



LETTER OF INTENT

Date: March 9, 2016
Company: Elam Construction, Inc.
Project: Hot Mix Asphalt 2016

Based upon review of the bid responses received for IFB-4193-16-DH Hot Mix Asphalt 2016, you have been selected as a potential awardee bidder. Multiple contracts are being awarded for this solicitation process for the purposes of establishing firm fixed unit of measure pricing from those that have submitted bid responses. It is the intent of the City of Grand Junction to make an award as per the aforementioned purchase to your company as is listed in the IFB documents, and your bid response, as follows:

Item No.	Description	Unit	Unit Price
1	City of Grand Junction - Hot Mix Asphalt (Per City of Grand Junction Specifications).	Ton	\$70.00

This purchase must be approved by the City of Grand Junction, City Council prior to award and a final contract signing.

Upon receipt of the fully signed contract, please notify Dan Thorne 970-244-1571 for estimated schedules.

Please feel free to contact me with any questions at 970-244-1545.

Thank you and Best Regards

Duane Hoff Jr., Senior Buyer



CITY OF GRAND JUNCTION, COLORADO

CONTRACT

This CONTRACT made and entered into this 17th day of March, 2016 by and between **City of Grand Junction, Colorado**, a government entity in the County of Mesa, State of Colorado, hereinafter in the Contract Documents referred to as the "Owner" and **Elam Construction** hereinafter in the Contract Documents referred to as the "Contractor."

WITNESSETH:

WHEREAS, the Owner advertised that sealed Bids would be received for furnishing all labor, tools, supplies, equipment, materials, and everything necessary and required for the Project described by the Contract Documents and known as Hot Mix Asphalt 2016 IFB-4193-16-DH.

WHEREAS, the Contract has been awarded to the above named Contractor by the Owner, and said Contractor is now ready, willing and able to perform the Work specified in the Notice of Award, in accordance with the Contract Documents.

The Owner reserves the right to make multiple awards to bidders that are responsive and responsible to this solicitation process. The Owner shall utilize the lowest awarded bid received whenever possible. However, through this method, should the low bidder not be able to fulfill their contract at any given time, it shall allow the Owner to utilize other awarded bidders to fulfill the Owner's needs. All bidders understand and agree that they shall hold their pricing for the entire contract period.;

NOW, THEREFORE, in consideration of the compensation to be paid the Contractor, the mutual covenants hereinafter set forth and subject to the terms hereinafter stated, it is mutually covenanted and agreed as follows:

ARTICLE 1

Contract Documents: It is agreed by the parties hereto that the following list of instruments, drawings, and documents which are attached hereto, bound herewith, or incorporated herein by reference constitute and shall be referred to either as the "Contract Documents" or the "Contract", and all of said instruments, drawings, and documents taken together as a whole constitute the Contract between the parties hereto, and they are fully a part of this agreement as if they were set out verbatim and in full herein:

- Solicitation Documents for the Project; **Hot Mix Asphalt 2016 IFB-4193-16-DH;**

- Bidder's Bid Response;
- Work Change Requests (directing that changed work be performed);
- Field Orders;
- Change Orders.

ARTICLE 2

Definitions: The clauses provided in the Solicitation apply to the terms used in the Contract and all the Contract Documents.

ARTICLE 3

Contract Work: The Contractor agrees to furnish all labor, tools, supplies, equipment, materials, and all that is necessary and required to complete the tasks associated with the Work described, set forth, shown, and included in the Contract Documents as indicated in the Solicitation Document.

ARTICLE 4

Contract Time: Time is of the essence with respect to this Contract. The Contractor hereby agrees to commence Work under the Contract on or before the date specified in the Solicitation from the Owner, and to achieve Substantial Completion and Final Completion of the Work within the time or times specified in the Solicitation.

ARTICLE 5

Contract Price and Payment Procedures: The Contractor shall accept as compensation for the performance and completion of all of the Work/Products specified in the Contract Documents, the Unit Per Ton Price of **Seventy and 00/100 Dollars (\$70.00)**. If this Contract contains unit price pay items, the Contract Price shall be adjusted in accordance with the actual quantities of items completed and accepted by the Owner at the unit prices quoted in the Solicitation Response. The amount of the Contract Price is and has heretofore been appropriated by the Grand Junction City Council or Mesa County Board of County Commissioners for the use and benefit of this Project. The Contract Price shall not be modified except by Change Order or other written directive of the Owner. The Owner shall not issue a Change Order or other written directive which requires additional work to be performed, which work causes the aggregate amount payable under this Contract to exceed the amount appropriated for this Project, unless and until the Owner provides Contractor written assurance that lawful appropriations to cover the costs of the additional work have been made.

Unless otherwise provided in the Solicitation, monthly partial payments shall be made as the Work progresses. Applications for partial and Final Payment shall be prepared by the Contractor and approved by the Owner in accordance with the Solicitation.

ARTICLE 6

Contract Binding: The Owner and the Contractor each binds itself, its partners, successors, assigns and legal representatives to the other party hereto in respect to all covenants, agreements and obligations contained in the Contract Documents. The Contract

Documents constitute the entire agreement between the Owner and Contractor and may only be altered, amended or repealed by a duly executed written instrument. Neither the Owner nor the Contractor shall, without the prior written consent of the other, assign or sublet in whole or in part its interest under any of the Contract Documents and specifically, the Contractor shall not assign any moneys due or to become due without the prior written consent of the Owner.

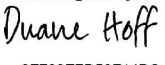
ARTICLE 7

Severability: If any part, portion or provision of the Contract shall be found or declared null, void or unenforceable for any reason whatsoever by any court of competent jurisdiction or any governmental agency having the authority thereover, only such part, portion or provision shall be effected thereby and all other parts, portions and provisions of the Contract shall remain in full force and effect.

IN WITNESS WHEREOF, City of Grand Junction, Colorado, has caused this Contract to be subscribed and sealed and attested in its behalf; and the Contractor has signed this Contract the day and the year first mentioned herein.

The Contract is executed in two counterparts.

CITY OF GRAND JUNCTION, COLORADO

By:	<small>DocuSigned by:</small>  <small>0F789E7D60F148C...</small>	4/6/2016 15:53 MT
	Duane Hoff Jr., Senior Buyer	Date

Elam Construction, Inc.

By:	<small>DocuSigned by:</small>  <small>0AEFB1005322420...</small>	4/6/2016 14:53 MT
	Chad Saunders	Date
	Construction Manager	



Purchasing Division

Invitation for Bid

IFB-4193-16-DH Hot Mix Asphalt 2016

Responses Due:

March 3, 2016 prior to 3:00pm PM MDT

Accepting Electronic Responses Only

Responses Only Submitted Through the Rocky Mountain E-Purchasing System (RMEPS)

<https://www.rockymountainbidsystem.com/default.asp>

(Purchasing Representative does not have access or control of the vendor side of RMEPS. If website or other problems arise during response submission, vendor **MUST** contact RMEPS to resolve issue prior to the response deadline. 800-835-4603)

Purchasing Representative:

Duane Hoff Jr., Senior Buyer

duaneh@gjcity.org

Phone (970) 244-1545

This document has been developed specifically to solicit competitive responses for this solicitation, and may not be the same as previous City of Grand Junction/Mesa County solicitations. All vendors are urged to thoroughly review this solicitation prior to responding. Submittal by **FAX, EMAIL or HARD COPY IS NOT ACCEPTABLE** for this solicitation.

Invitation for Bids

Table of Contents

Section 1	Instruction to Bidders
Section 2	General Contract Conditions
Section 3	Specifications
Section 4	Bid Form
	Price Proposal/Bid Schedule Form
	Attachments

1. Instructions to Bidders

- 1.1. **Purpose:** The City of Grand Junction and Mesa County are soliciting competitive bids from qualified and interested companies to provide hot mix asphalt material as per the specifications stated in this solicitation. All dimensions and specifications should be verified by Bidders prior to submission of bids
- 1.2. **The Owner:** The Owner is the City of Grand Junction and/or Mesa County, Colorado and is referred to throughout this Solicitation. The term Owner means the Owner or his authorized representative.
- 1.3. **Submission:** **Each proposal shall be submitted in electronic format only, and only through the Rocky Mountain E-Purchasing website (<https://www.rockymountainbidsystem.com/default.asp>).** *This site offers both "free" and "paying" registration options that allow for full access of the Owner's documents and for electronic submission of proposals. (Note: "free" registration may take up to 24 hours to process. Please Plan accordingly.)* Please view our "Electronic Vendor Registration Guide" at <http://www.gjcity.org/BidOpenings.aspx> for details. (Purchasing Representative does not have access or control of the vendor side of RMEPS. If website or other problems arise during response submission, vendor **MUST** contact RMEPS to resolve issue prior to the response deadline. **800-835-4603**)
- 1.4. **Printed Form for Price Bid:** All Price Bids must be made upon the Bid Form attached, and should give the amounts both in words and in figures, and must be signed and acknowledged by the bidder.
- 1.5. **Exclusions:** No oral, telephonic, emailed, or facsimile bid will be considered
- 1.6. **Contract Documents:** The complete IFB and bidder's response compose the Contract Documents. Copies of these documents can be obtained from the City Purchasing website, <http://www.gjcity.org/BidOpenings.aspx>.
- 1.7. **Examination of Specifications:** Bidders shall thoroughly examine and be familiar with the project Statement of Work. The failure or omission of any Bidder to receive or examine any form, addendum, or other document shall in no way relieve any Bidder from any obligation with respect to his bid. The submission of a bid shall be taken as evidence of compliance with this section.
- 1.8. **Questions Regarding Statement of Work:** Any information relative to interpretation of Scope of Work or specifications shall be requested of the Purchasing Representative, in writing, in ample time prior to the response time.
- 1.9. **Addenda & Interpretations:** All Questions shall be submitted in writing to the appropriate person as shown in Section 1.1. Any interpretations, corrections and changes to this solicitation or extensions to the opening/receipt date shall be

made by a written Addendum to the solicitation by the Owner. Sole authority to authorize addenda shall be vested in the Purchasing Representative. Addenda will be issued electronically through the Rocky Mountain E-Purchasing website at www.rockymountainbidsystem.com. Bidders shall acknowledge receipt of all addenda in their response and are solely responsible for obtaining all solicitation documents.

- 1.10. Taxes:** The Owner is exempt from State retail and Federal tax. The bid price must be net, exclusive of taxes.
- 1.11. Offers Binding 60 Days:** Unless otherwise specified, all formal offers submitted shall be binding for sixty (60) calendar days following opening date, unless the Bidder, upon request of the Purchasing Representative, agrees to an extension.
- 1.12. Collusion Clause:** Each bidder by submitting a bid certifies that it is not party to any collusive action or any action that may be in violation of the Sherman Antitrust Act. Any and all bids shall be rejected if there is evidence or reason for believing that collusion exists among bidders. The Owner may, or may not, accept future bids for the same services or commodities from participants in such collusion.
- 1.13. Public Disclosure Record:** If the bidder has knowledge of their employee(s) or sub-contractors having an immediate family relationship with an Owner employee or elected official, the bidder must provide the Purchasing Representative with the name(s) of these individuals. These individuals are required to file an acceptable "Public Disclosure Record", a statement of financial interest, before conducting business with the Owner.
- 1.14. Public Opening:** Responses shall be opened in the City Hall Auditorium 250 North 5th Street, Grand Junction, CO 81501 immediately following the solicitation deadline.

2. General Contract Conditions

- 2.1. The Contract:** This Invitation for Bid, submitted documents, and any negotiations, when properly accepted by the Owner, shall constitute a contract equally binding between the Owner and Bidder. The contract represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations, or agreements. The contract may be amended or modified with Change Orders, Field Orders, or Amendment(s).
- 2.2. Execution, Correlation, Intent, and Interpretations:** The Contract Documents and/or Purchase Order shall be signed by the Owner (Owner) and Contractor. Owner will provide the contract/purchase order. By executing the contract/purchase order, the Bidder represents that they have familiarized themselves with the local conditions under which the work is to be performed,

and correlated his observations with the requirements of the Contract Documents. The Contract Documents are complementary, and what is required by any one, shall be as binding as if required by all. The intention of the documents is to include all labor, materials, equipment and other items necessary for the proper execution and completion of the scope of work as defined herein. All drawings, specifications and copies furnished by the Owner are, and shall remain, Owner property. They are not to be used on any other project, and with the exception of one contract set for each party to the contract, are to be returned to the owner on request at the completion of the work.

- 2.3. The Owner:** The Owner is the City of Grand Junction and/or Mesa County, Colorado and is referred to throughout the Contract Documents. The term Owner means the Owner or his authorized representative. The Owner shall, at all times, have access to the work wherever it is in preparation or progress. The Contractor shall provide facilities for such access. The Owner will familiarize himself generally with the progress and quality of work and to determine, in general, if the work is proceeding in accordance with the contract documents. The Owner will not be responsible for the acts or omissions of the Contractor, and sub-Contractor, or any of their agents or employees, or any other persons performing any of the work.
- 2.4. Contractor:** The Contractor is the person or organization identified as such in the Agreement and is referred to throughout the Contract Documents. The term Contractor means the Contractor or his authorized representative. The Contractor shall carefully study and compare the General Contract Conditions of the Contract, Specification and/or Drawings, Scope of Work, Addenda and Modifications and shall at once report to the Owner any error, inconsistency or omission he may discover. Contractor shall not be liable to the Owner for any damage resulting from such errors, inconsistencies or omissions. The Contractor shall not commence work without clarifying Drawings, Specifications, or Interpretations.
- 2.5. Warranty:** The Contractor warrants to the Owner that all materials and equipment furnished under this contract will be new unless otherwise specified, and that all work will be of good quality, free from faults and defects and in conformance with the Contract Documents. All work not so conforming to these standards may be considered defective. If required by Owner, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. If within ten (10) days after written notice to the Contractor requesting such repairs or replacement, the Contractor should neglect to make or undertake with due diligence to the same, the City may make such repairs or replacements. All indirect and direct costs of such correction or removal or replacement shall be at the Contractor's expense. The Contractor will also bear the expenses of curing all work of others, destroyed or damaged, by the correction, removal or replacement of defective work.
- 2.6. Permits, Fees, & Notices:** The Contractor shall secure and pay for all permits, governmental fees and licenses necessary for the proper execution and

completion of the work. The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations and orders of any public authority bearing on the performance of the work. If the Contractor observes that any of the Contract Documents are at variance in any respect, the Contractor shall promptly notify the Owner in writing, and any necessary changes shall be adjusted by approximate modification. If the Contractor performs any work knowing it to be contrary to such laws, ordinances, rules and regulations, and without such notice to the Owner, the Contractor shall assume full responsibility and shall bear all costs attributable.

- 2.7. Responsibility for Those Performing the Work:** The Contractor shall be responsible to the Owner for the acts and omissions of all their employees and all sub-contractors, their agents and employees, and all other persons performing any of the work under a contract with the Contractor.
- 2.8. Indemnification:** The Contractor shall defend, indemnify and save harmless the Owner, and all its officers, employees, insurers, and self-insurance pool, from and against all liability, suits, actions, or other claims of any character, name and description brought for or on account of any injuries or damages received or sustained by any person, persons, or property on account of any negligent act or fault of the Contractor, or of any Contractor's agent, employee, sub-contractor or supplier in the execution of, or performance under, any contract which may result from proposal award. Contractor shall pay any judgment with cost which may be obtained against the Owner growing out of such injury or damages.
- 2.9. Miscellaneous Conditions:** Material Availability: Contractors must accept responsibility for verification of material availability, production schedules, and other pertinent data prior to submission of bid. It is the responsibility of the bidder to notify the Owner immediately if materials specified are discontinued, replaced, or not available for an extended period of time. OSHA Standards: All bidders agree and warrant that services performed in response to this invitation shall conform to the standards declared by the US Department of Labor under the Occupational Safety and Health Act of 1970 (OSHA). In the event the services do not conform to OSHA standards, the Owner may require the services to be redone at no additional expense to the Owner.
- 2.10. Time:** The Contract Time is the period of time allotted in the Contract Documents for completion of the work. The date of commencement of the work is the date established in the Contract Documents.
- 2.11. Progress & Completion:** The Contractor shall begin work on the date of commencement as defined in the Contract, and shall carry the work forward expeditiously with adequate forces and shall complete it within the contract time.
- 2.12. Payment & Completion:** The Contract Sum is stated in the Contract and is the total amount payable by the Owner to the Contractor for the performance of the work under the Contract Documents. Upon receipt of the product or written notice that the work is ready for final inspection and acceptance and upon receipt

of application for payment, the Owner's Project Manager will promptly make such inspection and, when he finds the work acceptable under the Contract Documents and the Contract fully performed, the Owner shall make payment in the manner provided in the Contract Documents.

- 2.13. Protection of Persons & Property:** The Contractor shall comply with all applicable laws, ordinances, rules, regulations and orders of any public authority having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss. Contractor shall erect and maintain, as required by existing safeguards for safety and protection, and all reasonable precautions, including posting danger signs or other warnings against hazards promulgating safety regulations and notifying owners and users of adjacent utilities. When or where any direct or indirect damage or injury is done to public or private property by or on account of any act, omission, neglect, or misconduct by the Contractor in the execution of the work, or in consequence of the non-execution thereof, the Contractor shall restore, at their own expense, such property to a condition similar or equal to that existing before such damage or injury was done, by repairing, rebuilding, or otherwise restoring as may be directed, or they shall make good such damage or injury in an acceptable manner.
- 2.14. Changes in the Work:** The Owner, without invalidating the contract, may order changes in the work within the general scope of the contract consisting of additions, deletions or other revisions, the contract sum and the contract time being adjusted accordingly. All such changes in the work shall be authorized by Change Order/Amendment and shall be executed under the applicable conditions of the contract documents. A Change Order/Amendment is a written order to the Contractor signed by the Owner issued after the execution of the contract, authorizing a change in the work or an adjustment in the contract sum or the contract time. The contract sum and the contract time may be changed only by Change Order/Amendment.
- 2.15. Claims for Additional Cost or Time:** If the Contractor wishes to make a claim for an increase in the contract sum or an extension in the contract time, the Contractor shall give the Owner written notice thereof within a reasonable time after the occurrence of the event giving rise to such claim. This notice shall be given by the Contractor before proceeding to execute the work, except in an emergency endangering life or property in which case the Contractor shall precede in accordance with the regulations on safety. No such claim shall be valid unless so made. Any change in the contract sum or contract time resulting from such claim shall be authorized by Change Order/Amendment.
- 2.16. Minor Changes in the Work:** The Owner shall have authority to order minor changes in the work not involving an adjustment in the contract sum or an extension of the contract time and not inconsistent with the intent of the contract documents. This may be accomplished through a Field Order.
- 2.17. Uncovering & Correction of Work:** The Contractor shall promptly correct all work rejected by the Owner as defective or as failing to conform to the contract

documents whether observed before or after substantial completion and whether or not fabricated installed or competed. The Contractor shall bear all costs of correcting such rejected work, including the cost of the Owner's additional services thereby made necessary. If within one (1) year after the date of completion or within such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the contract documents, any of the work found to be defective or not in accordance with the contract documents, the Contractor shall correct it promptly after receipt of a written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discover of condition. All such defective or non-conforming work under the above paragraphs shall be removed from the site where necessary and the work shall be corrected to comply with the contract documents without cost to the Owner. The Contractor shall bear the cost of curing all work of separate Contractors destroyed or damaged by such removal or correction. If the Owner prefers to accept defective or non-conforming work, Owner may do so instead of requiring its removal and correction, in which case a Change Order/Amendment will be issued to reflect an appropriate reduction in the payment or contract sum, or, if the amount is determined after final payment, it shall be paid by the Contractor.

- 2.19. Change Order/Amendment:** No oral statement of any person shall modify or otherwise change, or affect the terms, conditions or specifications stated in the resulting contract. All Change Orders/Amendments to the contract shall be made in writing by the Owner.
- 2.20. Assignment:** The Contractor shall not sell, assign, transfer or convey any contract resulting from this Solicitation, in whole or in part, without the prior written approval from the Owner.
- 2.21. Cancellation of Solicitation:** Any solicitation may be canceled by the Owner or any solicitation response by a vendor may be rejected in whole or in part when it is in the best interest of the Owner.
- 2.22. Compliance with Laws:** Bids must comply with all Federal, State, County and local laws governing or covering this type of service and the fulfillment of all ADA (Americans with Disabilities Act) requirements.
- 2.23. Confidentiality:** All materials submitted in response to this Solicitation shall ultimately become public record and shall be subject to inspection after contract award. **"Proprietary or Confidential Information"** is defined as any information that is not generally known to competitors and which provides a competitive advantage. Unrestricted disclosure of proprietary information places it in the public domain. Only submittal information clearly identified with the words **"Confidential Disclosure"** and uploaded as a separate document shall establish a confidential, proprietary relationship. Any material to be treated as confidential or proprietary in nature must include a justification for the request. The request shall be reviewed and either approved or denied by the Owner. If denied, the

proposer shall have the opportunity to withdraw its entire proposal, or to remove the confidential or proprietary restrictions. Neither cost nor pricing information nor the total response shall be considered confidential or proprietary.

- 2.24. Conflict of Interest:** No public official and/or Owner employee shall have interest in any contract resulting from this Solicitation.
- 2.25. Contract Termination:** This contract shall remain in effect until any of the following occurs: (1) contract expires; (2) completion of work; (3) acceptance of work or, (4) for convenience terminated by either party with a written *Notice of Cancellation* stating therein the reasons for such cancellation and the effective date of cancellation.
- 2.26. Employment Discrimination:** During the performance of any services per agreement with the Owner, the Contractor, by submitting a response, agrees to the following conditions:
- 2.26.1.** The Contractor shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, handicap, or national origin except when such condition is a legitimate occupational qualification reasonably necessary for the normal operations of the Contractor. The Contractor agrees to post in conspicuous places, visible to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- 2.26.2.** The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, shall state that such Contractor is an Equal Opportunity Employer.
- 2.26.3.** Notices, advertisements, and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
- 2.27. Immigration Reform and Control Act of 1986 and Immigration Compliance:** The Contractor certifies that it does not and will not during the performance of the contract employ illegal alien workers or otherwise violate the provisions of the Federal Immigration Reform and Control Act of 1986 and/or the immigration compliance requirements of State of Colorado C.R.S. § 8-17.5-101, *et.seq.* (House Bill 06-1343).
- 2.28. Ethics:** The Contractor shall not accept or offer gifts or anything of value nor enter into any business arrangement with any employee, official, or agent of the Owner.
- 2.29. Failure to Deliver:** In the event of failure of the Contractor to deliver work in accordance with the contract terms and conditions, the Owner, after due oral or written notice, may procure the work from other sources and hold the Contractor responsible for any costs resulting in additional purchase and administrative

services. This remedy shall be in addition to any other remedies that the Owner may have.

- 2.30. Failure to Enforce:** Failure by the Owner at any time to enforce the provisions of the contract shall not be construed as a waiver of any such provisions. Such failure to enforce shall not affect the validity of the contract or any part thereof or the right of the Owner to enforce any provision at any time in accordance with its terms.
- 2.31. Force Majeure:** The Contractor shall not be held responsible for failure to perform the duties and responsibilities imposed by the contract due to legal strikes, fires, riots, rebellions, and acts of God beyond the control of the Contractor, unless otherwise specified in the contract.
- 2.32. Independent Contractor:** The Contractor shall be legally considered an Independent Contractor and neither the Contractor nor its employees shall, under any circumstances, be considered servants or agents of the Owner. The Owner shall be at no time legally responsible for any negligence or other wrongdoing by the Contractor, its servants, or agents. The Owner shall not withhold from the contract payments to the Contractor any federal or state unemployment taxes, federal or state income taxes, Social Security Tax or any other amounts for benefits to the Contractor. Further, the Owner shall not provide to the Contractor any insurance coverage or other benefits, including Workers' Compensation, normally provided by the Owner for its employees.
- 2.33. Nonconforming Terms and Conditions:** A response that includes terms and conditions that do not conform to the terms and conditions of this Solicitation is subject to rejection as non-responsive. The Owner reserves the right to permit the Contractor to withdraw nonconforming terms and conditions from its response prior to a determination by the Owner of non-responsiveness based on the submission of nonconforming terms and conditions.
- 2.34. Ownership:** All plans, prints, designs, concepts, etc., shall become the property of the Owner.
- 2.35. Patents/Copyrights:** The Contractor agrees to protect the Owner from any claims involving infringements of patents and/or copyrights. In no event shall the Owner be liable to the Contractor for any/all suits arising on the grounds of patent(s)/copyright(s) infringement. Patent/copyright infringement shall null and void any agreement resulting from response to this Solicitation.
- 2.36. Remedies:** The Contractor and Owner agree that both parties have all rights, duties, and remedies available as stated in the Uniform Commercial Code.
- 2.37. Venue:** Any agreement as a result of responding to this Solicitation shall be deemed to have been made in, and shall be construed and interpreted in accordance with, the laws of the City of Grand Junction, Mesa County, Colorado.

- 2.38. Expenses:** Expenses incurred in preparation, submission and presentation of this Solicitation are the responsibility of the company and cannot be charged to the Owner.
- 2.39. Sovereign Immunity:** The Owner specifically reserves its right to sovereign immunity pursuant to Colorado State Law as a defense to any action arising in conjunction to this agreement.
- 2.40. Non-Appropriation of Funds:** The contractual obligation of the Owner under this contract is contingent upon the availability of appropriated funds from this fiscal year budget as approved by the City Council or Board of County Commissioners from this fiscal year only. **State of Colorado Statutes prohibit obligation of public funds beyond the fiscal year for which the budget was approved.** Anticipated expenditures/obligations beyond the end of the current Owner's fiscal year budget shall be subject to budget approval. Any contract shall be subject to, and must contain, a governmental non-appropriation of funds clause.
- 2.41. Cooperative Purchasing:** Purchases as a result of this solicitation are primarily for the Owner. Other governmental entities may be extended the opportunity to utilize the resultant contract award with the agreement of the successful provider and the participating agencies. All participating entities shall be required to abide by the specifications, terms, conditions and pricings established in this Solicitation. The quantities furnished in this bid document are for only the Owner. It does not include quantities for any other jurisdiction. The Owner shall be responsible only for the award for its jurisdiction. Other participating entities shall place their own awards on their respective Contract/Purchase Orders through their Purchasing Office or use their Purchasing Card for purchase/payment as authorized or agreed upon between the provider and the individual entity. The Owner accepts no liability for payment of orders placed by other participating jurisdictions that choose to piggy-back on our solicitation. Orders placed by participating jurisdictions under the terms of this solicitation shall indicate their specific delivery and invoicing instructions.
- 2.42. Keep Jobs in Colorado Act:** Contractor shall be responsible for ensuring compliance with Article 17 of Title 8, Colorado Revised Statutes requiring 80% Colorado labor to be employed on public works. Contractor shall, upon reasonable notice provided by the Owner, permit the Owner to inspect documentation of identification and residency required by C.R.S. §8-17-101(2)(a). If Contractor claims it is entitled to a waiver pursuant to C.R.S. §8-17-101(1), Contractor shall state that there is insufficient Colorado labor to perform the work such that compliance with Article 17 would create an undue burden that would substantially prevent a project from proceeding to completion, and shall include evidence demonstrating the insufficiency and undue burden in its response.

Unless expressly granted a waiver by the Owner pursuant to C.R.S. §8-17-101(1), Contractor shall be responsible for ensuring compliance with Article 17 of

Title 8, Colorado Revised Statutes requiring 80% Colorado labor to be employed on public works. Contractor shall, upon reasonable notice provided by the Owner, permit the Owner to inspect documentation of identification and residency required by C.R.S. §8-17-101(2)(a).

2.42.1. "Public Works Project" is defined as:

- (a) any construction, alteration, repair, demolition, or improvement of any land, building, structure, facility, road, highway, bridge, or other public improvement suitable for and intended for use in the promotion of the public health, welfare, or safety and any maintenance programs for the upkeep of such projects
- (b) for which appropriate or expenditure of moneys may be reasonably expected to be \$500,000.00 or more in the aggregate for any fiscal year
- (c) except any project that receives federal moneys.

2.43. Definitions:

2.43.1. The term "Work" includes all labor, materials, equipment, and/or services necessary to produce the requirements of the Contract Documents.

2.43.2. "Contractor" is the person or organization identified as such in the Agreement and is referred to throughout the Contract Documents. The term Contractor means the Contractor or his authorized representative. The Contractor shall carefully study and compare the General Contract Conditions of the Contract, Specification and Drawings, Scope of Work, Addenda and Modifications and shall at once report to the Owner any error, inconsistency or omission he may discover. Contractor shall not be liable to the Owner for any damage resulting from such errors, inconsistencies or omissions. The Contractor shall not commence work without clarifying Drawings, Specifications, or Interpretations.

2.43.3. "Sub-Contractor" is a person or organization who has a direct contract with the Contractor to perform any of the work at the site. The term sub-contractor is referred to throughout the contract documents and means a sub-contractor or his authorized representative.

3. Specifications

NOTE: This Invitation for Bid is to solicit for fixed unit of measure pricing for hot mix asphalt materials for Mesa County and/or the City of Grand Junction for the 2015 year. The bids received from interested and qualified suppliers shall be evaluated and ranked independently for the County and for the City. Multiple contracts may be awarded to multiple suppliers. This process and awarded contracts are for the purpose of establishing multiple contracts for firm fixed unit of measure pricing from those who submit bid responses. The lowest responsive and responsible bidder shall be the "preferred" contract award, and shall be designated as the primary contract. However, should the "preferred" awarded supplier not be able to perform to the standards

established in the contract documents, the City and/or County reserve the right to seek said performance from one of the other established contracted suppliers. All suppliers submitting bid responses acknowledge and agree to maintaining their submitted bid pricing throughout the contract period. Both awards and contracts shall be exclusive to each entity, and shall be issued to the selected supplier(s) by each entity. These awards and contracts shall in no way tie or bind one entity to another.

City of Grand Junction Specifications

3.1. Hot mix asphalt Grading SX Binder 64-22. Max RAP allowed is 20% as per amended in the 2007 Specifications, Section 401 found at: <http://www.gjcity.org/CityDeptWebPages/PublicWorksAndUtilities/Engineering/PDF/Output/StandardContractDocs/RoadBridge/RoadandBridgeSpecs.pdf>

3.2. Special Conditions & Provisions:

3.2.1 QUANTITIES: The City of Grand Junction is estimating **900 tons** of hot mix asphalt, for use throughout the **2016 calendar year**. Variation of quantity may increase or decrease.

3.2.2 PICKUP: Material will be picked up at the supplier's yard by City of Grand Junction crews on an "as needed" basis. Quantities ordered and scheduled for each pickup must meet the minimum quantity ordered, and shall not exceed quantity ordered by more than ½ ton per pickup order.

3.2.3 INSPECTION: The City will conduct in-house and independent testing to verify supplier conformance to specifications. Material not conforming to the required specification shall be removed at supplier's expense and replaced with material that meets the specifications contained in the contract documents.

3.2.5 ESTIMATED QUANTITIES: The quantities indicated in this Invitation for Bid are estimates that pertain to the total aggregate quantities that may be ordered throughout the stated contract period. Variation of quantities may increase or decrease. The estimates do not indicate single order amounts unless otherwise stated. The City of Grand Junction makes no guarantees about single order quantities or total aggregate order quantities.

3.2.6 MINIMUM ORDER QUANTITIES: The bidder shall not establish a minimum order quantity for items under contract.

3.2.7 Term of Contract/City of Grand Junction: The contract shall not bind, nor purport to bind, the City for any contractual commitment in excess of the original contract period which is March 14, 2016 to December 31, 2016. The Owner shall have the right to renew the contract for 3 (three) additional one-year periods, or any portion thereof. If the option for the renewal is exercised by the Owner, the bidder shall agree, in writing, to the prices for the renewal period.

3.2.8 CONTRACT: A binding contract shall consist of: (1) the IFB and any amendments thereto, (2) the bidder's response (bid) to the IFB, (3) clarification of the bid, if any, and (4) the City's Purchasing Department's acceptance of the bid by "Notice of Award" or by "Purchase Order". All Exhibits and Attachments included in the IFB shall be incorporated into the contract by reference.

The contract expresses the complete agreement of the parties and, performance shall be governed solely by the specifications and requirements contained therein.

Any change to the contract, whether by modification and/or supplementation, must be accomplished by a formal contract amendment signed and approved by and between the duly authorized representative of the bidder and the City Purchasing Division or by a modified Purchase Order prior to the effective date of such modification. The bidder expressly and explicitly understands and agrees that no other method and/or no other document, including acts and oral communications by or from any person, shall be used or construed as an amendment or modification to the contract.

3.2.9 REJECTION OF MATERIALS: The City of Grand Junction reserves the right to return partially used loads due to product flaws and/or not meeting specifications. Judgment of non-conformity will be at the discretion of the City of Grand Junction Streets Manager.

3.2.10 PAYMENT/INVOICE: Payment terms listed on bid form, receipt, inspection and acceptance of materials and/or services are described in the bid specifications.

Mesa County Specifications

3.3. Hot mix asphalt Grading SX (1/2" minus) Hot Mix Asphalt (75 gyration) PG 64-22F in accordance with all appropriate provisions of the Standard Specifications for Road and Bridge Construction, as adopted by the Colorado Division of Highways in 2005 –Page 620.

3.4. Special Conditions & Provisions:

3.2.1 QUANTITIES: Mesa County is estimating **4,000 tons** of hot mix asphalt, for use throughout the **2016 calendar year**. Variation of quantity may increase or decrease.

3.2.2 PICKUP: Material will be picked up at the supplier's yard by Mesa County crews on an "as needed" basis. Quantities ordered and scheduled for each pickup must meet the minimum quantity ordered, and shall not exceed quantity ordered by more than ½ ton per pickup order.

3.2.3 INSPECTION: The County will conduct in-house and independent testing to verify supplier conformance to specifications. Material not conforming to the required specification shall be removed at supplier's expense and replaced with material that meets the specifications contained in the contract documents.

3.2.5 ESTIMATED QUANTITIES: The quantities indicated in this Invitation for Bid are estimates that pertain to the total aggregate quantities that may be ordered throughout the stated contract period. Variation of quantities may increase or decrease. The estimates do not indicate single order amounts unless otherwise stated. Mesa County makes no guarantees about single order quantities or total aggregate order quantities.

3.2.6 MINIMUM ORDER QUANTITIES: The bidder shall not establish a minimum order quantity for items under contract.

3.2.7 Term of Contract/Mesa County: The contract shall not bind, nor purport to bind, the County for any contractual commitment in excess of the original contract period which is March 21, 2016 to December 31, 2016. The Owner shall have the right to renew the contract for 2 (two) additional one-year periods, or any portion thereof. If the option for the renewal is exercised by the Owner, the bidder shall agree, in writing, to the prices for the renewal period.

3.2.8 CONTRACT: A binding contract shall consist of: (1) the IFB and any amendments thereto, (2) the bidder's response (bid) to the IFB, (3) clarification of the bid, if any, and (4) the County's Purchasing Department's acceptance of the bid by "Notice of Award", "Contract", or by "Purchase Order". All Exhibits and Attachments included in the IFB shall be incorporated into the contract by reference.

The contract expresses the complete agreement of the parties and, performance shall be governed solely by the specifications and requirements contained therein.

Any change to the contract, whether by modification and/or supplementation, must be accomplished by a formal contract amendment signed and approved by and between the duly authorized representative of the bidder and the County Purchasing Division or by a modified Purchase Order prior to the effective date of such modification. The bidder expressly and explicitly understands and agrees that no other method and/or no other document, including acts and oral communications by or from any person, shall be used or construed as an amendment or modification to the contract.

3.2.9 REJECTION OF MATERIALS: Mesa County reserves the right to return partially used loads due to product flaws and/or not meeting specifications. Judgment of non-conformity will be at the discretion of the Mesa County Project Coordinator.

3.2.10 PAYMENT/INVOICE: Payment terms listed on bid form, receipt, inspection and acceptance of materials and/or services are described in the bid specifications.

3.5. IFB Tentative Time Schedule:

- | | |
|--|-------------------|
| • Invitation for Bids available | February 22, 2016 |
| • Inquiry deadline, no questions after this date | February 26, 2016 |
| • Addenda Issued by | February 29, 2016 |
| • Submittal deadline for proposals | March 3, 2016 |
| • City Council Approval | March 16, 2016 |
| • Board of County Commissioners | March 21, 2016 |
| • City Contract(s) execution | March 17, 2016 |
| • County Contract(s) execution | March 21, 2016 |

3.6. Questions Regarding Scope of Services:

Duane Hoff Jr., Senior Buyer
duaneh@gjcity.org

4. Contractor's Bid Form

Bid Date: _____

Project: IFB-4193-16-DH "Hot Mix Asphalt 2016"

Bidding Company: _____

Name of Authorized Agent: _____

Email _____

Telephone_____ **Address**_____

City_____ **State**_____ **Zip**_____

The undersigned Bidder, in compliance with the Invitation for Bids, having examined the Solicitation Documents thereto, having investigated the location of, and conditions affecting the proposed work, hereby proposes to furnish all labor, materials and supplies, and to perform all work for the Project in accordance with Contract Documents, within the time set forth and at the prices stated below. These prices are to cover all expenses incurred in performing the work required under the Contract Documents, of which this Contractor's Bid Form is a part.

The undersigned Contractor does hereby declare and stipulate that this offer is made in good faith without collusion or connection to any person(s) providing an offer for the same work, and that it is made in pursuance of, and subject to, all terms and conditions of the Instructions to Bidders, the Specifications, and all other Solicitation Documents, all of which have been examined by the undersigned.

The Contractor also agrees that if awarded the Contract, to provide insurance certificates within ten (10) working days of the date of Notification of Award. Submittal of this offer will be taken by the Owner as a binding covenant that the Contractor will be prepared to complete the project in its entirety.

The Owner reserves the right to make the award on the basis of the offer deemed most favorable, to waive any formalities or technicalities and to reject any or all offers. It is further agreed that this offer may not be withdrawn for a period of sixty (60) calendar days after closing time. Submission of clarifications and revised offers automatically establish a new thirty day (30) period.

RECEIPT OF ADDENDA: the undersigned Contractor acknowledges receipt of Addenda to the Solicitation, Specifications, and other Contract Documents.

State number of Addenda received: _____.

It is the responsibility of the Bidder to ensure all Addenda have been received and acknowledged.

PRICE BID SCHEDULE: IFB-4193-16-DH Hot Mix Asphalt 2016

CITY OF GRAND JUNCTION

Item	Unit	Estimated Qty	Description	Unit Price
1.	Ton	900	Hot Mix Asphalt (Per City of Grand Junction Specifications)	

Unit Price Written:

Item 1: _____

MESA COUNTY

Item	Unit	Estimated Qty	Description	Unit Price
2.	Ton	4,000	Hot Mix Asphalt (Per Mesa County Specifications)	

Unit Price Written:

Item 2: _____

- Direct purchases by the City of Grand Junction are tax exempt from Colorado Sales or Use Tax. Tax exempt #98-903544.
- Direct purchases by Mesa County are tax exempt from Colorado Sales or Use Tax. Tax exempt #98-04241.
- The undersigned certifies that no Federal, State, County or Municipal tax will be added to the above quoted prices.
- Prompt payment discount of _____ percent of the net dollar amount will be offered to the Owner if the invoice is paid within _____ days after the receipt of the invoice.
- The undersigned certifies and agrees that this bid is submitted in accordance with all applicable Federal, State, County, and City laws.

By signing below, the Undersigned agree to comply with all terms and conditions contained herein.

Company: _____

Authorized Signature: _____

Title: _____

4. Contractor's Bid Form

Bid Date: 3/3/2016

Project: IFB-4193-16-DH "Hot Mix Asphalt 2016"

Bidding Company: Elam Construction Inc.

Name of Authorized Agent: Casey W. Dunn

Email casey.dunn.88@gmail.com

Telephone 970-242-7350 **Address** 556 Struthers Ave.

City Grand Junction **State** CO **Zip** 81501

The undersigned Bidder, in compliance with the Invitation for Bids, having examined the Solicitation Documents thereto, having investigated the location of, and conditions affecting the proposed work, hereby proposes to furnish all labor, materials and supplies, and to perform all work for the Project in accordance with Contract Documents, within the time set forth and at the prices stated below. These prices are to cover all expenses incurred in performing the work required under the Contract Documents, of which this Contractor's Bid Form is a part.

The undersigned Contractor does hereby declare and stipulate that this offer is made in good faith without collusion or connection to any person(s) providing an offer for the same work, and that it is made in pursuance of, and subject to, all terms and conditions of the Instructions to Bidders, the Specifications, and all other Solicitation Documents, all of which have been examined by the undersigned.

The Contractor also agrees that if awarded the Contract, to provide insurance certificates within ten (10) working days of the date of Notification of Award. Submittal of this offer will be taken by the Owner as a binding covenant that the Contractor will be prepared to complete the project in its entirety.

The Owner reserves the right to make the award on the basis of the offer deemed most favorable, to waive any formalities or technicalities and to reject any or all offers. It is further agreed that this offer may not be withdrawn for a period of sixty (60) calendar days after closing time. Submission of clarifications and revised offers automatically establish a new thirty day (30) period.

RECEIPT OF ADDENDA: the undersigned Contractor acknowledges receipt of Addenda to the Solicitation, Specifications, and other Contract Documents.

State number of Addenda received: 0.

It is the responsibility of the Bidder to ensure all Addenda have been received and acknowledged.

PRICE BID SCHEDULE: IFB-4193-16-DH Hot Mix Asphalt 2016

CITY OF GRAND JUNCTION

Item	Unit	Estimated Qty	Description	Unit Price
1.	Ton	900	Hot Mix Asphalt (Per City of Grand Junction Specifications)	\$70.00

Unit Price Written:

Item 1: Seventy dollars & $\frac{00}{100}$

MESA COUNTY

Item	Unit	Estimated Qty	Description	Unit Price
2.	Ton	4,000	Hot Mix Asphalt (Per Mesa County Specifications)	\$70.00

Unit Price Written:

Item 2: Seventy dollars & $\frac{00}{100}$

- Direct purchases by the City of Grand Junction are tax exempt from Colorado Sales or Use Tax. Tax exempt #98-903544.
- Direct purchases by Mesa County are tax exempt from Colorado Sales or Use Tax. Tax exempt #98-04241.
- The undersigned certifies that no Federal, State, County or Municipal tax will be added to the above quoted prices.
- Prompt payment discount of _____ percent of the net dollar amount will be offered to the Owner if the invoice is paid within _____ days after the receipt of the invoice.
- The undersigned certifies and agrees that this bid is submitted in accordance with all applicable Federal, State, County, and City laws.

By signing below, the Undersigned agree to comply with all terms and conditions contained herein.

Company: Elam Construction Inc.

Authorized Signature: 

Title: Estimator