for Proposals and certify that I am authorized to sign for the Proposer.

Signature _____
Printed Name _____

Date _____
Title _____

³ Any of the above conditions will not necessarily result in denial of award, but will be considered in determining Offeror responsibility. For any condition noted, indicate to whom it applies, initiating agency, and date of action. Providing false information may result in federal criminal prosecution or administrative sanctions.

ATTACHMENT #2
ACKNOWLEDGMENT OF ADDENDA

The following form must be completed and included in the Proposal.

Failure to acknowledge receipt of all addenda may cause the Proposal to be considered non responsive to the solicitation. Acknowledged receipt of each addendum must be clearly established and included with the proposal.

ACKNOWLEDGMENT OF ADDENDA

The undersigned acknowledges receipt of the following addenda to the documents:

Addendum No.	_____	Dated	_____
Addendum No.	_____	Dated	_____
Addendum No.	_____	Dated	_____
Addendum No.	_____	Dated	_____
Addendum No.	_____	Dated	_____

Offeror: _____
Name

Street Address

City, State, Zip

Signature of Person Authorized to
submit Proposal

Title

Phone

ATTACHMENT #3
CONFLICT OF INTEREST STATEMENT

Proposer shall provide a list of all entities and/or individuals with which it has relationships that create, or may appear to create, conflicts of interest with the work that is contemplated by this RFP. The list should indicate the names of the entities and/or individuals, their relationship to the Proposer, and a description of the real and/or apparent conflicts. In addition, please be sure to include descriptions of relationships with any or all RFTA Board Members and employees that create, or may appear to create, any real and/or apparent conflicts of interest. The following real and/or apparent conflicts exist:

1.	Name:	
	Relationship to Proposer:	
	Description of Conflict:	
2.	Name:	
	Relationship to Proposer:	
	Description of Conflict:	
3.	Name:	
	Relationship to Proposer:	
	Description of Conflict:	
4.	Name:	
	Relationship to Proposer:	
	Description of Conflict:	
5.	Name:	
	Relationship to Proposer:	
	Description of Conflict:	

Signature

Title

Date

ATTACHMENT #4
CORPORATE CERTIFICATION OF ILLEGAL ALIENS

_____, ("Contractor" herein) acknowledges that Contractor has been notified of the immigration compliance requirements of C.R.S. § 8-17.5-101, *et. seq.* (House Bill 06-1343), and hereby **CERTIFIES** that:

1. The Contractor shall not knowingly employ or contract with an illegal alien to perform work under the public contract for services; or
2. Enter into a contract with a subcontractor that fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under the public contract for services;
3. The Contractor has verified or attempted to verify through participation in the basic pilot program that the Contractor does not employ any illegal aliens and, if the Contractor is not accepted into the basic pilot program prior to entering into a public contract for services, that the Contractor shall apply to participate in the basic pilot program every three months until the Contractor is accepted or the public contract for services has been completed, whichever is earlier. This provision shall not be required or effective in a public contract for services if the basic pilot program is discontinued;
4. The Contractor acknowledges that the Contractor is prohibited from using basic pilot program procedures to undertake pre-employment screening of job applicants while the public contract for services is being performed;
5. If the Contractor obtains actual knowledge that a subcontractor performing work under the public contract for services knowingly employs or contracts with an illegal alien, the Contractor shall be required to:
 - (A) Notify the subcontractor and the contracting state agency or political subdivision within three days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
 - (B) Terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to subparagraph (A) of this Section 5 the subcontractor does not stop employing or contracting with the illegal alien; except that the Contractor shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.
6. Contractor is required to comply with any reasonable request by the State Department of Labor and Employment ("Department" herein) made in the course

of an investigation that the Department is undertaking pursuant to the authority established in C.R.S. § 8-17.5-102(5).

7. If Contractor violates a provision of the public contract for services required herein may terminate the contract for a breach of the contract. If the contract is so terminated, the Contractor shall be liable for actual and consequential damages to RFTA.
8. RFTA is obligated to notify the office of the secretary of state if a Contractor violates a provision of this Addendum and RFTA terminates the contract for such breach. Based on this notification, the secretary of state shall maintain a list that includes the name of the Contractor, the state agency or political subdivision that terminated the public contract for services, and the date of the termination. A Contractor shall be removed from the list if two years have passed since the date the contract was terminated, or if a court of competent jurisdiction determines that there has not been a violation of the provision of the public contract for services required pursuant to Section I. An agency or political subdivision shall notify the office of the secretary of state if a court has made such a determination. The list shall be available for public inspection at the office of the secretary of state and shall be published on the internet on the website maintained by the office of the secretary of state.
9. The Department may investigate whether a Contractor is complying with the provisions of a public contract for services required pursuant to Section I. The Department may conduct on-site inspections where a public contract for services is being performed, request and review documentation that proves the citizenship of any person performing work on a public contract for services, or take any other reasonable steps that are necessary to determine whether a Contractor is complying with the provisions of a public contract for services required pursuant to Section I. The Department shall receive complaints of suspected violations of a provision of a public contract for services (this Addendum) and shall have discretion to determine which complaints, if any, are to be investigated. The results of any investigation shall not constitute final agency action. The Contractor is hereby notified that the Department is authorized to promulgate rules in accordance with article 4 of title 24, C.R.S., to implement the provisions of C.R.S. § 8-17.5-101, *et. seq.*

Dated this _____ day of _____, 2012.

By _____
[Printed Name]