



# **CASHLESS TOLLING**

TA 19-1, Contract No. D800002

## **REQUEST FOR PROPOSALS**

### **INSTRUCTIONS TO PROPOSERS GENERAL INSTRUCTIONS**

**DRAFT January 24, 2019**

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## **1.0 INTRODUCTION AND GENERAL PROVISIONS**

### **1.1 INTRODUCTION**

This Request for Proposals (“RFP”) is issued by the New York State Thruway Authority (the “Authority”) to seek competitive Proposals (“Proposals”) for the design, construction and other identified activities for the Project.

The Project involves Design-Build services for the Project as described in Appendix A.

This solicitation is the second step of a two-step procurement process (see Instructions to Proposers (ITP) Section 2.1). Proposals are requested from and will be considered only from those entities (“Proposers”) who have been notified of their inclusion on the Shortlist based on their Statements of Qualifications (“SOQs”) submitted in response to the Request for Qualifications (“RFQ”) for this Project as amended.

This document provides instructions to be followed by Proposers in their responses to the RFP. Proposals must comply with these Instructions to Proposers (“ITP”) and shall address and/or consider the Project goals and objectives identified in ITP Appendix A.

### **1.2 SCOPE OF WORK**

Refer to Contract Documents Part 3, Project Requirements, for the Project Scope of Work.

### **1.3 PROJECT GOALS**

The Authority’s goals and objectives for the Project are described in ITP Appendix A.

### **1.4 DEFINITIONS**

Refer to Appendix G of this ITP for the meaning of various abbreviations, acronyms and capitalized terms used herein.

### **1.5 RFP Documents**

The RFP includes the following documents (the “RFP Documents”), which will form part of the Contract Documents:

- A) Instructions to Proposers, including Appendices;
- B) DB Agreement (Part 1);
- C) DB Section 100 (Part 2);
- D) Project Requirements (Part 3);
- E) Utility Requirements (Part 4);
- F) Special Provisions (Part 5);
- G) RFP Plans (Part 6);
- H) Engineering Data (Part 7);
- I) Special Specifications (Part 8);
- J) Additional documents issued by Addenda to this RFP (Part 10).

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The Contract Documents will also include the Design-Builders Proposal which will become Part 9 of the Contract in accordance with ITP Section 1.7.2.

Reference Documents are available on the Authority's web site, but will not form a part of the Contract. The Authority makes no representation or guarantee as to, and shall not be responsible for, their accuracy, completeness or pertinence, and, in addition, shall not be responsible for the conclusions to be drawn from the Reference Documents. The Reference Documents are made available to the Proposers and the selected Design-Builder for the purpose of providing such information as is in the possession of the Authority, whether or not such information may be accurate, complete or pertinent, or of any value.

Current Reference Documents for the Project are listed in ITP, Appendix A.

### **1.5.1 Required Forms**

Any failure to provide all the information and all completed forms (see ITP Appendix E) in the format specified in Appendices C and D may result in the Authority's rejection of the Proposal or giving it a lower rating. All blank spaces in the Proposal forms must be filled in as noted, and no change shall be made in the phraseology of the RFP or in the items mentioned therein. No changes to the forms shall be made by the Proposers except as indicated on a specific form. Changes to forms may be made by the Authority and submitted to Proposers by addenda.

### **1.5.2 Property of the Authority**

All documents submitted by the Proposer in response to this RFP shall become the property of the Authority and will not be returned to the Proposer except for the deniable records. (See ITP Section 2.5). The concepts and ideas in the information contained in the Proposal submitted by the Proposer shall also become the property of the Authority contingent upon the Proposer signing the Stipend Agreement (see ITP Appendix E).

### **1.5.3 Errors**

If any mistake, error or ambiguity is recognized by the Proposer at any time during the Proposal process in any of the documents supplied by the Authority, the Proposer shall notify the Authority of the recommended correction in writing in accordance with ITP Section 2.3. Notification shall be made to the Authority as soon as possible.

## **1.6 PROCUREMENT SCHEDULE**

The anticipated procurement schedule for the Project is described in ITP, Appendix A.

## **1.7 GENERAL PROVISIONS REGARDING PROPOSALS**

### **1.7.1 Proposal Contents**

Each Proposal shall include:

- (i) an Administrative Submittal (Volume 1);
- (ii) a Technical Proposal (Volume 2); and
- (iii) a Price Proposal (Volume 3).

Instructions for Volumes 1, 2 and 3 are provided in ITP Appendices B, C and D, respectively, and required forms are set forth in ITP Appendix E. The forms presented in ITP Appendix E are supplied additionally as Microsoft Word® and Microsoft Excel® format files, for use by Proposers in preparing



submissions. Any failure to provide all the information and all completed forms in the format specified may result in the Authority's rejection of the Proposal or giving it a lower rating. All blank spaces in the Proposal forms must be filled in as noted. No change shall be made by a Proposer to the forms except as expressly permitted in the forms. Proposers may add rows to certain forms as indicated on the relevant form.

### **1.7.2 Inclusion of Proposal in Contract**

The selected Proposer's Proposal will become Part 9 of the Contract Documents, as specified in ITP Appendices B, C and D. Prior to incorporation into Part 9 of the Contract Documents, the Proposal or parts thereof will be adjusted to reflect clarifications or negotiations, if any, that occur after its submission that are accepted by the Authority.

### **1.7.3 Commitments in the Proposal**

The language used in each Proposal will be interpreted and evaluated based on the level of commitment provided by the Proposer. Tentative commitments will be given no consideration. For example, phrases such as "we may" or "we are considering" will be given no consideration in the evaluation process since they do not indicate a firm commitment.

## **1.8 IMPROPER CONDUCT**

### **1.8.1 Prohibited Activities**

If the Proposer, or anyone representing the Proposer, offers or gives any advantage, gratuity, bonus, discount, bribe or loan of any sort to employees of the Authority, including agents or anyone representing the Authority at any time during this procurement process, the Authority shall immediately disqualify the Proposer, the Proposer shall forfeit its Proposal Bond, the Proposer shall not be entitled to any payment of a stipend and the Authority may sue the Proposer for damages.

### **1.8.2 Non-Collusion**

The Proposer shall not undertake any of the prohibited activities identified in the Non-Collusion Affidavit (Form NC, ITP Appendix E).

### **1.8.3 Conflict of Interest**

The Proposer is responsible for complying with the requirements of 23 CFR 636.116 and including a full disclosure of all potential Conflicts of Interest in their Proposal. In addition, any firm that is rendered ineligible through any State or federal action is ineligible to participate on any Design-Build team.

Federal regulations prohibit the hiring of any person or organization that has a "conflict of interest." Proposers are required to disclose known or potential conflicts of interest in their Statement of Qualifications. See ITP Appendix A for a listing of firms that have been identified as having conflicts of interest that prevent their consideration for the pending Project.

By submitting its Proposal, each Proposer agrees that, if a Conflict of Interest is thereafter discovered, the Proposer shall make an immediate and full written disclosure to the Authority that includes a description of the action that the Proposer has taken or proposes to take to avoid or mitigate such conflicts. If a Conflict of Interest is determined to exist, the Authority may, in its sole discretion, cancel the Contract. If the Proposer was aware of a Conflict of Interest prior to the award of the Contract and did not disclose the conflict to the Authority after award of the Contract, the Authority may terminate the Contract for default.

## 1.9 MWBE/SDVOB UTILIZATION

This solicitation is subject to New York State provisions concerning the utilization of Minority and Women Business Enterprises (MWBE/SDVOB). All New York State MWBE/SDVOB requirements are applicable to this solicitation.

The overall MWBE/SDVOB participation goal for the Contract is described in ITP, Appendix A.

The Proposer must be responsive in submitting required documentation and forms and ensure that all information is timely, complete, accurate and truthful. The Proposal must provide participation information to the fullest extent possible; but may establish participation milestones and develop reasonably-close participation estimates with supporting justification as appropriate where participation information cannot be fully-finalized at time of award.

The Proposer must demonstrate a proactive good faith effort to recruit MWBE/SDVOBs and achieve commitments for work items prior to submission of the Proposal. While making commitments to firms for all MWBE/SDVOB opportunities are ideal prior to the proposal submission, the Authority recognizes it may not be practical. Where Form LDB Table 1 is not achieving the MWBE/SDVOB Goal, prior to submission of the proposal, commitments of specific work items, Form LDB Table 2, must be completed.

**Failure to provide commitments to meet the established goal for the contract and failure to meet the good faith efforts will be grounds for rejection of the Proposal as non-responsive.**

Only those MWBE/SDVOB firms that are certified under the New York State Empire Development Corporation are eligible to be used for goal attainment. Firms certified in states other than New York, or going through the certification process in New York are not eligible to be used for goal attainment unless they obtain certification under the New York State Empire Development Corporation or office of General Services (OGS) prior to starting work on this Project. MWBE/SDVOB certification is not an endorsement of the quality or performance of the business but simply an acknowledgment of the firm's status as an MWBE/SDVOB.

The list of MWBE/SDVOB firms certified in New York State can be accessed via the following link to the New York State Unified Certification Program Business Directory website:

MWBE  
Empire State Development Corporation  
Office of Minority and Women's Business Development  
625 Broadway  
Albany, NY 12207

[http:// ny.newnycontracts.com/](http://ny.newnycontracts.com/)

and

SDVOB  
Office of General Services  
41st Floor, Corning Tower  
Empire State Plaza  
Albany, NY 12242  
[comments@ogs.ny.gov](mailto:comments@ogs.ny.gov)

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While only such MWBE/SDVOB-certified firms will count toward attaining the MWBE/SDVOB goal, the utilization of certified small businesses and DBE firms is also encouraged.

If at the time of proposal submission the Proposer has committed towards the MWBE/SDVOB goal through the combined use of commitments to MWBE/SDVOB firms (Form LDB Table 1) and commitments to work items to be performed by MWBE/SDVOB during the time of the contract (Form LDB Table 2), the Proposer shall submit the Solicitation Log (Form AAP-10), together with other documentation that provides evidence of good faith efforts. If at the time of proposal the Proposer has met the MWBE/SDVOB goal solely by commitments to MWBE/SDVOB firms (Form LDB Table 1 only), then submission of evidence of good faith efforts is not required.

Documentation of MWBE/SDVOB utilization to be included with the proposal shall include the following, of which the referenced forms can be found in the ITP Appendix E.

- a) Completed Form LDB – List of Proposed MWBE/SDVOB s (Tables 1 & 2)
- b) Completed Form AAP-10, MWBE/SDVOB Solicitation Log of all MWBE/SDVOBs contacted to date on this contract.
- c) Completed Form SDU – Schedule of Proposed MWBE/SDVOB Utilization
- d) Documentation of good faith efforts (if required).

See Part 2, DB §102-8, of the Contract Documents for further details regarding MWBE/SDVOB compliance requirements for the Contract, including good faith efforts.

In determining whether a MWBE/SDVOB Proposer for a contract has met the MWBE/SDVOB requirements, the Authority will consider the Work the MWBE/SDVOB has committed to performing with its own forces, the Work that it has committed to be performed by MWBE/SDVOB Subcontractors, MWBE/SDVOB Suppliers and/or MWBE/SDVOB financial institutions and Proposer's good faith efforts.

### **1.10 LANGUAGE REQUIREMENT**

All correspondence regarding the RFP, Proposal and Contract are to be in the English language. If any original documents required for the Proposal are in any other language, the Proposer shall provide an English translation, which shall take precedence in the event of conflict with the original language.

### **1.11 RESOURCE AVAILABILITY**

The Authority is concerned that the resources planned to be used on the Contract (if Awarded to the Proposer), in terms of people, equipment, material and supplies, be available and not also be committed to other projects. Accordingly, the Proposal must include an affirmative commitment to provide all Key Personnel for the periods necessary to fulfill their responsibilities, and to provide all personnel, equipment, materials and supplies necessary to fulfill the Proposal and the requirements of the Contract Documents (Form CR, ITP Appendix E).

### **1.12 CONFIDENTIALITY**

The issuance by the Authority of any RFP Documents, or drafts thereof, to a Proposer shall be subject to such Proposer executing and delivering a confidentiality and non-disclosure agreement in prescribed form to the Authority.

### 1.13 INSURANCE

Refer to Contract Document, Part 1, Article 14 and Part 2, DB §107-27.3 for information regarding insurance requirements. Insurance certificates shall be submitted to the Authority prior to Contract execution.

### 1.14 QUALITY ASSURANCE / QUALITY CONTROL

The Contract Documents place a significant responsibility on the Design-Builder for the quality of the Project. The Design-Builder will be performing quality control and quality management activities under a definition of QC that encompasses traditional quality control and certain activities traditionally performed as quality assurance by the Authority, and the Authority's QA role may therefore exclude such activities. The Design-Builder will have responsibility for the quality of the Work conducted and materials utilized under the Contract. Proposers are to be thoroughly knowledgeable with the quality requirements of the Contract and the role and responsibility of the Design-Builder prior to preparing their Technical Proposals and Price Proposals, and if selected, execution of their responsibilities within the Project's Quality Control Program.

The Design-Builder will be required to plan, implement, and provide a Quality Control Plan for both design and construction.

The Design-Builder's Quality Control Plan must follow the requirements of 23 CFR Part 637 and the Contract Documents. In addition, the Design-Builder's Quality Control Plan shall follow the Design and Construction Quality Control Plan Format provided in the RFP. The Authority will review and approve the Design-Builder's Quality Control Plan to assure that it meets the guidelines and minimum requirements established by the Authority. The Design-Builder shall maintain ownership of the Plan, shall be fully responsible for its execution, and shall maintain sole responsibility for the quality of the Work. As part of the acceptance procedure, the Authority will conduct verification sampling and testing of material testing as well as conduct audits, in-depth inspections, and reviews of Work to ensure workmanship, and that in-process and completed Work, meets contract requirements.

The Design-Builder will be required to have, as part of the Design-Build Team, a Quality Manager who will be responsible for the oversight of the preparation of the Quality Control Plan, and direct supervision of the implementation of the Quality Control Plan, and for ensuring its compliance for both design and construction. This individual shall be a direct report to senior management of the Design-Builder, and will not directly report to the Design-Builder's Project Manager.

For design, the Quality Manager shall ensure that the design firm on the Design-Build Team implements the quality control procedures specified in the Design-Builder's Quality Control Plan for design activities.

For construction, the Design-Builder will be required to have, as part of the Design-Build Team, a Professional Engineering Firm to perform Construction Inspection (CIPEF), and a Materials Testing Firm or Laboratory to sample and test materials as specified in the Quality Control Plan and/or as required by the Project specifications. The CIPEF performing Construction Inspection and the Materials Testing Firm or Laboratory may be the same company or separate companies, but in either case, the CIPEF performing Construction Inspection and the Materials Testing Firm or Laboratory must be independent of the Designer(s), Constructor(s) and any of the Principal Participants or any party with an equity interest, that are included in the Proposer's proposed team. In addition, the CIPEF performing Construction Inspection and the Materials Testing Firm or Laboratory shall not be an equity participant on the Design-Build Team.

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The CIPEF performing Construction Inspection will be required to inspect all construction operations and perform construction quality control of the Design-Builder for conformance to the Design-Build plans, the specifications, the Quality Control Plan and the Contract requirements. They will also act as a field review component during construction as plans are being developed to ensure that the plans and all specifications required by the Authority and the Designer(s) are providing are constructible for the conditions found in the field. The Professional Engineering Firm's inspection, measurement, and testing activities must adhere to, and be in accordance with, all of the requirements set forth in the Authority's Policies, manuals, engineering bulletins, engineering instructions, the Contract documents, and the Quality Control Plan.

Unless otherwise modified in the RFP, the Authority will furnish, at its own expense, off-site Quality Assurance, including, inspections and testing of steel, cement, asphalt, concrete and asphalt aggregates, concrete sewer and drainage pipe, and such other materials as are customarily tested by Authority forces or by separate contracts. Those items that will be tested by the Authority will be described in the RFP.

The Materials Testing Firm or Laboratory shall report to and support the CIPEF.

The CIPEF shall report to the Design-Build Quality Manager and shall coordinate with the Authority's Quality Assurance Engineer.

The CIPEF will enforce the specifications and identify each of the following in a timely manner; local conditions, methods of construction, errors on the plans, or defects in the work or materials which would conflict with the quality of work required, and/or compromise the successful completion of the Project.

All records must be kept in accordance with the Manual of Uniform Record Keeping (MURK) and the Contract requirements. The CIPEF must take all measurements and collect all other pertinent information necessary to prepare a project diary describing the progress of the work, specific problems encountered, daily inspection reports, survey notes, photographic and video records of various phases of construction, and other pertinent data, records and reports which may be required by MURK or the Contract. The CIPEF will be required to prepare the above mentioned project diary and daily inspection reports using the Authority's Murk Forms and CEES Program. Access to the CEES program will be provided by the Authority.

The Authority will establish and maintain its own Quality Assurance organization and/or utilize an independent Quality Assurance organization to conduct verification sampling and testing on material testing, oversee and/or perform quality audits, in-depth inspections of the Design-Builder's management, design, construction and any other Project activities, the Design-Builder's Quality Control procedures and verify the quality of the final product. The Authority may utilize independent Consultants to perform design and/or construction Quality Assurance of the Design-Builder's Work.

If the Authority should process solicitations for design and/or construction Quality Assurance contracts, a Firm may be included in proposals for the Design-Build contract and submit proposals for the Quality Assurance contracts. However, any Firm that is on the selected Design-Build Team will automatically be removed from consideration for the Quality Assurance contracts.

No Construction shall begin nor shall payments be made before the Design-Builder's Quality Control Plan is approved by the Authority.

See Contract Documents, Part 2, DB §§111, 112 and 113 for terms and conditions regarding the requirements, responsibilities and roles relating to QA/QC.

### **1.15 CHANGES TO THE PROPOSER'S ORGANIZATION**

Proposers are encouraged to propose the most experienced and qualified teams.

In order for a Proposer to remain qualified to submit a Proposal, unless otherwise approved in writing by the Authority, the Proposer's organization, including Principal Participants and Key Personnel identified in the Proposer's SOQ, must remain intact for the duration of the procurement process and the subsequent Contract.

During the Proposal period, substitutions for a Principal Participant or a Key Personnel cannot be made without the Authority's approval. Should it become necessary to replace a Principal Participant or a Key Personnel position during the Proposal period, the Design-Builder must provide a replacement for the Organization with equal or better skills and qualifications. In addition, during the Proposal period, requests for changes to the Proposer's organization must be made using Form RFC. For changes of Key Personnel, Proposers shall also submit a completed Form R – Summary of Individual's Experience and the information specified in the RFQ for that Key Personnel position, including a narrative (max one page) justifying why the proposed Key Personnel change is being requested. The request for Principal Participant or Key Personnel change shall be submitted to the Authority's Designated Representative no later than the date shown in ITP Appendix A. Requests by Proposers for changes in any Principal Participant will be particularly scrutinized. In any event, the Proposer shall promptly notify the Authority's Designated Representative if any Key Personnel leaves the Proposer's team.

To request the Authority's approval for a change to the organization, the Proposer shall submit with its request that information specified for a Principal Participant in the RFQ, including legal and financial data as well as the information for quality evaluation. If a request is made to allow deletion or replacement of a Principal Participant, the Proposer shall submit such information as may be required by the Authority to demonstrate that the changed team meets the criteria stated in the RFQ (pass/fail criteria and quality criteria). The Authority shall have sole discretion to grant or withhold approval of any requested change. If the requested change is approved by the Authority, then a copy of the approved Form RFC must be included in the proposal, Volume 1, Section 3.

During the term of the Contract, substitutions for Principal Participants or Key Personnel cannot be made without the Authority's approval. Should it become necessary to replace a Principal Participant or Key Person during the term of the Contract, the Design-Builder must provide a replacement for the Organization with equal or better skills and qualifications. In addition, during the term of the Contract, requests for Key Personnel changes must be made using Form RFC, and shall be submitted along with a completed Form R – Summary of Individual's Experience and the information specified in the RFQ and/or RFP for that Key Personnel position, including a narrative (max one page) justifying why the proposed Key Personnel change is being requested. Substitute Key Personnel cannot start work on the Project until approved by the Authority. In any event, the Design-Builder shall promptly notify the Authority's Project Manager if any Key Personnel leaves the Design-Build Team.

Proposers should be aware that the Key Personnel positions identified in the RFQ are also included in the RFP. The scores of those Key Personnel that were included in the Proposer's Statement of Qualifications (SOQ) will be retained and used in the evaluation of the Proposer's Proposal. If a Proposer changes any of the Key Personnel that were submitted as part of their SOQ, the score given

to those Key Personnel positions in the Proposer's Proposal will be the same as the score given to those same Key Personnel positions in the SOQ.

It is imperative that the Key Personnel identified during the Procurement period remain intact for the duration of the Project until Project Completion. Failure to do so shall result in a Key Personnel Change Assessment Fee in the amount of \$50,000 for each Key Personnel position substitution, regardless of whether the Authority accepts the alternate personnel as equal or better.

## **1.16 PROJECT LABOR AGREEMENT**

See ITP Appendix A for the Authority's conclusion regarding a Project Labor Agreement due diligence study for this Project.

## **1.17 PREVAILING WAGE RATES**

Prevailing wages rates applicable to the Contract are set forth in Appendix C of Part 1 – DB Agreement. The Design-Builder will be required to pay the supplemental (fringe) benefits. The Design-Builder will be required to obtain periodic wage rate schedule updates from the NYSDOL, and the cost of changes in wage rate schedules and supplements (fringes) over the Contract duration will be included in the Contract Price.

## **2.0 PROCUREMENT PROCESS**

### **2.1 METHOD OF PROCUREMENT**

This RFP is issued pursuant to the Authority's authority under the Infrastructure Investment (Act) which authorizes the Authority and other specified authorized state entities to use design-build contracts for capital projects related to the State's physical infrastructure, subject to the requirements set forth in the Act (Chapter 60).

The Authority intends to award the Contract to the Proposer that submits the Proposal that is determined to offer the best value to the State and the Authority, considering the evaluation factors set forth in this RFP.

The procurement process includes two steps:

- Step One: RFQ - determination of Short-List; and
- Step Two: RFP - selection of Design-Builder from Proposers on Short-List that submitted Proposals.

Evaluation of Proposals will be based on information submitted in the Proposals or otherwise available to the Authority, and will involve both pass/fail factors and an evaluation of quality and price factors, as further detailed below and in the ITP Appendices B, C and D.

### **2.2 RECEIPT OF THE RFP DOCUMENTS**

The RFP and other information may be obtained by Proposers who have been notified of their inclusion on the Short-List from the person identified as the Authority's Designated Representative in ITP Appendix A.

#### **2.2.1 Authority's Designated Representative**

The Authority's Designated Representative for this Procurement is described in ITP, Appendix A.

### **2.2.2 Rules of Contact**

The following rules of contact shall apply during the Contract procurement process, which began upon issuance of the RFQ for the Project and will be completed with the execution of the Contract. Contact includes face-to-face, telephone, e-mail or any formal or informal written communication.

The specific rules are as follows:

- A) Proposers are advised that under New York State Finance Law, Section 139-j, communication on procurements can be made only with designated contact persons. The Authority's Designated Representative for this procurement is specified in the ITP Appendix A and shall be the Authority's single contact and source of information for this procurement.
- B) After the Shortlist is announced, neither a Proposer nor any of its team members may communicate with another Proposer or members of another Proposer's team with regard to the Project or the Proposals. However, subject to the limitations in the ITP Section 1.8.3, a Proposer may communicate with a subcontractor that is on both its team and another Proposer's team, provided that each Proposer has obtained a written certification from the proposed subcontractor that it will not act as a conduit of information between the teams. Proposers shall provide the Authority's Designated Representative with all written certifications received from its subcontractors.
- C) Contact between each Proposer and the Authority shall be through only the Authority's Designated Representative and that Proposer's Representative (see ITP Section 2.2.3).
- D) The Authority's Designated Representative will contact a Proposer through the Proposer's Representative (see ITP Section 2.2.3), normally in writing.
- E) Communications between a Proposer and the Authority's team of staff and consultants is allowed during any joint Proposer- Authority meetings organized by the Authority.
- F) Neither a Proposer nor its agents may contact employees of the Authority or consultants under contract with the Authority for this Project, including staff members, members of any Proposal evaluation committee and any other person who will evaluate Proposals, regarding the Project, except through the process identified above.
- G) Any contact by a Proposer determined to be improper may result in disqualification of the Proposer and result in any other remedy under the Procurement Lobbying Law.
- H) The Authority will not be responsible for or bound by: (1) any oral communication, or (2) any other information or contact that occurs outside the official communication process specified herein, unless confirmed in writing by the Authority's Designated Representative.
- I) Neither a Proposer nor its agents may contact any Federal or State official, or stakeholder staff regarding the Project. Stakeholder staff includes employees of:
  - i. FHWA; and
  - ii. State and Federal agencies engaged in the Project or otherwise having jurisdiction over the Project.

### **2.2.3 Proposer's Representative**

The Proposer's Representative shall be the Proposer's point of contact for communication between the Authority's Designated Representative and the Proposer. Unless notified otherwise by a Proposer, the Authority shall assume that the Proposer's Representative is the person so identified in the Proposer's SOQ. Using Form C, a Proposer shall promptly notify the Authority of any changes in the Proposer's Representative or in the contact details for the Proposer's Representative, including the



contact address for any notices or communications to be sent to the Proposer by the Authority. Failure by a Proposer to provide such information in writing in a timely manner may result in the Proposer failing to receive important communications from the Authority, for which the Authority shall not be responsible.

## **2.3 ADDENDA AND RESPONSES TO QUESTIONS**

### **2.3.1 Addenda**

The Authority may at any time modify conditions or requirements of this RFP by issuance of an Addendum. The Authority will post Addenda on the Authority's Project Web Site. Addenda will not be e-mailed or sent directly to the Proposers. Proposers must check the Project web site regularly for updates to the RFP. The Proposal shall include written acknowledgement of receipt of all RFP addenda (Form AR; ITP Appendix E). The Authority will not be bound by, and the Proposer shall not rely on, any oral communication or representation regarding the RFP Documents, or any written communication except to the extent that it is an Addendum to this RFP and is not superseded by a later Addendum to this RFP.

### **2.3.2 Correspondence and Information**

No correspondence or information from the Authority or anyone representing the Authority regarding the RFP, or the Proposal process in general shall be applicable unless it is in compliance with the ITP Section 2.2.

### **2.3.3 Questions and Responses to Questions**

The Authority will consider questions regarding the RFP, including requests for clarification and requests to correct errors, only if submitted in writing via e-mail by a Proposer. All questions and requests must be e-mailed to the Authority's Designated Representative.

All questions and requests must be received at the e-mail address of the Authority's Designated Representative no later than 12:00 p.m. Eastern Time on the date specified in the ITP Appendix A. No questions and requests will be considered unless delivered as specified. The text of questions shall not include any information identifying the Proposer or any of its team members.

All responses will be in writing and will be disseminated by posting on the Authority's Website. Responses will not indicate which Proposer raised particular questions. The Authority may rephrase questions as they deem appropriate and may consolidate similar questions. It is anticipated that multiple sets of responses will be issued. The last response will be issued no later than the date specified in the ITP Appendix A.

Proposers may submit questions marked "Confidential". Before providing a response, the Authority will determine whether or not the question contains proprietary information. Should the Authority determine that the question does not contain proprietary information, the Proposer who submitted the question will be notified that the question is not considered "Confidential". The Proposer will then have the opportunity to withdraw the question or request that the Authority provide a response to the question in which case the question and response will be provided to all Proposers. If the Authority determines that the question does contain proprietary information, then the Authority will provide a response only to the Proposer who submitted the question.

The Authority will not consider any correspondence delivered in any way except as specified above, except when the Authority may engage in One-on-One meetings with Proposers, as the Authority deems necessary.

Each Proposer is responsible for reviewing the RFP prior to the dates specified for submission of inquiries in the ITP Appendix A and for requesting clarification or interpretation of any discrepancy, deficiency, ambiguity, error, or omission contained therein, or of any provision that the Proposer otherwise fails to understand. The responses will not be considered part of the Contract but may be relevant in resolving any ambiguities in the Contract. Inquiries resulting in any modifications to the RFP will be documented in Addenda.

## **2.4 ONE-ON-ONE MEETINGS**

Refer to ITP Appendix A for details on any One-on-One meetings the Authority may convene during the Project's Proposal period.

## **2.5 FREEDOM OF INFORMATION LEGISLATION**

### **2.5.1 Freedom of Information Law (FOIL)**

The Authority will maintain a non-public process for the duration of this DB procurement. Pursuant to Section 87(2)(c) of the Freedom of Information Law (FOIL), all records related to this procurement, including, but not limited to, SOQs, evaluation and Short-List procedures, proposals, evaluation and selection procedures, and, if applicable, any records created during the evaluation and selection process, will remain deniable records until the Contract has been fully executed and delivered.

All records pertaining to this procurement will become public information after execution of the Contract, unless such records are determined to be deniable under FOIL. Unless otherwise provided by law, records marked as "Exempt from Disclosure under FOIL" in a SOQ or Proposal submitted by an unsuccessful Proposer, which meet the requirements of FOIL, are not subject to inspection at any time by third parties under FOIL, and the records so marked by the successful Proposer in its SOQ and Proposal will remain confidential. Labeling all pages as "confidential" or "proprietary" or "Exempt from Disclosure under FOIL" is unacceptable – such proposals will not be accepted,

If a Proposer submits information in its Proposal that it believes to be deniable records under FOIL and that it wishes to protect from disclosure, the Proposer must do the following:

- A) Clearly mark all financial information, trade secrets, or other information "Exempt from Disclosure under FOIL" in its Proposal at the time the Proposal is submitted and include a cover sheet identifying each section and page which has been so marked;
- B) with respect to each such section and page, include a statement with its Proposal justifying the Proposer's determination that the identified information constitutes deniable records under FOIL; and
- C) provide an additional version of the Proposal submission in which confidential information has been redacted such that the redacted Proposal could without any further modification be inspected at any time by third parties under FOIL. The content of the redacted Proposal shall be identical to that of the original Proposal in all respects other than the redaction of deniable records.

Proposers shall designate in writing those portions of the proposal that contain trade secrets or other proprietary information that are to remain confidential; that the material designated as confidential shall be readily separable from the entity's proposal.

Unless otherwise provided by law, confidential business information provided to the Authority is not subject to inspection at any time by third persons under Article Six of the New York State Public Officers Law.

### **2.5.2 Freedom of Information Act (FOIA)**

FOIA applies to agencies and authorities of the Executive Branch of the US Government, including FHWA. FOIA establishes a presumption that records in the possession of such agencies and authorities are available to the public, subject to certain exemptions. FHWA has adopted a policy of clear presumption of disclosure on all FOIA requests. Therefore, all records in the possession of FHWA pertaining to this procurement may be disclosed under FOIA, except to the extent specifically exempted from disclosure under the act, which exemptions include trade secrets and commercial or financial information obtained from a person that is privileged or confidential. To the extent such information of the Design-Builder is included in the executed Contract or otherwise provided to FHWA or other federal agency or Authority pursuant to this procurement, and the Design-Builder wishes to protect it from disclosure, the Design-Builder shall clearly mark such records “*Exempt from Disclosure under FOIA.*”

### **2.6 PROPOSAL STIPEND**

The Authority has decided that the payment of Stipends, under certain conditions, is proper as a part of this Design-Build Project.

Only Proposers that submit Proposals that (1) achieve a “pass” rating on all Pass/Fail Evaluation Factors; (2) meet or exceed the minimum qualifying quality based evaluation threshold of 60 points as required in the RFP; (3) are Competitive and Reasonable; and (4) are not selected by the Authority (“Stipend-Eligible Proposer”) shall be eligible to be paid a Stipend within approximately 120 days after the execution of the Contract or the rejection of all Proposals. Proposers that do not meet the above criteria shall have no claim to a Stipend or compensation in any form based upon any legal or equitable theory. The Proposer awarded the Contract will not be eligible to receive a Stipend.

Stipend-Eligible Proposers must execute the Stipend Agreement and provide the Authority with the licenses required by Article 3 of the Stipend Agreement no later than 20 calendar days after the Proposal Due Date. Extensions may be granted at the sole discretion of the Authority. Any Stipend-Eligible Proposer that fails to execute the Stipend Agreement and provide the Authority with the licenses required by Article 3 of the Stipend Agreement no later than 20 calendar days after the Proposal Due Date, will forfeit all rights to receipt of a Stipend.

No Proposer will be eligible for payment of any Stipend Amount if the Proposer has filed an unsuccessful protest of the procurement process, award, or cancellation of the procurement. In addition, as a condition of accepting payment of any Stipend Amount, the Proposer shall agree to not file any protest of the procurement process, award, or cancellation of the procurement after accepting payment of the Stipend.

In consideration for paying the Stipend and executing the Stipend Agreement (see Appendix E, Form SA), the Authority may use any ideas or information contained in the Proposal, including Alternative Technical Concepts (ATCs) if requested, in connection with the Project or in connection with a subsequent project without any obligation to pay any additional compensation to any Proposer that accepts the Stipend.

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If the Authority does not award a Contract in connection to any of the Proposals, the Authority may award the Stipend to each Stipend-Eligible Proposer that agrees to the terms of the Stipend Agreement.

The Proposal Stipend amount for the Project is described in ITP Appendix A.

If, for any reason, the Authority suspends or cancels the procurement process for this Project prior to the due date for proposals, the Authority, in its sole discretion, may elect to pay Stipends that the Authority deems, in its sole discretion, appropriate under the circumstances. Proposer must comply with the terms and conditions of the Stipend Agreement. In the interest of clarity, this provision does not contemplate or establish the basis for quantum meruit payments to Proposer.

All of the Proposer's team members and subcontractors shall be bound by the same provisions of the Stipend Agreement as the Proposer. All agreements between the Proposer, Proposer's team members, and/or subcontractors shall include provisions effectuating this term, and all such agreements shall be subject to review by the Authority.

This Section 2.6 is not a part of the Stipend Agreement, and has no effect on the terms therein. The terms of the final Stipend Agreement executed by the Stipend-Eligible Proposer and the Authority may be modified via Addenda from the Stipend Agreement included in ITP Appendix E. Note that Form SA is NOT to be submitted with the Proposer's Proposal. It is included in Appendix E for informational purpose only.

### **2.7 ESCROWED BID DOCUMENTS**

As a condition of the award of the Contract, the successful Proposer must agree to submit all Bid Documents to the Authority, which shall be held by the Authority in escrow. The Bid Document Escrow Agreement (Form BDEA) and Form BDEA, Appendix A, are included in Appendix E of this Instructions to Proposers (ITP). Note that form BDEA and form BDEA, Appendix A, are NOT to be submitted with the Proposer's Proposal. They are included in Appendix E for informational purpose only. The final versions of Form BDEA and Form BDEA, Appendix A will be transmitted to the successful Proposer after selection of best value.

### **2.8 GENERAL SUBMITTAL REQUIREMENTS**

The Proposal shall be submitted in accordance with the ITP and the following requirements:

- A) The Authority Project TA 19-1, Contract D800002, and the fact that this is a Proposal for the Project shall be clearly shown on the cover of the containers. The name and address of the Proposer shall be clearly marked on the outside of the containers;
- B) Volume 1 of the Proposal (the Administrative Submittal) shall be enclosed in one or more sealed containers that shall be clearly marked as detailed in the ITP Appendix B. Volume 2 of the Proposal (the Technical Proposal) shall be enclosed in one or more sealed containers and shall be clearly marked as detailed in the ITP Appendix C. Volume 3 of the Proposal (the Price Proposal) shall be sealed within one or more separate containers and shall be clearly marked as detailed in the ITP Appendix D.
- C) When sent by United States Postal Service or private carrier (such as Federal Express or United Parcel Service or similar), the sealed containers shall be sent in accordance with this ITP to the Authority's Designated Representative, and shall be received by such representative no later than the time specified in the ITP Appendix A. In the alternative, a Proposal may be hand-delivered by the Proposer to the Authority's

Designated Representative no later than the time specified in ITP Appendix A on the Proposal Due Date.

- D) Where certified copies are required, the Proposer shall stamp the document or cover with the words "Certified True Copy" and have the stamp over signed by the Proposer's Representative.
- E) The Proposal Affidavit (Form NC, ITP Appendix E) and Form PP (ITP Appendix E) shall be signed by the Proposer and by all joint venture members or general partners of the Proposer, if it is a joint venture or partnership. If any signatures are provided by an attorney-in-fact, the original or a certified copy of the power of attorney shall be provided, together with evidence of authorization by the governing body of the organization granting the power of attorney.

## **2.9 WITHDRAWALS AND LATE SUBMITTALS**

### **2.9.1 Withdrawal of a Proposal**

A Proposer may withdraw its Proposal only by a written and signed request that is received by the Authority prior to the Proposal Due Date and time. Following withdrawal of its Proposal, the Proposer may submit a new Proposal, provided that it is received prior to the specified time for submittal of Proposals.

The Proposer agrees that its Proposal will remain valid for 120 days following the Proposal Due Date, or such longer period as may be agreed to in writing by the Proposer and the Authority.

### **2.9.2 Late Proposals**

The Authority will not consider any late Proposals or late requests to modify or withdraw Proposals. Proposals and/or modification or withdrawal requests received after the Proposal Due Date will be returned to the Proposer.

### **2.9.3 No Public Opening of Proposals**

There will be no public opening of the Technical Proposals. After the Proposal Due Date, all Proposals will be opened in the presence of two or more Authority designated individuals and reviewed for completeness.

## **2.10 FORFEITURE OF PROPOSAL SECURITY**

Each Proposer further understands and agrees that if it should refuse or be unable to enter into the Contract as provided herein; should refuse or be unable to furnish adequate and acceptable Faithful Performance and Labor and Material Bonds as provided herein; should refuse or be unable to furnish adequate and acceptable insurance, as provided herein; or should refuse or be unable to furnish any commitments made in its Proposal, it may forfeit its Proposal Bond and will not be entitled to payment of the proposal stipend.

## **2.11 EXAMINATION OF RFP DOCUMENTS AND WORK SITE**

The Proposer is expected to examine carefully the Site(s) of the proposed Work, the Authority's Project web site, all reference documents and the RFP Documents before submitting a Proposal.

The fact that the Authority has furnished information does not abrogate the Proposer's responsibility for further verifications and inquiries as are necessary.

The submission of a Proposal shall be considered prima facie evidence that the Proposer has made such examination and is satisfied (i) as to the conditions to be encountered in performing the Work, as observable from a Site inspection prior to the Proposal Due Date, (ii) proceeding without further investigation (if none has been performed by the Design-Builder), (iii) or as specified in the Contract Documents, and (iv) as to the requirements of the Contract. The Proposer must so certify in the Form of Proposal (ITP Appendix E, Form FP) in order for the Proposal to be considered valid.

### **3.0 ALTERNATIVE TECHNICAL CONCEPTS (ATCs)**

Refer to ITP Appendix A for details on the submission of any Alternative Technical Concepts, if applicable, for this Project.

### **4.0 PROPOSAL REQUIREMENTS**

#### **4.1 COMPLIANT PROPOSAL**

The Proposer shall submit a Proposal that provides all the information required by this ITP and in accordance with the minimum requirements contained in the RFP, including the ITP Appendices. If the Proposal does not fully comply with the instructions and rules contained in the ITP, including the ITP Appendices, it may be deemed non-responsive and therefore unacceptable.

Each Proposal must be submitted in the official format specified by the Authority as detailed in this ITP and its Appendices. Multiple or alternate proposals shall not be submitted.

Proposals may be considered unacceptable for any of the following reasons:

- A) If the Proposal is submitted on a paper form other than that furnished or specified by the Authority; if it is not properly signed; if the Form of Proposal (ITP Appendix E) is altered except as expressly permitted hereby; or if any part thereof is deleted from the Proposal package;
- B) If the Proposal is illegible or contains any omission, erasures, alterations, or items not called for in the RFP or contains unauthorized additions, conditional or alternate Proposals, or other irregularities of any kind; if the Authority determines that such irregularities make the Proposal incomplete, indefinite, or ambiguous as to its meaning;
- C) If the Proposer adds any provisions reserving the right to accept or reject an award or to enter into a Contract following award;
- D) If the Proposer attempts to limit or modify the bonds, if the Proposal Bond (ITP Appendix E) is not provided, and/or requested information deemed material by the Authority is not provided;
- E) If the Proposer is in arrears in the payment of any obligation due and owing the State, including payment of taxes and employee benefits; and
- F) Any other reason the Authority determines the Proposal to be non-compliant.

#### **4.2 LEGAL AUTHORITY**

##### **4.2.1 Licensing Requirements**

Proposers shall be licensed as required by applicable Federal and State laws, rules and regulations including, but not limited to, the New York State Education Law. Evidence of proper licensing shall be provided.

#### **4.3 CURRENCY**

The Pricing Information shall be priced in U.S. dollars (\$) currency only.

#### **4.4 PROPOSAL BOND**

##### **4.4.1 Bonding Requirements**

A Proposal Bond (ITP Appendix E) must accompany each Proposal that is submitted for the Project. The Proposal Bond must be presented in the form of a check or a bond. The Proposal Bond shall be issued by a surety meeting the financial requirements stated in ITP Appendix B, and listed as possessing a Certificate of Authority under US Authority of the Treasury Circular 570.

##### **4.4.2 Return of Proposal Bond**

All Proposal Bonds that were presented in the form of a check, except those of the apparent best value Proposer and the apparent “next” best value Proposer, will be returned immediately following the announcement of the best value Determination. The retained surety of the Proposer who is not Awarded the Contract, if presented in the form of a check, will be returned within ten days following the execution of the Contract. The retained surety of the successful Proposer, if presented in the form of a check, will be returned after satisfactory payment and performance bonds have been furnished and the Contract has been executed.

Sureties that have been presented in the form of a bond will be returned only upon the request of the Proposers after execution of the Contract.

##### **4.4.3 Rights Reserved**

Each Proposer understands and agrees, by submitting its Proposal, that the Authority reserves the right to reject any or all Proposals, or part of any Proposal, and that the Proposal may not be withdrawn for a period of 120 days subsequent to the Proposal Due Date, without written consent of the Authority.

Each Proposer further understands and agrees that if it should withdraw any part or all of its Proposal within 120 days after the Proposal Due Date without the consent of the Authority, should refuse or be unable to enter into the Contract, as provided under the ITP Section 4.4, or refuse or be unable to furnish adequate and acceptable Performance Bonds and Labor and Material Payment Bonds, or refuse or be unable to furnish adequate and acceptable insurance, as provided herein, or refuse or be unable to furnish the Proposal Information (ITP Appendices B and C), all Pricing Information specified (ITP Appendix D), it shall forfeit its Proposal Bond and will not be entitled to payment of the proposal stipend.

The Proposer understands that any material alteration of documents specified in this ITP Section 4.4 or any of the material contained on the Proposal Bond (ITP Appendix E), other than that requested, will render the Proposal non-responsive and non-compliant.

#### **4.5 SIGNATURES REQUIRED**

The Form of Proposal (Form FP, ITP Appendix E) and the Price Proposal Cover Sheet (Form PP, ITP Appendix E) shall be signed by all parties making up the Proposer, (i.e., all joint venture members or general partnerships, if the Proposer is a joint venture or partnership). If any signatures are provided pursuant to a power of attorney, the original or a certified copy of the power of attorney shall be provided, together with evidence of authorization.

#### **4.6 NUMBER OF COPIES**

##### **4.6.1 Hard Copy of Proposal**

A) One (1) original and five (5) copies of Volume 1 (see ITP Appendix B) shall be provided;

- B) One (1) original and ten (10) copies of Volume 2 (see ITP Appendix C) shall be provided; and
- C) One (1) original and three (3) copies of Volume 3 (see ITP Appendix D) shall be provided.

**4.6.2 Electronic Copy of Proposal**

In addition to the submission of copies of the Proposal printed on paper (see ITP Section 4.6.1), Proposers shall submit one copy of the full Proposal in electronic format on non-copy-protected thumbdrives. A separate thumbdrive shall be used for the submission of each volume of the Proposal (see ITP Appendices B, C and D ).

Submitted electronic files shall be, as appropriate, either: (i) in searchable portable document format (pdf); or (ii) in spreadsheet format as specified herein. No file protection or password protection shall be applied to file contents.

For each file and for each folder/sub-folder (if used) submitted by the Proposer on the thumbdrives, the relevant volume, section, part and/or appendix of the Proposal shall be clearly communicated via the filenames and (if used) the folder/sub-folder names adopted by the Proposer.

A tag shall be affixed to each thumbdrive indicating the name of the Project DB Project Proposal – Volume...” followed by the relevant Proposal volume number, plus the date of issue of the Proposal and the Proposer’s name. If it is necessary to use more than one thumbdrive to submit a volume of the Proposal, each thumbdrive shall additionally be labeled “X of Y”, where X is the thumbdrive number and Y is the total number of thumbdrive submitted by the Proposer for that volume.

The thumbdrives for each volume shall be securely submitted bound inside the original copy of the relevant volume of the Proposal.

If there is any discrepancy between the content of the thumbdrive and the content of the paper-based submission, the content of the signed original Proposal submitted on paper shall take precedence.

**5.0 PRE-PROPOSAL MEETINGS**

**5.1 INFORMATIONAL MEETINGS**

- A) The Authority may hold joint informational meetings with all Proposers at any time prior to the Proposal Due Date; and
- B) The Authority may hold informational meetings with individual Proposers at any time prior to the specified Proposal Due Date. If individual informational meetings are offered to one or more Proposers, they will be offered to all Proposers.

**5.2 ATTENDEES**

If any informational meeting is held, the Proposer will be expected to attend with appropriate members of its proposed Key Personnel, and if required by the Authority, senior representatives of the proposed Contractor, the proposed Designer, the proposed Construction Inspection Firm and the proposed Materials and Testing Firm or Laboratory.

**5.3 QUESTIONS AND RESPONSES**

If any individual informational meeting is held, a question asked by any Proposer where a response is expected, will be recorded and the question and response will be provided in writing to all Proposers via the Project web site.



## **6.0 CONTRACT AWARD AND EXECUTION**

### **6.1 CONTRACT AWARD**

Unless all Proposals are rejected or this procurement is cancelled, the Contract shall be Awarded to the responsive Proposer offering a fully compliant Proposal that provides the “best value” to the Authority taking into consideration the quality and price factors discussed in this ITP.

Within five (5) business days after the selected Proposer is notified it has been selected as the Best Value Proposal, the selected Proposer shall:

- A) Notify the Authority in writing of the name and address of its agent for service of legal process for this Project. The Proposer shall not change that authorized agent without prior written notice to the Authority; and
- B) Provide the Authority, in writing, the Proposer’s Federal Internal Revenue Service Employer Identification Number.

Following selection of the Best Value Proposal, the Authority will deliver, for execution, sets of the Contract Documents to the selected Proposer. Within five (5) business days of receipt of said execution documents, the selected Proposer shall deliver to the Authority the following:

- A) The executed DB Agreement together with evidence (if not previously provided) as to the authority, power, and capacity of said individuals to bind the proposer to the Contract. If the selected Proposer is a joint venture or partnership, the DB Agreement must be executed by all joint venture members, or all partners.
- B) Required Payment and Performance Bonds (Form PAB and Form PEB);

Insurance requirements and forms available at:

<http://www.thruway.ny.gov/business/consultants/forms/index.html#insurance>

The following insurance documents are required:

- ACORD 25 (05/2010) à Available through insurance agency
- Supplemental Insurance Form (TA-W51349-9) à Available on NYSTA website
- Workers Compensation Forms (pick one) à Available through insurance agency
  - Form C-105.2 (private) or Form U-26.3 (State Insurance Fund)
  - Form SI-12 (Self Insurance) or Form GSI-105.2 (Group Self-Insurance)
  - CE-200
- Disability Benefits Insurance (pick one) à Available through insurance agency
  - Form DB-120.1
  - Form DB-155 (Self-Insurance)
  - CE-200 (for exemptions)
- C) Any other documents or requirements reasonably requested by the Authority in connection with the finalization of the Contract.

Failure to comply with the above requirements is a default and may result in forfeiture of the Proposal Bond.

## **6.2 EXECUTION OF CONTRACT**

In case of failure or refusal on the part of the successful Proposer to deliver the duly executed Contract to the Authority within the five (5) business day period herein mentioned, the amount of the Proposal Bond may be forfeited and paid to the Authority .

The selected Proposer shall have the right to withdraw the Proposal without penalty if the Authority fails to return a fully executed Contract to the Proposer on or before the later of: (i) 45 days following receipt of the signed Contract from the successful Proposer, Payment and Performance Bonds and other required documents; or (ii) 120 days following the Proposal Due Date.

If the selected Proposer fails to execute and deliver the DB Agreement within the time periods identified above, award of the Contract may be made to the Proposer whose Proposal was the next best value to the Authority, taking into consideration the quality and price factors identified below, or the Work may be re-advertised and completed under a different contract or otherwise, as the Authority may decide.

The Contract will not be effective until the DB Agreement has been fully executed and delivered by all of the parties thereto.

## **6.3 OBLIGATION TO AWARD**

The Authority shall be under no obligation to Award the Contract to:

- A) the Proposer submitting the lowest priced Proposal; or
- B) any Proposer, which has been included on the Short-List, or
- C) to award the Contract at all.

## **7.0 PROPOSAL EVALUATIONS**

The Authority has determined that award of the Contract based on a determination of the Proposal that offers the Best Value to the Authority, taking into consideration the quality and price factors discussed herein, provides the best opportunity to obtain the right Design-Builder to assure a successful Project.

Each Proposal will be evaluated on the pass/fail and quality evaluation factors identified herein. In order to be considered for award of the Contract, the Proposal must receive a “pass” rating on all pass/fail factors. The Proposal for the Project offering the Best Value to the Authority will be determined in accordance with the procedures outlined in Section 7.3 of this ITP General Instructions.

An Evaluation Team appointed by the Authority will determine the pass/fail status and overall quality rating of each Proposal before the Price Proposals are opened publicly and then evaluated by the Capital and Contracts Management staff. The Evaluation Team’s quality factor scoring will be submitted to the Authority’s Selection Committee and/or official for review and validation. At the public reading of the Price Proposals, the Capital and Contracts Management official will combine the quality ratings and pricing information contained in the Price Proposals and will announce the aparent Best Value determination. After validation of price, a recommendation to the Selection Official indicating which Proposal represents the “best value” to the Authority . The Selection Official will then assess

the Recommendation and make a final determination as to which Proposal offers the “best value” to the Authority, considering the quality and price factors set forth in the ITP.

The “best value” determination shall be based on the following:

- Proposal Price, which shall be 50% of the overall score; and
- Quality Evaluation, which shall be 50% of the overall score.

The Authority reserves the right to reject any or all Proposals, to waive technicalities, or to advertise for new Proposals, if in the judgment of the Authority the best interests of the State of New York will be promoted thereby.

## **7.1 EVALUATION FACTORS AND CRITERIA**

The factors identified in the ITP Section 7.1.1.1 through 7.1.1.5 will be evaluated on a “pass/fail” basis. The factors identified in the ITP Appendix A will be rated on how well the Proposer has met or exceeded the requirements. Price will be evaluated as specified in the ITP Section 7.1.3.

A Proposal must receive a “Pass” on all “Pass/Fail” evaluation factors listed in the ITP Section 7.1.1.1 through 7.1.1.5 for the Proposal to be further evaluated and rated based on the quality evaluation factors identified in the ITP Appendix A and the price factors identified in ITP Section 7.1.3.

### **7.1.1 “Pass/Fail” Evaluation Factors**

Each Proposal must achieve a rating of “Pass” on any “Pass/Fail” evaluation factor listed in ITP Sections 7.1.1.1 through 7.1.1.5 in order for the Proposal to be eligible for award.

Failure to achieve a “Pass” rating on any “Pass/Fail” factor will result in the Proposal being declared unacceptable and the Proposer being disqualified.

#### **7.1.1.1 Legal Pass/Fail Factors**

The Legal pass/fail requirements are as follows:

- A) Provision of a properly completed and executed Proposal Affidavit (Form NC, ITP Appendix E);
- B) Provision of evidence that the Persons proposed to carry out engineering, design, construction inspection and surveying within the State hold appropriate licenses or that they have the capability to obtain licensure prior to execution of Contract;
- C) Provision of all other specified forms and documents, properly completed and signed (if required) (see ITP Appendix B) that do not identify any material adverse information;
- D) The organizational documents shall show that the Proposer has legal capacity to undertake design and construction of the Project, shall include appropriate provisions for management and decision-making and a statement affirming that, if selected for contract award, in the event of bankruptcy or withdrawal by any member of the Design-Build Team, the Proposer will substitute a firm with equivalent or better qualifications to complete the project. Any such substitution must first be approved by the Authority before the substitute firm commences work on the project; and
- E) Compliance with any other legal requirements as identified in the ITP Appendix B.

#### 7.1.1.2 Financial Pass/Fail Factors

The financial pass/fail requirements are as follows:

- A) Financial information submitted does not indicate any material adverse change in the financial position (including business, assets, financial condition, credit rating and/or surety bonding capacity of any Principal Participant that was not reflected in an/or differs from its SOQ submission (inclusive of any subsequently required or approved modifications or additions to the Principal Participants described therein); and
- B) Provision of all other specified forms and documents, properly completed and signed (if required), and compliance with any other financial requirements, as identified in ITP Appendix B.

#### 7.1.1.3 Administrative Pass/Fail Factors

The administrative pass/fail requirements are as follows:

- A) Provision of all required forms included in ITP Appendix E, properly completed and signed (if required);
- B) Confirmation that the Principal Participants and Key Personnel listed in the Proposer's SOQ have either not changed since submission of the SOQ, or that the Proposer has previously advised the Authority of a change and received the Authority's written consent (an approved Form RFC) thereto;
- C) Provision of all information specified in ITP Appendices B and C in the manner, format, and detail specified, without alteration of the forms except as expressly permitted by the instructions; and
- D) No member of the Proposer's Team appears on the list (prohibited entities list) of "persons" who are engaged in "investment activities in Iran" as described in ITP Section 7.1.5.

#### 7.1.1.4 MWBE/SDVOB Compliance Pass/Fail Factors

The MWBE/SDVOB pass/fail requirements are as follows:

- A) The Proposer has demonstrated due diligence towards good faith efforts to maximize MWBE/SDVOB utilization for this contract;
- B) The completed Form LDB-List of Proposed MWBE/SDVOB Tables 1 & 2;
- C) The completed Form AAP-10-MWBE/SDVOB Solicitation Log; and
- D) The completed Form SDU – Schedule of DBE Utilization.

**Failure to achieve a "Pass" rating on this MWBE/SDVOB Compliance factor will result in the Proposal being declared unacceptable and the Proposer being disqualified.**

#### 7.1.1.5 Price Proposal Pass/Fail Factors

The pass/fail requirements relating to the Price Proposal are as follows:

- A) Provision of the Proposal Bond (see ITP Appendix E); and

- B) The Price Proposal is complete, fully conforms to the requirements of the RFP; is not significantly unbalanced relative to the scope of the Work; and does not contain inaccurate, incomplete, and/or unreasonable prices on Form SP (Schedule of Prices; see ITP Appendix E). A Price Proposal will be considered to be significantly unbalanced if it is unreasonably front-loaded and/or the amounts shown in Form SP do not reflect reasonable actual costs plus a reasonable proportionate share of the Proposer's anticipated profit, overhead costs, and other indirect costs which are anticipated for the performance of the items in question.

### 7.1.2 Quality Evaluation Factors

The quality evaluation factors are listed in ITP Appendix A.

The quality evaluation factors and subfactors listed in ITP Appendix A will be evaluated and rated using the evaluation guidelines specified in the ITP Appendix A with special attention given to the desired quality expressed in the statement of each factor and/or subfactor.

The Quality Evaluation Factor and Subfactor weighting is described in ITP, Appendix A.

**Proposals that receive a total combined quality points score less than 60 will not be selected for award.**

The ITP Appendix A describes the expectations of the Authority with regard to quality of Work to be performed and the related information to be submitted in the Technical Proposals. Along with the Project goals and objectives (see ITP Section 1.3), these goals and objectives will guide the Authority's evaluation of the factors and subfactors.

### 7.1.3 Price Evaluation

The Proposer shall submit its Pricing Information in accordance with the ITP Appendix D. The total price shown in the Pricing Information for the Project shall be the Contract Price, as agreed to by the Authority, less the unused portion of the lump sum price for the Design-Build – Force Account Work (Item No. 800.04000015), if the Contract is Awarded.

Specific information to be submitted is identified in the ITP Appendix D.

Each Proposal shall specify the sum for which the Work will be performed according to the RFP. The Authority reserves the right to reject any Proposal in which any of the prices are significantly unbalanced to the potential detriment of the Authority.

The Authority in its sole discretion may determine that the Price Proposal is non-responsive if the Price Proposal does not provide all information in conformance with the RFP.

### 7.1.4 Buy America Provision

The Project is subject to Buy America policies, which require a domestic manufacturing process for all steel or iron products that are permanently incorporated into a federal-aid highway construction project. The FHWA regulations permit a minimal use of foreign steel and iron in the amount of one-tenth of one percent of the Contract Price or \$2,500, whichever is greater, to be used in a federal aid project. This requirement is applicable to this project despite no Federal Funding is being utilized.

### 7.1.5 Iran Divestment Act of 2012

As a result of the Iran Divestment Act of 2012 (Act), Chapter 1 of the 2012 Laws of New York, a new provision has been added to the State Finance Law (SFL), § 165-a, effective April 12, 2012. This act may be viewed in its entirety at

<http://www.ogs.ny.gov/about/regs/docs/ida2012.pdf>.

Pursuant to SFL § 165-a(3)(b), the Commissioner of the Office of General Services (OGS) has developed and maintains a list (prohibited entities list) of “persons” who are engaged in “investment activities in Iran” (both are defined terms in the law). The list may be found on the OGS website at:

<http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>

By submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, the Proposer (or any assignee) certifies that, it will not utilize, on such Contract, any subcontractor that is identified on the prohibited entities list.

Additionally, any Contractor seeking to renew or extend a Contract or assume the responsibility of a Contract awarded in response to this solicitation, must certify at the time the Contract is renewed, extended or assigned that it is not included on the prohibited entities list.

During the term of the Contract, should the Authority receive information that a Bidder/Contractor (or any assignee) is in violation of the above-referenced certification, the Authority will offer the Bidder/Contractor (or any assignee) an opportunity to respond. If the Bidder/Contractor (or any assignee) fails to demonstrate that it has ceased its engagement in the investment which is in violation of the Act within 90 days after the determination of such violation, then the Authority shall take such action as may be appropriate including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The Authority reserves the right to reject any bid or request for assignment for an entity that appears on the prohibited entities list prior to the award of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the prohibited entities list after contract award.

## 7.2 EVALUATION GUIDELINES

### 7.2.1 Quality Evaluation Factors

The quality evaluation factors and the overall Technical Proposal will be rated by a numerical method.

### 7.2.2 Communications

The Authority, through its Designated Representative, may engage in communications with the Proposers, through their Designated Representatives, after receipt of Proposals, allowing Proposers to provide clarifications to their Proposals if the Authority elects to proceed with discussions and a request for revised Proposals. This process will be initiated by an e-mail request from the Authority to the Proposer identifying the information needed and a date and time by which the information must be provided. The Proposer shall provide the requested information in writing by the date and time indicated. If the requested information is not received timely, the Proposer’s ratings may be adversely affected and/or the Proposal may be declared unacceptable.

### **7.3 BEST VALUE DETERMINATION**

The Authority has determined that Award of the Project, based on a best value determination, provides the best opportunity to obtain the right Design-Builder to assure a successful Project. The time frame to complete the Project and the importance of quality in the completed Project resulted in the necessity to place the maximum possible flexibility in the hands of the Design-Builder to plan, design, construct and control the Project. Although price is an important factor, time and quality are also major factors in determining the Project's success. The Authority's Procedures for the evaluation and selection of Proposals were designed to provide a comprehensive evaluation of quality, that when combined with price, will result in the selection of the appropriate Design-Builder.

The Authority will rate the Proposals for pass/fail and quality. The Authority will perform an evaluation of factors (including subfactors) and price with the overall quality rating and price having the relative importance specified in the ITP Section 7.0. Based on the professional judgment of the Selection Official, the Authority will select the responsive Proposer providing a fully compliant Proposal that represents the Best Value to the Authority.

In determining the Best Value, the Authority will evaluate the factors and subfactors and assign an overall quality rating for each Proposer using the guidelines in the ITP Appendix A. The Authority will also determine whether the Price Proposals are responsive.

The Authority will not Award the Contract to any Proposer that receives a "fail" rating on any pass/fail factor or subfactor (ITP Sections 7.1.1.1 through 7.1.1.5). The Authority will not Award the Contract to any Proposer that the Authority determines has submitted a Non-responsive Price Proposal or who has not complied with MWBE/SDVOB requirements (see ITP Section 1.9). The Authority will not Award the Contract to any Proposer that receives a total combined quality points score less than 60.

### **7.4 POST SELECTION MEETINGS**

The Authority may meet with the selected Proposer prior to Award at any time after selection.

### **8.0 PROTESTS**

This ITP Section 8.0 sets forth the exclusive protest remedies available with respect to this RFP. Each Proposer, by submitting its Proposal, expressly recognizes the limitation on its rights to protest contained herein, expressly waives all other rights and remedies and agrees that the decision rendered on any protest, as provided herein, shall be final and conclusive. These provisions are included in this RFP expressly in consideration for such waiver and agreement by the Proposers. If a Proposer disregards, disputes or does not follow the exclusive protest remedies set forth in this RFP, it shall indemnify, defend and hold the Authority and its directors, officers, officials, employees, agents, representatives and consultants, harmless from and against all liabilities, expenses, costs (including attorneys' fees and costs), fees and damages incurred or suffered as a result of such actions. The submission of a Proposal shall be deemed the Proposer's irrevocable and unconditional agreement with such indemnification obligation.

#### **8.1 WRITTEN PROTESTS ONLY**

All protests must be in writing. Protests shall be submitted to the Protest Official designated below:

**Christopher O'Brien**  
**Attention: Cashless Tolling Design-Build Project**  
**Office of Legal Services**  
**New York State Thruway Authority**  
**200 Southern Blvd.**

**Albany, New York 12209, USA**

[email: Christopher.Obrien@thruway.ny.gov](mailto:Christopher.Obrien@thruway.ny.gov)

with a copy also sent to the Authority's Designated Representative at the address identified in ITP Appendix A.

Any protest not set forth in writing within the time limits specified in these procedures is null and void and shall not be considered. Protests regarding this RFP shall be filed only after the Proposer has informally discussed the nature and basis of the protest with the Authority, through the Authority's Designated Representative, in an effort to reach resolution.

## **8.2 PROTEST CONTENTS**

- A) All Protests must include the following:
- 1) The name and address of the Proposer;
  - 2) The Contract number;
  - 3) A detailed statement of the nature of the protest and the grounds on which the protest is made;
  - 4) All factual and legal documentation in sufficient detail to establish the merits of the protest. Evidentiary statements must be provided under penalty of perjury; and
  - 5) A summary of the remedy being requested.
- B) The protestor must demonstrate or establish a clear violation of a specific law, regulation, or procedure.
- C) The Authority will not be obligated to suspend or postpone the procurement process in any manner during the protest.
- D) If the protest is denied, the protestor may be liable for the Authority's costs reasonably incurred in any action to defend against or resolve the protest, including legal and consultant fees and costs, and any unavoidable damages sustained by the Authority as a consequence of the protest. If the protest is granted, the Authority shall not be liable for payment of the protestor's costs, including, but not limited to, legal and consultant fees and costs.

## **8.3 TIME FOR FILING**

- A) Protests filed before the Proposal Due Date:

A protest based on alleged improprieties in the solicitation shall be filed before said Technical Proposal Due Date. A protest based on alleged improprieties arising from modifications to the original solicitation shall be filed not later than the next closing date for receipt of proposals following the modification.

- B) Protests filed after selection of Best Value Proposal:

If the Authority selects a best value Proposal, a debriefing will be made available to any unsuccessful Proposer that submitted a Proposal in response to this Request for Proposals. A qualifying unsuccessful Proposer, if it wishes to have a debriefing, must make a request in writing to the Authority's Designated Representative indicated in ITP Appendix A, within four (4) business days of notification that another Proposer was selected. The debriefing shall occur within seven (7) business days of the Department's receipt of an unsuccessful Proposer's request. An unsuccessful Proposer



may not file a protest until after the debriefing. The protest shall be filed no later than four (4) business days after the debriefing.

#### **8.4 PROTEST DISCUSSIONS**

The Protest Official may, in his/her discretion, discuss the protest with the protestor prior to issuance of the Protest Official's written decision. The protestor shall have the burden of proving its protest by clear and convincing evidence. No hearing will be held on the protest, but it shall be decided, on the basis of the written submissions, by the Protest Official or his/her designee, whose decision shall be final and conclusive. The Protest Official or his/her designee shall issue a written decision regarding any protest.

#### **8.5 RIGHT OF APPEAL**

- A) In the event that a protestor receives an unfavorable decision from the Protest Official to its protest, the protestor shall have the right to appeal the decision of the Protest Official by submitting a written appeal to the Executive Director or designee within seven days after receipt of the decision of the Protest Official, with a copy sent to the Authority's Designated Representative. The Authority will appoint a Protest Committee of at least three members to review the protest and the decision of the Protest Official;
- B) The Protest Committee will notify the protestor in writing in a prompt manner of its decision regarding the protest and the appeal; and
- C) If the matter is not resolved after the appeal, the protestor may continue the protest by appeal to judicial authority.

#### **8.6 IRREVOCABILITY OF PROPOSALS PENDING RESOLUTION OF PROTEST**

All Proposals shall be irrevocable until final administrative and judicial disposition of a protest.

### **9.0 THE AUTHORITY'S RIGHTS AND DISCLAIMERS**

#### **9.1 THE AUTHORITY'S RIGHTS**

The Authority may investigate the qualifications of any Proposer under consideration, may require confirmation of information furnished by a Proposer, and may require additional evidence of qualifications to perform the Work described in this RFP. Without limiting any other right expressly reserved by the Authority, the Authority reserves the right, in its sole and absolute discretion, to:

- A) Reject any or all Proposals;
- B) Issue a new RFP;
- C) Cancel, modify or withdraw the entire RFP;
- D) Issue addenda to this RFP;
- E) Modify the RFP process (with appropriate notice to Proposers);
- F) Appoint the Selection Official, Selection Committee and evaluation teams to review Proposals;
- G) Seek the assistance of outside technical experts and consultants in Proposal evaluation;
- H) Use proposal information provided through site visits, management interviews, and the State's investigation of a Proposer's qualifications, experience, ability or financial standing, and any material or information submitted by the Proposer in response to the Authority's request for clarifying information in the course of evaluation and/or selection under the Request For

## New York State Thruway Authority

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Proposals;

- I) Approve or disapprove the use of particular subcontractors and/or substitutions and/or changes in a Proposer's organization;
- J) Revise and modify, at any time before the Proposal Due Date, the factors it will consider in evaluating Proposals and to otherwise revise or expand its evaluation methodology. The Authority will post any such revisions or modifications on the Authority's Web site. The Authority may extend the Proposal Due Date if such changes are deemed by the Authority, in its sole discretion, to be material and substantive;
- K) Prior to the Proposal Due Date, amend the RFP specifications to correct errors or oversights, or to supply additional information, as it becomes available, or to direct bidders to submit proposal modifications addressing subsequent RFP addenda;
- L) Hold meetings and communicate with the Proposers responding to this RFP to seek an improved understanding and evaluation of the Proposals. If meetings are held, all Proposers that submitted a responsive Proposal shall be afforded an opportunity to participate in a meeting;
- M) Seek or obtain data from any source that has the potential to improve the understanding and evaluation of the Proposals;
- N) Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding of a Proposer's proposal and/or to determine a Proposer's compliance with the requirements of the solicitation;
- O) Offer a Proposer the opportunity to clarify its Proposal, including the opportunity to identify a guarantor and provide financial information for such entity;
- P) Waive Weaknesses, informalities and minor irregularities in Proposals, and seek and receive clarifications to a Proposal;
- Q) Waive any requirements that are not material;
- R) Hold discussions and/or request revisions to Proposals;
- S) Disqualify any Proposer that changes its organization (as represented in its SOQ) without Authority written Approval;
- T) Disqualify any Proposer whose conduct and/or proposal fails to conform to the requirements of the RFP;
- U) Make an award under the Request For Proposals in whole or in part;
- V) Hold the Proposals under consideration for a maximum of 120 days after the specified Proposal Due Date until the final Award is made; and/or
- W) Refuse to consider a Proposal, once submitted, or reject a Proposal if such refusal or rejection is based upon, but not limited to, the following:
  - 1) Failure on the part of a Principal Participant to pay, satisfactorily settle, or provide security for the payment of claims for labor, equipment, material, supplies, or services legally due on previous or ongoing contracts with the Authority or other State agency;
  - 2) Default on the part of a Principal Participant or Designer under previous contracts with the Authority or other State agency;
  - 3) Documented unsatisfactory performance of previous work by the Proposer, a Principal

- Participant and/or Designer under previous contracts with the Authority or other State agency;
- 4) Issuance of a notice of debarment or suspension to the Proposer, a Principal Participant and/or Designer;
  - 5) Submittal by the Proposer of more than one Proposal in response to this RFP under the Proposer's own name or under a different name;
  - 6) Existence of an organizational Conflict of Interest, or evidence of collusion between a Proposer (or any Principal Participant or Designer) and other Proposer(s) (or Principal Participants or Designer) in the preparation of a proposal or bid for any Authority design or construction project;
  - 7) Uncompleted work or default on a contract in another jurisdiction for which the prospective Proposer or a Principal Participant is responsible, which in the judgment of the Authority might reasonably be expected to hinder or prevent the prompt completion of additional work if awarded;
  - 8) Failure to have a current Vendor Responsibility Questionnaire on file with the Authority;
  - 9) Any other reason affecting the Proposer's ability to perform, or record of business integrity; and/or
  - 10) The Proposer is not otherwise qualified and eligible to receive an award of the Contract under applicable laws and regulations.

## **9.2 BEST AND FINAL OFFERS**

The Authority reserves the right, in its sole discretion, to request Best and Final Offers (BAFOs) from all Proposers that are determined to be susceptible for Contract Award. Proposers should not assume that the Authority will in fact request Best and Final Offers.

## **9.3 THE AUTHORITY DISCLAIMERS**

This RFP does not commit the Authority to enter into a Contract, nor does it obligate the Authority to pay for any costs incurred in preparation and submission of Proposal(s) or in anticipation of a Contract. By submitting a Proposal, a Proposer disclaims any right to be paid for such costs.

The execution and performance of a Contract pursuant to this RFP is contingent upon sufficient appropriations and authorizations being made by the Legislature of New York, or the Congress of the United States if federal funds are involved, for performance of a Contract between the successful Proposer and the Authority.

In no event shall the Authority be bound by, or liable for, any obligations with respect to the Work or the Project until such time (if at all) as the Contract, in form and substance satisfactory to the Authority, has been executed and authorized by the Authority and, then, only to the extent set forth therein.

In submitting a Proposal in response to this RFP, the Proposer is specifically acknowledging these disclaimers.

**10.0 Design-Builder’s use of the Thruway System**

**10.1 ADDITIONAL INSURED PARTIES**

The following is a list of additional insured parties:

To Be provided by the selected Best Value Design-Builder

Note: In Addition to the list of additional insured parties to be identified herein, the Design-Builder shall also notify Mr. Thomas A. Dugan, Supervisor, Insurance Compliance via letter

**10.2 NON-REVENUE PASS PLATES**

Non-revenue pass plates will be furnished to the Design-Builder Team *ONLY* for projects that have work within a Thruway Ticketed System corridor area.

Non-revenue pass plates will be furnished to the Design-Builder for use between:

*(Based on the AETC “Go Live date” of Best Value Designated Design-Builder’s Date)*

For all other work within Thruway project limits, the Design-Builder shall be responsible for any and all tolls charged to the Design-Builder’s owned vehicles with (or without) E-ZPass Transponders that pass through All Electronic Toll Collection or Cashless Tolling systems.

**10.3 OTHER CONTRACTS**

The Design-Builder will be required to coordinate work with other contractors and NYSTA maintenance forces. The following contracts have been let and may have work in progress during the duration of this contract:

<u>CONTRACT NO.</u>	<u>DESCRIPTION</u>	<u>COMPLETION DATE</u>
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*(Provided by Designer - Check Contracts Program and Letting Schedule for information)*

## New York State Thruway Authority

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The following contracts are anticipated to be let and may have work in progress during the duration of this contract:

### **DESCRIPTION**

*(Provided by Designer - Check Contracts Program and Letting Schedule for information)*

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**10.4 U-TURNS/CROSSOVERS**

The Contractor may be permitted to use official median openings for U-turns and crossovers as provided below. Official median openings are available at the following locations:

**New York Division Crossovers**

12/31/18

**I-87**

<b>Milepost</b>	<b>Use Code(s)</b>	<b>Milepost</b>	<b>Use Code(s)</b>
30.1 (Exit 15 @ NJ State Line)	4	52.78	3, 7
30.1 (Exit 15 between SB D & NB A-Ramps)	3	55.39	2**, 3
33.83	4	58.21	2, 3
36.00	1**, 3	59.63	2, 3
38.84	2**, 3	60.53	2, 3
41.22	2, 3	61.89	2, 3
43.28	3, 7	64.58	3, 7
45.69	3, 7	66.14	3, 7
46.80	2, 3	69.04	2
49.21	2, 3	72.78	1
50.21	2, 3	75.61	3
51.30	2, 3	76.85 (Albany Division)	7

**GSP - Garden State Parkway**

<b>Milepost</b>	<b>Use Code(s)</b>
0.55	2, 3
1.80	2, 3
2.35 (NJ State Line)	2, 3

**I-287 - Cross Westchester Expressway**

<b>Milepost</b>	<b>Use Code(s)</b>
10.4	4

**I-95 - New England**

<b>Milepost</b>	<b>Use Code(s)</b>
3.3 (NYC Line)	3, 7
7.0 (New Rochelle Tolls)	4

**New York State Thruway Authority**

**New York Division U-Turn/Crossovers**

**USAGE RESTRICTION CODES**

<b><u>CODE</u></b>	<b><u>DESCRIPTION</u></b>
<b>1</b>	CARS AND PICKUP TRUCKS ONLY
<b>2</b>	VEHICLES OVER 10,000 LBS MUST U-TURN FROM RIGHT SHOULDER
<b>3</b>	<u>NO USAGE DURING COMMUTER/HIGH TRAFFIC VOLUME PERIODS</u>
<b>4</b>	<b><u>NO USE ALLOWED/EMERGENCY ONLY</u></b>
<b>5</b>	ALL VEHICLES MUST TURN FROM RIGHT SHOULDER
<b>6</b>	OBSERVER MAY BE REQUIRED
<b>7</b>	VEHICLES MAY TURN FROM LEFT SHOULDER

(\*\*) Notes **Can Enter U-turn from Left Shoulder But MUST use Right shoulder for Acceleration**

**Albany Division Crossovers**

Revised – 12/31/2018

<b><u>Milepost</u></b>	<b><u>Use Code</u></b>	<b><u>Milepost</u></b>	<b><u>Use Code</u></b>	<b><u>Milepost</u></b>	<b><u>Use Code</u></b>
76.85	2	123.80	2	176.00	2
78.16	2	124.92	2	178.47	7
78.80	2	126.80	2	180.05	2
80.72	2	127.50	2	181.82	2
81.85	7	130.40	7	182.80	7
83.60	2	132.74	2	184.90	2
84.42	2	135.35	2	187.10	2
86.12	2	137.03	2	187.68	2
89.00	2	138.93	2	190.22	2
90.87	2	141.18	7	190.80	2
91.80	2	142.84	7	193.57	2
93.70	7	145.15	7	194.75	2
95.40	2	147.20	7	197.37	2
97.20	2	148.48	7	197.70	7
98.00	2	149.90	1,3	B0.0	7
100.75	2	151.43	7,3	B0.296	1
101.70	2	153.15	1,3	B1.92	2

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103.00	2	154.30	4	B2.87	2
103.78	2	158.00	4	B6.24	2
104.75	2	159.78	2	B7.12	2
105.80	2	161.48	1	B8.75	2
107.78	2	162.85	2	B9.95	2
109.52	2	165.55	2	B11.15	2
112.70	2	167.10	7	B13.8	2
114.50	7	167.95	2	B15.7	2
115.15	2	168.87	2	B20.3	2
118.15	7	171.48	2	B21.65	2
119.40	2	172.00	2	B23.1	2
120.07	2	173.12	2	B24.2	2
122.39	2	174.75	2		



**Albany Division Crossovers**

**USAGE                      RESTRICTION                      CODES**

<b><u>CODE</u></b>	<b><u>DESCRIPTION</u></b>
<b>1</b>	<b>CARS AND PICKUP TRUCKS ONLY</b>
<b>2</b>	<b>VEHICLES OVER 10,000 LBS MUST TURN FROM RIGHT SHOULDER</b>
<b>3</b>	<b>NO USAGE DURING COMMUTER HOURS</b>
<b>4</b>	<b><i>NO USE ALLOWED</i></b>
<b>5</b>	<b>ALL VEHICLES MUST TURN FROM RIGHT SHOULDER</b>
<b>6</b>	<b>OBSERVER MAY BE REQUIRED</b>
<b>7</b>	<b>VEHICLES MAY TURN FROM LEFT SHOULDER</b>

**NOTE:** The above listed codes shall not apply to vehicles engaged in highway operations such as snowplowing (snow & ice), provided the width of the crossover is longer than the vehicle making the U-Turn. These vehicles are exempt by the Thruway Traffic Safety Manual, section 7.6.1 and NYS Vehicle and Traffic Law, section 1103.

**Syracuse Division Crossovers**

Revised 12/03/18

<b><u>Milepos</u></b> <b><u>†</u></b>	<b><u>Use</u></b> <b><u>Code</u></b>	<b><u>Milepos</u></b> <b><u>†</u></b>	<b><u>Use</u></b> <b><u>Code</u></b>	<b><u>Milepos</u></b> <b><u>†</u></b>	<b><u>Use</u></b> <b><u>Code</u></b>
197.37	2	255.60	2	302.08	7
197.70	2	257.225	2	303.53	7
200.08	2	259.075	2	304.89	2
202.53	2	261.125	2	308.11	2
205.24	2	262.60	2	309.36	2
208.13	2	263.885	2	310.97	2
209.49	2	266.05	2	312.35	2

New York State Thruway Authority

210.38	2	266.71	2	313.32	2
211.41	2	268.90	2	314.65	5
212.73	2, 6	270.85	2	316.59	2
214.66	2	272.81	2	317.59	2
216.53	2	275.50	2	319.95	2
218.77	2	276.18	2	320.85	2
220.30	2	277.27	2	323.37	2
223.18	2	278.435	3, 2	324.75	2
225.57	2	279.80	3, 2	326.23	2
226.62	2	282.50	2	327.51	2
227.48	2	284.13	3, 2	330.15	2
229.21	5	284.80	3, 2	332.4	2
231.13	2	285.00	4	334.45	2
237.92	2	286.00	3, 2	336.77	2
239.42	2	288.13	4	337.41	2
242.67	2	288.60	2	339.61	2
243.75	1	290.11	7	340.51	2
244.50	2	290.97	7	343.73	2
246.90	2	293.04	7	345.33	2
248.77	2	294.89	7	346.71	5
250.55	2	296.40	7	351.39	2
252.20	2	297.63	7		
253.39	2	299.60	7		

**Syracuse Division Crossovers**

**USAGE RESTRICTION CODES**

<u>CODE</u>	<u>DESCRIPTION</u>
<b>1</b>	CARS AND PICKUP TRUCKS ONLY
<b>2</b>	VEHICLES OVER 10,000 LBS MUST TURN FROM RIGHT SHOULDER

New York State Thruway Authority

<b>3</b>	NO USAGE DURING COMMUTER HOURS
<b>4</b>	<i>NO USE ALLOWED</i>
<b>5</b>	<i>ALL VEHICLES MUST TURN FROM RIGHT SHOUDLER</i>
<b>6</b>	OBSERVER MAY BE REQUIRED
<b>7</b>	VEHICLES MAY TURN FROM LEFT SHOULDER

**NOTE:** The above listed codes shall not apply to vehicles engaged in highway operations such as snowplowing (snow & ice), provided the width of the crossover is longer than the vehicle making the U-Turn. These vehicles are exempt by the Thruway Traffic Safety Manual, section 7.6.1 and NYS Vehicle and Traffic Law, section 1103.

**Buffalo Division Crossovers**

Revised: 01-04-2019

Highway	Location	Use Code
I-90	351.39	4
I-90	354.20	1
I-90	356.60	7
I-90	359.03	7
I-90	362.08	1
I-90	363.00	1
I-90	365.31	7
I-90	366.20	1
I-90	369.21	1
I-90	371.00	1
I-90	371.59	7
I-90	374.77	7
I-90	375.97	7
I-90	378.23	7
I-90	379.04	7
I-90	381.40	7
I-90	382.19	4
I-90	383.80	7
I-90	385.00	7
I-90	387.65	1

Highway	Location	Use Code
I-90	430.57	3
I-90	431.90	3
I-90	432.87	1
I-90	434.10	7
I-90	435.88	4
I-90	436.82	3
I-90	440.46	7
I-90	441.98	7
I-90	443.96	7
I-90	445.28	7
I-90	446.88	7
I-90	448.35	7
I-90	451.59	7
I-90	452.30	7
I-90	453.57	7
I-90	454.40	4
I-90	454.57	4
I-90	455.19	4
I-90	456.06	4
I-90	458.31	1

Highway	Location	Use Code
I-190	0.62	4
I-190	14.20	4
I-190	15.10	4
I-190	16.80	1
I-190	17.80	4
I-190	19.00	4
I-190	20.20	4

New York State Thruway Authority

I-90	389.61	1	I-90	460.28	1
I-90	390.47	1	I-90	461.67	1
I-90	393.71	7	I-90	463.62	1
I-90	397.01	1	I-90	467.13	1
I-90	397.72	1	I-90	468.10	1
I-90	399.42	7	I-90	470.45	7
I-90	401.21	1	I-90	474.07	7
I-90	402.40	4	I-90	475.70	7
I-90	404.90	7	I-90	478.37	7
I-90	409.40	7	I-90	479.02	4
I-90	409.54	7	I-90	481.50	7
I-90	412.87	7	I-90	484.47	7
I-90	414.67	7	I-90	485.75	7
I-90	416.40	4	I-90	488.35	7
I-90	417.70	4	I-90	490.97	7
I-90	418.63	7	I-90	493.12	7
I-90	419.60	3	I-90	494.45	3
I-90	419.80	3	I-90	494.55	3
I-90	430.44	3	I-90	495.97	7

Usage Codes	
1	CARS AND PICKUP TRUCKS ONLY
2	VEHICLES OVER 10,000 LBS MUST TURN FROM RIGHT SHOULDER
3	NO USAGE DURING COMMUTER HOURS
4	NO USE ALLOWED
5	ALL VEHICLES MUST TURN FROM RIGHT SHOUDLER
6	OBSERVER MAY BE REQUIRED
7	VEHICLES MAY TURN FROM LEFT SHOULDER

U-turns and crossovers will not be permitted at toll plazas or on interchange ramps. In addition, tractor trailer combinations are prohibited from U-turns at any location on the Thruway system. These vehicles must exit the Thruway system and re-enter for all direction changes. U-turns may be permitted within a maintenance facility, however, with prior approval from the Authority's Project Manager All applicable traffic laws must be followed.



# **CASHLESS TOLLING**

TA 19-1, Contract D800002

## **REQUEST FOR PROPOSALS**

## **INSTRUCTIONS TO PROPOSERS**

### **APPENDIX A**

### **PROJECT INFORMATION**

**DRAFT January 24, 2019**

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## **A1.0 DESCRIPTION OF THE PROJECT**

The Project involves Design-Build services for the change to Cashless Tolling (the “Project”) along the entire NYSTA corridor of the remaining Thruway System. The Project is located in the following municipalities and counties in New York State: Orange, Ulster, Greene, Albany, Schenectady, Montgomery, Herkimer, Oneida, Madison, Onondaga, Cayuga, Seneca, Ontario, Monroe, Genesee, Erie, Chautauqua, Rensselaer and Columbia Counties

### **A) PROJECT SCOPE OF WORK;**

The scope of work for the Project includes but is not limited to the following items:

This Design-Build project involves the design and construction of “Cashless Tolling” on the New York State Thruway ticketed system from approximately NYS Thruway Exits 16 to 61 (MP 45.00 to MP 496.00).

#### Mainline Tolling Gantries

The work to be performed varies at each Toll Plaza location with Cashless Tolling to be implemented by demolishing Toll Booths and replacing them with Overhead Gantries on the Thruway Mainline.

The Mainline Tolling are comprised of eleven (11) interchange-to-interchange connections and five (5) terminus points on the current ticketed system and shall involve the strategic cost effective placement of gantries, the removal of toll plazas, the reduction (in most locations) of the infrastructure footprint, positive separation of opposing traffic, signing, striping, design and construction modifications of super elevations to accommodate higher speeds through the gantry areas and modified toll plazas areas, landscaping, electronic work, communication building construction (Communication Buildings), possible tandem lot access modifications or closures or relocations, and/or solutions to provide safe ingress and egress to and from the Thruway System.

Mainline Gantries are required at the following locations: between 22 (Selkirk) and 23 (Boulevard), between 23 (Boulevard) and 24 (Washington Ave.), between 24 (Washington Ave.) and 25 (Schenectady), between 25 (Schenectady) and 25A (Duanesburg), between 25A (Duanesburg) and 26 (Rotterdam), between 34 (Canastota) and 34A (Collamer), between 34A (Collamer) and 35 (Thompson Road), between 35 (Thompson Road) and 36 (Mattydale), between 36 (Mattydale) and 37 (Electronics Parkway), between 38 (Liverpool) and 39 (State Fair), between 39 (State Fair) and 40 (Weedsport), between 43 (Manchester) and 44 (Canandaigua), between 44 (Canandaigua) and 45 (Victor), between 45 (Victor) and 46 (Henrietta), between 46 (Henrietta) and 47 (Leroy), between 47 (Leroy) and 48 (Batavia),

Mainline Gantries are also required at the following Terminus Locations: Woodbury (Approx. MP 45.03), Canaan (Approx. MP 17.83), Williamsville (Approx. MP 419.60); Lackawanna (Approx. MP 430.52), Ripley (Approx. MP 494.51).

Refer to Part 7, Engineering Data, Section 1 for the limits of where Mainline Gantries may be constructed, and the secure information sent to the Proposers after the non-disclosure agreement was signed.

The Design-Builder shall be responsible for demolition of existing Toll Plaza Communication Buildings (TUBs) at the following Terminus locations: Woodbury (MP 45.03) and Canaan (MP 17.83). Also, TUB removals are required at the Interchange locations of: Exit 23 (Boulevard), Exit

24 (Washington Ave.), Exit 25 (Schenectady), Exit 25A (Duanesburg), Exit 34A (Collamer), Exit 36 (Mattydale), Exit 39 (State Fair), Exit 44 (Canandaigua), Exit 45 (Victor), Exit 46 (Henrietta), and Exit 47 (Leroy).

The Mainline Tolling Gantries will have equipment provided and installed by Kapsch (Thruway provider).

Toll Plazas shall be demolished at the following terminus locations: 15 (Woodbury, MP 45.03), B3 (Canaan, MP 17.83), Williamsville (MP 419.69, Lackawanna (MP 430.51), and Ripley (MP 494.51) and interchange Locations Exit 23 (Boulevard), Exit 24 (Washington Ave.), Exit 25 (Schenectady), Exit 25A (Duanesburg), Exit 34A (Collamer), Exit 36 (Mattydale), Exit 39 (State Fair), Exit 44 (Canandaigua), Exit 45 (Victor), Exit 46 (Henrietta), and Exit 47 (Leroy), along with Exit 35 (Thompson Road).

The Design-Builder shall be responsible for modifying the footprint (reducing) leading into and out of the Toll plazas, which will involve pavement work, positive separation of opposing traffic flow, potential reduction and modification of conflicting traffic moves such as Park and Ride Lots, tandem Lots, Thruway Maintenance vehicles ingress and egress to Maintenance Yards, and State Police ingress and egress to State Police facilities. Project also includes signing, placement of barrier/guiderail to delineate active lanes, striping, drainage, etc.

#### Open Road Tolling (ORT) Gantries

The work to be performed varies at each Toll Plaza location with Cashless Tolling to be implemented by demolishing Toll Booths and replacing them with Overhead Mini-Gantries at the Open Road Tolling locations. Open Road Tolling (ORT), formerly Toll-in-Place, is required at the following Exits:

B1 (Post Road), B2 (Taconic), 18 (New Paltz), 19 (Kingston), 20E (Saugerties E.), 20W (Saugerties W.), 21 (Catskill), 21B (Coxsackie), 22 (Selkirk), 26 (Rotterdam), 27 (Amsterdam), 28 (Fultonville), 29 (Canajoharie), 29A (Little Falls), 30 (Herkimer), 31 (Utica), 32 (Westmoreland), 33 (Verona), 34 (Canastota), 37 (Electronics Parkway), 38 (Liverpool), 40 (Weedsport), 41 (Waterloo), 42 (Geneva), 43 (Manchester), 48 (Batavia), 48A (Pembroke), 49 (Depew), 56 (Blasdell), 57 (Hamburg), 57A (Eden-Angola), 58 (Silvercreek), 59 (Dunkirk), and 60 (Westfield).

The Design-Builder shall be responsible for modifying the footprint leading into and out of the ORT Toll plazas, which will involve pavement work, new treadle installations, potential positive separation of opposing traffic flow, potential modification of conflicting traffic moves such as "Park and Ride" Lots, Tandem Lots, Thruway Maintenance vehicles ingress and egress to Maintenance Yards, and State Police ingress and egress to State Police facilities. Project also includes signing, placement of barrier/guiderail to delineate active lanes, striping, drainage, VMS installations, striping, etc.

ORT Toll Plazas shall be demolished at the following locations: B1 (Post Road), B2 (Taconic), 18 (New Paltz), 19 (Kingston), 20E (Saugerties E.), 20W (Saugerties W.), 21 (Catskill), 21B (Coxsackie), 22 (Selkirk), 26 (Rotterdam), 27 (Amsterdam), 28 (Fultonville), 29 (Canajoharie), 29A (Little Falls), 30 (Herkimer), 31 (Utica), 32 (Westmoreland), 33 (Verona), 34 (Canastota), 37 (Electronics Parkway), 38 (Liverpool), 40 (Weedsport), 41 (Waterloo), 42 (Geneva), 43 (Manchester), 48 (Batavia), 48A (Pembroke), 49 (Depew), 56 (Blasdell), 57 (Hamburg), 57A (Eden-Angola), 58 (Silvercreek), 59 (Dunkirk), and 60 (Westfield).

### Special Exit Work Tolls

Miscellaneous work will be required Exit 16 – Harriman, Exit 17 (Newburgh) and Exit 35.

The Toll-in-Place at Newburgh shall require the Design-Builder to install some signage, protective barrier installations, striping modifications, possibly limited attenuator installations, and new signage packages, including new VMS installations on the canopy on entry to the Thruway only – Newburgh entry to Thruway.

Also at Exit 35 there is no new equipment or Mainline Gantry or Mini-Gantry installation required. The work at this location will involve Toll Booth removal, potential concrete repairs, and possibly new super elevation and signage package(s), during transition to All Electronic Tolling, and necessary striping.

Lastly, Exit 16 (Harriman) shall require the removal of special Tolling Booths at certain exit points. This work needs to be complete immediately after the Toll-in-Place transition to All Electronic Tolling. Additional signage package is expected.

### Mainline and Open Road Tolling (ORT) Tolls & Special Exit Work Tolls

The Design-Builder shall design, construct, inspect all locations relative to the Mainline Gantries and Mini-Gantries that supports the Mainline Tolling Equipment and the Open Road Tolling Equipment respectfully, along with the removal of the Toll Booths at the locations identified above after all electric tolling (AET) is operational across this Project's ticketed system. These locations shall require reduction in the roadway footprints. Surfaces may require road surface repairs, traffic control involving Toll Booth removal, concrete repairs, Mini-Gantry erection, installation of treadles, installation of concrete roadway surfaces, other work may involve sign package installations prior to All Electronic Tolling going live and after All Electronic tolling is live.

The Cashless Tolling System shall be operational prior to December 15, 2020, removal of Toll Booths and correction of Toll Plaza pavements and other modifications, as required, completed prior to December 15, 2021. The Cashless Tolling System has to be converted over in one evening (Saturday evening to Sunday morning), essentially at the same time. The only exception to this is the Erie Section, Lackawanna to Ripley, (MP 430.51 to MP 496.00), which can precede the rest of the ticketed system by no more than four (4) months but shall not follow the rest of the ticketed system.

The Project scope of work will also include but not be limited to the following:

- Coordination with and/or preservation of existing utilities;
- Potential remediation and disposal of asbestos containing material;
- Potential remediation and disposal of lead paint;
- Installation of new guide railing;
- Other details, constraints, and/or limitations will be specified in this RFP.



## A2.0 PROJECT OVERARCHING GOALS

The Authority's goals and objectives for the Project are to:

- A) Ensure a long-service life for all Project elements to satisfy long term preservation goals.
- B) Ensure the safety of the traveling public;
- C) Maximize the impact of the public investment project by:
  - 1) Providing cost-effective solutions.
  - 2) Sequencing construction to minimize effects on vehicular traffic operations;
  - 3) Reducing future maintenance requirements thus reducing future impacts to the traveling public while conducting maintenance activities or conducting inspection requirements of the final infrastructures; and
  - 4) Minimizing impacts on the environment.
- D) Deliver the Project safely, on schedule and within budget.
- E) Ensure coordination with affected utility owners, third parties, the surrounding residential community, Project stakeholders and any adjacent construction projects.
- F) Provide Best Value to the Authority.
- G) Improve overall traffic conditions using cost effective methods to reduce delays at toll collection locations.

- H) Improve safety at Toll Collection locations by eliminating conflict points for travelers and eliminating the need to stop to pay tolls.
- I) Provide improved operational efficiencies in and around the Project area(s).

**A3.0 PROJECT LABOR AGREEMENT**

A Project Labor Agreement will not be required on this Project.

**A4.0 REFERENCE DOCUMENTS**

Reference Documents include but may not be limited to the following Documents:

**A) LIST PROJECT REFERENCE DOCUMENTS**

- Final Design Approval Documents
- ROW Boundary MicroStation File;
- Survey/Topographic Base Mapping
- Survey/Topographic Digital Terrain
- As-Built or Record Plans of Roadways
- Traffic Count and Other Traffic Information
- Geotechnical Information
- Subsurface Soil Borings in close
- Hazardous Material Screening Reports
- State Wetland Assessment Information
- Utility owner and permit information
- Tandem lot locations and counts
- Park and ride lots and counts

Additional documents may be posted to the project website when they become available. Proposers are advised to check the Project web site regularly.

Reference Documents are located at the following Web site address:

<http://www.thruway.ny.gov/business/design-build/index.html>

**A5.0 PROCUREMENT SCHEDULE**

**A5.1 ANTICIPATED PROCUREMENT SCHEDULE**

The Authority anticipates the following procurement schedule for the Contract:

<b>Activity</b>	<b>Date</b>
Informational Meeting	January 30, 2019
Final RFP to Shortlisted Firms	February 13, 2019

New York State Thruway Authority

Date Proposers may start submitting ATCs for review	February 16, 2019
Proposal period one-on-one meetings with all Proposers.	February 14 – March 20, 2019
Final date for Proposers to submit ATC's for review	March 25, 2019
Final date for requests for changes to Proposer's organization and/or personnel	April 3, 2019
Final date for Authority's responses to ATCs submitted for review	April 3, 2019
Final date for receipt of Proposer questions	April 12, 2019
Final date for Proposers to respond to conditional approval of ATC's	April 23, 2019
Issue Date for Final Addendum and/or answers to Proposer questions	April 23, 2019
Technical Proposal Due Date	May 13, 2019
Price Proposal Due Date	June 6, 2019
Design-Builders Meeting to Identify Apparent Best Value	June 6, 2019
Confirmation – Selection of Best Value	June 10, 2019
Post Proposal meetings (if required)	TBD
Limited Negotiations (if required)	TBD
Anticipated Contract Award	July 16, 2019
Notice to Proceed	July 22, 2019

This is a tentative schedule. All dates set forth in the preceding table and in this RFP are subject to change at the Authority's sole discretion. To the extent that dates are changed, the Authority shall notify the Proposers by Addendum.

**A5.2 TECHNICAL PROPOSAL DUE DATE**

The completed Technical Proposal (Volumes 1 & 2) shall be delivered to the Authority's Designated Representative at the address specified in Section A8.0, no later than 12:00 P.M. (midday) (Eastern Time), on the date specified in Section A5.1 (the "Technical Proposal Due Date").

**A5.3 PRICE PROPOSAL DUE DATE**

The completed Price Proposal (Volume 3) shall be delivered to the Authority's Designated Representative at the address specified in Section A8.0, no later than 12:00 P.M. (midday) (Eastern Time), on the date specified in Section A5.1 (the "Price Proposal Due Date").

**A6.0 CONFLICT OF INTEREST**

It is prohibited to hire any person or organization that has a “conflict of interest”. Because of their prior work, the following firms have been identified as having conflicts of interest that prevent their consideration for the pending Project. Due to a conflict of interest based on services currently being provided that are related to this Project, Proposers may not include the services of the following firm(s):

- C.V. Associates NY; PE, LS, P.C.
- SJH Engineering, PC
- Popli, Architecture & Engineering, L.S., DPC
- Shumaker Consulting, Engineering and Land Surveying, PC
- WSP USA Inc.
- Kapsch
- Adesta
- Kuritas

Proposers utilizing firm(s) identified above will be disqualified from participating in this Project.

**A7.0 M/WBE AND SDVOB PARTICIPATION GOALS**

The overall M/WBE participation goal for the Contract is established at 20% of the total Contract price.

The overall SDVOB participation goal for the Contract is established at 0.5% of the total Contract price.

**A8.0 AUTHORITY’S DESIGNATED REPRESENTATIVE**

The Authority’s Designated Representative for this Procurement is:

**James Chicoine and Michael Doyle**  
**Attention: Cashless Tolling Design-Build Project**  
**Office of Capital and Contracts Management**  
**New York State Thruway Authority**  
**200 Southern Blvd., 2nd Floor**  
**Albany, New York 12209, USA**

E-mail: [CTDB@thruway.ny.gov](mailto:CTDB@thruway.ny.gov)

The above named person(s), as the Authority’s Designated Representative for this procurement, shall be the Authority’s point of contact and source of information for this procurement.

**A9.0 ONE-ON-ONE MEETINGS**

Prior to and/or after submission of Proposals, the Authority may conduct One-on-One meetings with Proposers as described below. If One-on-One meetings are held, they will be offered to each

Proposer. The Authority reserves the right to disclose to all Proposers any issues raised during One-on-One meetings. However, the Authority will not disclose to other Proposers any information pertaining to an individual Proposer's technical concepts, Proposal or ATCs. The Authority will hold One-on-One meetings on matters it deems appropriate.

#### **A9.1 MEETINGS DURING PROPOSAL PERIOD**

If the Authority decides that One-on-One meetings should be held, they will be held between the Authority and each Proposer. The period indicated in this ITP Appendix A for these meetings is subject to change. Specific meeting dates will be confirmed in advance of each meeting by the Authority to each Proposer's Representative.

At least five (5) business days prior to the first scheduled meeting each Proposer may submit suggested agenda items for each One-on-One meeting to the Authority's Designated Representative. The Authority will advise the Proposer of the location, final agenda, and the protocol for the meeting at least two (2) business days before the meeting. ATCs may be discussed at One-on-One meetings.

Each Proposer may request One-on-One meeting(s) with the Authority to discuss general concepts for potential ATCs or obtain preliminary feedback from the Authority, to be held prior to the ATC submittal deadline (see ITP Appendix A). Should a One-on-One meeting be scheduled with a Proposer, the Authority will offer the opportunity for a One-on-One meeting with the other Proposers. The Authority may also schedule One-on-One meetings with any Proposer that has submitted ATC(s), to allow the Authority to fully understand the ATC(s) and to request clarifications. At any meeting, the Authority may seek clarifications regarding previously submitted ATCs.

If a Proposer requests additional meetings, or if the Authority considers it desirable or necessary to schedule additional meetings, the Authority may, in its discretion, schedule any such additional meetings.

The Authority may, in its sole discretion, issue one or more Addenda to address any issues raised in the One-on-One meetings.

#### **A9.2 POST-PROPOSAL MEETINGS**

The Authority does not currently anticipate the need for post-Proposal discussions, but reserves the right to enter into discussions and request revised Proposals. If interviews or presentations occur, Proposers shall not modify their Proposals or make additional commitments regarding Proposals at such meetings. The Authority anticipates engaging in limited negotiations with the selected Proposer prior to Contract award regarding such matters as are deemed advisable for negotiations by the Authority, as permitted by 23 CFR Section 636.513. The selected Proposer shall have no right to open negotiations on any matter that has not been raised by the Authority. See ITP Section 5.3. Negotiations can delay award of the Contract and subsequently affect end dates which both parties should avoid.

#### **A9.3 STATEMENTS AT MEETINGS**

Nothing stated at any meeting will modify the ITP or any other part of the RFP unless it is incorporated in an Addendum issued pursuant to ITP Section 2.3.1 or, in the case of an ATC, approved in writing in accordance with ITP Section A11.1.



**A10.0 PROPOSAL STIPEND**

Subject to the requirements and limitations set forth in the Stipend Agreement, the Authority shall pay to the Stipend-Eligible Proposer, and the Stipend-Eligible Proposer agrees to accept as full compensation for its Work Product, an amount (the "Stipend Amount") equal to 50% of the Proposer's total Qualified Costs, as substantiated in accordance with Article 4 (D) & (E) of the Stipend Agreement equals the stipend amount, not to exceed the amount listed in Article 4 (H) of the Stipend Agreement. Overhead costs are eligible. For qualified costs see Appendix G, Abbreviations and Definitions. Relative to overhead costs, the engineering firms established and current overhead rates with the Authority and NYSDOT will be used. However should the engineering firms overhead rates not be current or not accepted by the Authority and/or NYSDOT the overhead rate will default to 125%. The Proposer's costs can include a 110% overhead rate.

The Proposer shall maintain written records substantiating all Qualified Costs in sufficient detail to permit a proper audit thereof. Such records shall be made available for audit or verification of Qualified Costs upon request of NYSTA at the time of this Agreement and for three years after final payment of the Stipend Amount is made. "Qualified Costs" shall comprise the direct costs and overhead costs that are allowable and reasonable, and incurred by the Proposer, the Proposer's team, or third-parties acting at the direction of the Proposer in the production of the Work Product. Examples of qualified costs (subject to limitations of any other contract stipulations such as limits on hourly rates or not to exceed Government travel rates) can include the following:

- Compensation of employee's time charges related to preparation of the Proposal;
- Cost of materials acquired, consumed, or expended related to preparation of the Proposal;
- Cost of equipment utilized related to preparation of the Proposal; and
- Travel expenses incurred related to preparation of the Proposal.

The overhead rate applied to the Stipend calculation shall be equal to the Proposer's current audited rate on file with the NYSTA. An overhead rate of 115% will be applied for firms with no current rate on file. Unallowable Proposer costs are described in CFR-2011 - title 48 – volume 1 - part 31 – subpart 31.6. The Proposer shall submit to NYSTA copies of all substantiating documentation of Qualified Costs concurrently with the submission of its invoice for the Stipend Amount, and at any other time upon NYSTA's request. Failure of the Proposer, the Proposer's team, or third-parties acting at the direction of the Proposer to maintain and retain sufficient records to allow audit or verification of Qualified Costs, or failure to allow NYSTA or its agents access to the same, shall constitute a waiver of the right to any payment of a Stipend, and any Stipend Amount paid to the Proposer under this Agreement shall be immediately returned to the NYSTA.

The proposed stipend amount is being increased to \$350,000.

**A11.0 ALTERNATIVE TECHNICAL CONCEPTS (ATCS)**

The Authority has chosen to use the confidential ATC process set forth in this ITP Appendix A, Section A11.0 to allow innovation and flexibility to be incorporated into the Proposals and considered in making the selection decision, to avoid delays and potential conflicts in the design associated with deferring of technical concept reviews to the post-award period and, ultimately, to obtain the best value for the public.

The ATC process allows a Proposer to submit for pre-approval, on a confidential basis, proposed alternatives to the requirements of Contract Documents, Part 3 – Project Requirements, and design solutions included in the Contract Documents. The Authority will not approve any ATC that entails a deviation from the requirements of the as-issued Contract Documents unless the Authority determines, in its sole discretion, that the proposed end product based on the deviation is equal to or better than the end product absent the deviation.

Any ATC that has been approved may be included in the Proposal. If an ATC is conditionally approved, the Proposer must respond, accept, and meet the conditions set forth by the Authority by the date indicated in the ITP Appendix A, if the Proposer intends to use the ATC in their Proposal.

#### **A11.1 SUBMITTAL AND REVIEW OF ATCS**

A Proposer may submit ATCs for review to the Authority until the date identified in ITP Appendix A. All ATCs shall be submitted in writing, using Form ATC included in ITP Appendix E – Forms, to the Authority's Designated Representative at the e-mail address identified in ITP Appendix A, with a cover letter clearly identifying the submittal as a request for review of an ATC under this ITP. If the Proposer does not clearly designate its submittal as an ATC, the submission will not be treated as an ATC by the Authority.

The Authority will review each ATC submitted and will use best efforts to provide a response within two weeks. Proposers submitting multiple ATCs shall indicate an order of priority to assist the Authority in determining which ATCs should be reviewed first.

If an ATC is summarily approved, the Authority's comments will inform the Proposer that its ATC appears to be generally acceptable. If the Authority needs more information to determine whether or not the ATC will be approved, conditionally approved, or not approved, the Authority will submit written questions to the Proposer and/or request a One-on-One meeting.

If an ATC is not approved or conditionally approved and the Proposer is of the view that the non-approval or the conditions for approval were due to an incorrect conclusion on the part of the Authority, the Proposer may re-submit the ATC for one additional review to the Authority's Designated Representative at the e-mail address identified in ITP Appendix A until the final date for ATC submittals set forth in ITP Appendix A. If a re-submittal is made, it shall be accompanied by a cover letter clearly identifying such submission as an ATC submitted for an additional review. Upon receipt of a request for additional review in accordance with this Section, the Authority will conduct its additional review of the ATC and provide a response to the Proposer by e-mail not later than the date for such responses set forth in ITP Appendix A.

The Proposer shall advise the Authority in its ATC submittal if it believes a One-on-One meeting is appropriate. Since a One-on-One meeting may not be needed for the Authority to determine if a particular ATC will be approved, the Authority will determine, in its sole discretion, whether a One-on-One meeting will be held.

The Authority will attempt to return its approval, non-approval, conditional approval, or additional questions pertaining to any specific ATC no later than two weeks after receipt of that ATC.

#### **A11.2 CONTENT OF ATC SUBMITTALS**

Each ATC submittal shall include the following:

- A) Description: A detailed description and schematic drawings/details (Sketched on 8½" x 11" paper) of the configuration of the ATC;
- B) Usage: Where and how the ATC would be used on the Project;
- C) Deviations: References to any requirements of the RFP Documents or to any elements of the Contract Documents that are inconsistent with the proposed ATC, an explanation of the nature of the proposed deviation and a request for: (a) approval of such deviations; or (b) a determination that the ATC is consistent with applicable requirements;
- D) Analysis: A technical analysis justifying use of the ATC and why the deviations from the requirements of the RFP Documents should be allowed;
- E) Impacts: Discussion of potential impacts of the ATCs on the community due to the construction, environmental impacts (favorable and unfavorable) identified in appropriate environmental documents, safety and project life-cycle;
- F) Environmental Approvals: A discussion of what, if any, changes in the compliance terms, best management practices and avoidance measures identified in any EIS or any Environmental Approval would be required as a result of the ATC. A discussion of whether the ATC would require any deviation from the terms and conditions of any permit or of any anticipated or existing Environmental Approval or new Environmental Approval and, if so, an analysis of the steps required, costs involved and time that would be required to obtain, and the likelihood of success in obtaining, the required approval from the appropriate Governmental Agencies, as well as an analysis of all potential impacts on the Project;
- G) History: A detailed description of other projects where the ATC has been used under comparable circumstances, if any; the success of such usage; and names, email addresses and contact telephone numbers of project owners that can confirm such statements;
- H) Risks: A description of any added or reduced risks to the Authority and other Persons associated with implementing the ATC;
- I) Schedule: An estimate of the impact of the ATC upon the Contract duration and schedule, including the Proposer's estimate of the likely durations for any permits and consents necessary for the ATC;
- J) Price: An estimate of the impact (savings only) of the ATC on the Proposal Price (No other discussions of Project costs shall be referenced or implied during the one-on-one discussions, ATC discussions or submittals, or any other communications during the procurement process);
- K) ROW Requirements: A list of ROW requirements, if any, and a description of when additional ROW would be required in order to implement the ATC; and
- L) One-on-One Meeting: A statement as to whether, in the Proposer's view, a One-on-One meeting with the Authority would be appropriate to discuss the ATC.

### **A11.3 SUBMISSION OF ATC SUBMITTALS**

Each ATC submittal shall be submitted to the Authority's Designated Representative (via e-mail) on Form ATC in searchable portable document format (pdf).

Any subsequent communications about an ATC should quote the relevant sequential ATC submission number.

#### **A11.4 DETERMINATION BY THE AUTHORITY**

The Authority will make one of the following determinations with respect to each properly submitted ATC:

- A) The ATC is approved;
- B) The ATC is not approved;
- C) The ATC is conditionally approved subject to specified conditions;
- D) The submittal does not qualify as an ATC but it may be included in the Proposal without an ATC (i.e. the concept complies with the RFP requirements); or
- E) The submittal does not qualify as an ATC and it does not comply with the RFP.

Any approval of an ATC will constitute a change in the specific requirements of the Contract Documents to the extent: (i) specified in such approval; and (ii) the Proposer is awarded the Contract. Should the Design-Builder be unable to obtain required approvals for any ATC, it shall not be included in the proposal. If an unapproved ATC is incorporated, it is grounds for disqualification or the Design-Builder shall meet the conditions stated in the RFP with no additional costs or schedule modifications. This is at the discretion of the Authority and cannot be protested. If an ATC is approved and is incorporated into the Contract Documents and the concept otherwise proves to be infeasible, the Design-Builder will be required to conform to the original requirements of the Contract Documents. See Contract Documents Part 2, DB §104-4.6. Each Proposer, by submittal of its Proposal, acknowledges that the opportunity to submit ATCs was offered to all Proposers, and waives any right to object to the Authority's determinations regarding the acceptability of ATCs.

#### **A11.5 INCORPORATION INTO PROPOSAL**

A Proposer may incorporate none or one or more pre-approved ATCs into its Proposal, including conditionally approved ATCs, provided that all conditions of approval have been satisfied by the date indicated in ITP Appendix A. Copies of the Authority's ATC approval letters for each incorporated ATC shall be included in the Proposal as specified in Appendix C, along with the approved ATC. Proposals with or without ATCs will be evaluated against the same technical evaluation factors, and the inclusion of an ATC, including an ATC that provides technical enhancements, may or may not receive a higher technical rating.

The Proposal Price, schedule, approach and proposal details should reflect any incorporated ATCs. Except for incorporating approved ATCs, the Proposal may not otherwise contain exceptions to or deviations from the requirements of the RFP Documents.

#### **A11.6 CONFIDENTIALITY**

Subject to Section 6.3 of the ITP, ATCs properly submitted by a Proposer and all subsequent communications regarding its ATCs will be considered confidential during the proposal period. If a Proposer wishes to make any announcement or disclosure to third parties concerning any ATC, it shall first notify the Authority in writing of its intent to take such action, including details as to date and participants, and obtain the Authority's prior approval to do so.

The forgoing shall not preclude the Authority from modifying the RFP Documents as necessary to comply with applicable law or to account for information obtained by the Authority outside of the ATC.

## **A12.0 QUALITY EVALUATION FACTORS, SUBFACTORS AND WEIGHTING**

### **A12.1 QUALITY EVALUATION FACTORS AND SUBFACTORS**

The quality evaluation factors and subfactors are as follows:

- A) Design-Build Organization and Process
  - 1. Key Personnel:
    - a. Project Manager;
    - b. Design Manager;
    - c. Quality Manager;
    - d. Supervisor of Resident Engineers;
    - e. Lead Structural Engineer;
    - f. Lead Civil Engineer;
    - g. Lead Geotechnical Engineer;
    - h. Resident Engineers (4 Resident Engineers);
    - i. Civil rights Compliance Manager.
  - 2. Overall Design-Build Team Organization and Approach to Quality
    - a. Design-Build Team Organization Chart
    - b. Design-Build Team Communication Protocol
    - c. Design-Build Quality Control Plan
- B) Design-Build Approach to the Project (Technical Solutions)
  - 1. Project Understanding
  - 2. Design-Build Approach to Design
  - 3. Design-Build Construction Approach (Means and Methods)
- C) Schedule;
  - 1. CPM Schedule;
  - 2. Project Completion Date / Defined Completion Date (SCD Forms)
  - 3. Gantt Chart.

#### **A12.1.1 Design-Build Organization and Process**

The evaluation of this section is focused on the formation of a team of key individuals that function within the Proposer's proposed organization structure, with the same understanding of the function and need for consistency; focus on the actual structure of the organization, which is to be displayed in an organization chart format; focus on the communication and processes to be adopted for the Proposer's proposed organization, which has to be illustrated in a communication protocol graphic and described in a narrative format, and focus on the initial quality control plan, which will be further developed and updated as described in Part 3, Section 2 and throughout the Project as a living document.

The narrative will be evaluated on how the Proposer is organized for quality, safety, design and construction to achieve the Project's goals and how the Proposer will communicate with the Authority's Project Manager, Construction Quality Assurance Engineer, the Design Quality Assurance Engineer and their staff; also evaluation of the description of the integration of the design and construction efforts to achieve efficient progression of the work; and evaluation of the means of reporting on and controlling progress of the work to the Authority and for Project control. Evaluation of how the work will be progressed in coordination with other agencies should be included as well.

See ITP Appendix C for additional and more specific details regarding this factor and the specific information to be submitted for the evaluation of this factor.

#### **A12.1.1.1 Key Personnel**

This evaluation factor evaluates the qualifications and experience of the Proposer's proposed Key Personnel identified in the Proposer's Proposal. This factor also evaluates whether the designated roles of the Key Personnel as specified in the Proposer's Proposal are appropriate for the Project.

**Objective:** The scope of the Project demands a highly qualified and integrated team of personnel with expertise in projects of a similar nature to this Project and a record of producing quality work, including project management delivery. The scope of the Project also demands a Team having experience in delivering quality projects, preferably Design-Build projects, on or ahead of schedule and on or under budget. Therefore, the Objective of this evaluation factor is to identify Proposers that have assigned personnel that can complete the Contract to the highest degree of quality, in a timely and effective manner, and have successfully integrated this philosophy into the various parts of its organization, and can coordinate with the Authority in a cooperative and functional manner; and to identify a Team with demonstrated experience and expertise, and a record of producing quality work on projects of a similar nature to this Project.

Key Personnel are preferred to have experience on projects of a similar size, type of work, and complexity as this Project, and should meet the qualifications described in Part 3, Project Requirements, Section 2. Proposed staff with qualifications less than those described in Part 3, Project Requirements, Section 2 will receive a reduced score compared to staff that meet or exceed the described qualifications. Any requirements described as "shall have..." or "shall be..." are determined to be minimum response requirements. Failure to provide the minimum requirements shall result in a Key Personnel rating of '0' for that subfactor. Should the Proposer's Proposal still be determined to be the Best Value Proposal, that Key Personnel position rated '0' shall be replaced with a candidate meeting the minimum requirements, as described in Part 3 – Project Requirements, or the offer of Best Value shall be withdrawn.

ITP Appendix C provides additional details regarding this factor and the specific information to be submitted as part of the Proposal and ITP Appendix G for definitions of Key Personnel.

#### **A12.1.1.2 Overall Design-Build Team Organization and Approach to Quality**

Design-Build Team Organization Chart - The Proposer's Design-Build Team Organization Chart shall include all Key Personnel required to be identified under the Key Personnel Section A12.1. The Organizational Chart shall show the Design/Construction/Inspection/Quality Control and Materials Testing components of the Proposer's proposed Design-Build Team and how they are integrated into the Design-Build Team Structure. The Design-Builder shall include an additional narrative piece as specified in ITP Appendix C and Table C.

Design-Build Team Communication Protocol – The Proposer’s proposed Design-Build Team communication protocol shall be presented utilizing the same Design-Build Team Organization Chart described above with the incorporation of additional communication arrows depicting the lines of communication amongst the Design-Build Team Organization. This Communication Protocol Graphic shall also illustrate the communication between the Design-Build Team and the owner (NYSTA) and its representatives such as the Project Manager, the Design Quality Assurance Engineer, the Construction Quality Assurance Engineer, etc. To supplement and provide clarification to this communication protocol, the Design-Builder shall include an additional narrative piece as specified in ITP Appendix C and Table C.

Quality Control Plan – The Proposer’s approach to Quality Control for design and construction shall be described in an Initial Quality Control Plan, which will be further developed as part of the Project. The Quality Control Plan should describe how the design and construction activities will be coordinated to ensure consistency and quality throughout the Project.

#### **A12.1.2 Design-Build Approach to the Project (Technical Solutions)**

The purpose of this set of evaluation factors is to determine first how well the Proposer understands the Project, why the Proposer’s proposed design and construction solutions were chosen, and how all the proposed solutions benefit the Authority in the overall technical solutions and approach to this Project in meeting all the Project objectives.

See ITP Appendix C for additional details regarding this factor and the specific information to be submitted for the evaluation of this factor.

##### **A12.1.2.1 Project Understanding**

The purpose of this evaluation factor is to better identify those Proposers demonstrating an understanding of the management, technical, design, construction, documentation, reporting, environmental and maintenance of traffic issues and risks associated with the Project; and

To identify those Proposers demonstrating an understanding of how the Design-Build process and the Proposer’s organization will contribute to the success of the Project; and to identify Proposers that have the ability to meet the Authority’s Project goals and that have an understanding of the risk sharing and the teaming relationship between the eventual Design-Builder and the Authority.

##### **A12.1.2.2 Design-Build Approach to Design**

The Design Solutions should address how well the Proposer understands the design challenges associated with this Project; how the Proposer intends to comply with the design requirements, how the design solutions meet or exceed the Project objectives and how the design solutions benefits the Authority, toll payers and tax payers of New York State and provides a long term solution in addressing the Authority’s infrastructure needs including but not limited to the following:

- A) Future maintenance requirements and costs of the newly designed and constructed gantry structures and infrastructure highway solutions. What does the Proposer’s Proposal provide beyond the basic standard specifications and criteria to ensure an increased service life for the Project elements? If only the minimum standard design and standard specifications were used the Proposer shall state such.
- B) Mainline Gantries – What are the proposed designs, configurations and locations of the Gantries including Milepost markers (MP) and how do they satisfy or exceed the Project

Requirements. How will the Gantries support the required Cashless Tolling Systems Equipment and how the Designs address access for future Maintenance Work on the equipment will be provided. Define the type, size, and what is included in the Mainline Gantry Communications Buildings. Also describe the proposed location and configuration of the Mainline Cashless Toll Communication Buildings, Emergency Generators, and other equipment needed to support the Mainline Cashless Tolling operations. Provide the final lane configurations and cross sections under the Mainline Gantry locations.

- C) Toll Plaza and TUB Demolition – What are the proposed sequence of demolition of the Toll Plazas and TUBs. How will the removal be completed in stages and traffic lanes maintained to avoid congestion at the Toll Booths.
- D) Interchanges and Terminus locations Toll Plaza Modifications – What are the proposed modifications to the Toll Plazas that will be removed. What are the proposed lane configurations, and the lanes to be closed, and define the reduction of footprint, and what is the rationale for the proposed lane configurations. How does the lane configurations address merging conditions.
- E) ORT Exit Sites – What are the proposed changes to the ORT Exit Site alignments, what are the designs, configurations of the mini-gantry and how do they satisfy the Project requirements. The Design-Builder shall show how the repairs, the modified alignments, the mini-gantry location(s), driveway removals, driveway and/or Tandem Lot locations, Park and Ride Lots, and their modifications, along with transitions to and from the Thruway System benefit the Authority, toll payers and the tax payers of New York State.
- F) ORT Toll Plaza removals and installation of New Communication Building – What are the proposed sequence of demolition of the ORT Toll Plazas. Define the type, size, and what is included in the ORT Communications Buildings. Also describe the proposed location and configuration of the ORT Communication Buildings, Emergency Supplemental Generators, and other equipment needed to support the ORT Cashless Tolling operations.

See Appendix C for more details on what is required.

#### **A12.1.2.3 Design-Build Construction Approach (Means and Methods)**

This section is devoted to evaluating the means and methods the Proposer intends on using for the demolition and construction and staging of the Project, while protecting existing facilities and minimizing to the greatest extent possible impacts to the traveling public, businesses, and the surrounding communities.

- A) How do the means and methods and construction approaches provide less impact to the travelling public, and the community as a whole?
- B) Environmentally, how do the means and methods meet the Project Requirements, and how do they minimize the impacts to the environment? Do the methods eliminate the need for permits, and if so, what permits? What effects have been taken to minimize noise intrusion into the potential surrounding communities?
- C) Transportation of materials to and from the Project site shall be accomplished when and how and how does this benefit the Authority and the surrounding communities?
- D) Provide a description of how from a logistical standpoint these means and methods shall be incorporated consistently and throughout the Project to avoid non-conformance issues.

See Appendix C for more details on what is required.



### **A12.1.3 Schedule**

Schedule — evaluates the integrated logic, logistics of design and construction and construction inspection. The scheduling of design and construction; the start and end dates of work zone traffic protection activities and start and end dates of the construction stages and Project Completion and defined completion dates (AETC “go live” date). Schedule should show start and completion dates of design and construction phases of the Mainline Gantry work, the ORT sites, the special Exit Sites, and the Interchange work sites. The design and construction activities shall be detailed sufficiently to show the start and completion of all major construction activities. The Proposer shall submit the following items in connection with this evaluation criteria:

- Initial Baseline Schedule(CPM);
- A Gantt Chart summarizing the start and end dates for all major work items;
- SCD Forms

See ITP Appendix C for additional details regarding this factor and the specific information to be submitted for the evaluation of this factor.

### **A12.2 QUALITY EVALUATION WEIGHTING**

- A) Design-Build Organization and Process ( \_\_ points)
1. Key Personnel ( \_\_ points):
    - a. Project Manager;
    - b. Design Manager;
    - c. Quality Manager;
    - d. Supervisor of Resident Engineers;
    - e. Lead Structural Engineer;
    - f. Lead Civil Engineer;
    - g. Lead Geotechnical Engineer;
    - h. Resident Engineers (4 Resident Engineers);
    - i. Civil Rights Compliance Manager.
  2. Overall Design-Build Team Organization and Approach to Quality ( \_\_ points)
    - a. Design-Build Team Organization Chart
    - b. Design-Build Team Communication Protocol
    - c. Design-Build Quality Control Plan
- B) Design-Build Approach to the Project (Technical Solutions; \_\_ points)
1. Project Understanding ( \_\_ points)
  2. Design-Build Approach to Design ( \_\_ points)
  3. Design-Build Construction Approach (Means and Methods) ( \_\_ points)
- C) Schedule ( \_\_ points);
1. Initial Baseline Schedule (CPM) ( \_\_ points);
  2. Project Completion Date / Defined Completion Date (SCD Forms); ( \_\_ points)

- i. Project Completion Date (\_\_\_ points). The proposer with the shortest duration from Notice to Proceed shall receive the full \_\_\_ points. Remaining proposers' durations to be pro-rated against the shortest duration. For example the shortest duration is 600 days and the next shortest duration is 750 days; the shortest duration would receive the maximum available points x and the next shortest duration would receive  $600/750 * x = .80$  (x points).
  - ii. Defined Completion Date (\_\_\_ points). The proposer with the shortest duration from Notice to Proceed shall receive the full \_\_\_ points. Remaining proposers' durations to be pro-rated against the shortest duration. For example the shortest duration is 600 days and the next shortest duration is 750 days; the shortest duration would receive the maximum available points x and the next shortest duration would receive  $600/750 * x = .80$  (x points).
3. Gantt Chart (\_\_\_ points).

Note Regarding Quality Evaluations and Proposal Format Compliance:

Proposers shall comply with all formatting requirements stated in the ITP in Appendices A, B, C, and D, including page size, section length, and font size. In addition, all Proposers shall comply with the following format requirements:

- A) The inside and outside surfaces of all binders, and both sides of all dividers, shall be solid and shall contain only text; no pictures, renderings or graphics shall be included;
- B) All narrative pages, resumes, Initial Quality Plan components and forms shall contain text only and shall contain no pictures, renderings or graphics;
- C) Photographs, visualizations, and/or renderings, if requested in the ITP, shall not contain any text;
- D) All drawings submitted as part of the Proposal shall include no narratives or text other than notes or call-outs which would typically be included on design drawings.
- E) External web links are not to be included anywhere in the Proposal.

Failure by a Proposer to follow the formatting requirements stated in the ITP will result in the particular page(s) being deleted from the Proposal before technical evaluation. Two possible examples of this are:

1. Appendix C, Table C states the Initial Baseline Progress Schedule is limited to a maximum of three pages. If a Proposer submitted an Initial Baseline Progress Schedule four pages in length, the fourth page will be removed from the Proposal.
2. This Section states that external web links are not to be included in the Proposal. If a Proposer were to refer to a web link in their Initial Quality Control Plan, then the specific page with the web link reference will be removed from the Proposal.

Proposers are advised that a Proposal may receive a lower score as a result of any pages removed.

**A12.3 NOTE ABOUT PROJECT SUPPORT**

The Design-Builder shall be responsible for providing project support relative to public information meetings, media responses, and any public inquires. The Authority shall still be the face of this project and shall deal directly with the public, the media, and elected officials. The Design-Builder shall be present for all public information meetings. While the majority of the work on the Thruway should not involve public information meetings, bridges over the Thruway involving closures or impacts to traffic will require such meetings. The Design-Builder shall, as a minimum, prepare graphics, renderings and secure places to conduct public informational meetings.

The year, the time schedule (how long) for impacting traffic will all be conveyed at these public information meetings. Work results and the Design-Builders progress and meeting of obligations will drive the necessity to have more than one public informational meeting. These meetings shall be scheduled as per Section 7 of Part 3 of this RFP..

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# **CASHLESS TOLLING**

TA 19-1, Contract No. D800002

## **REQUEST FOR PROPOSALS**

### **INSTRUCTIONS TO PROPOSERS**

#### **APPENDIX B**

#### **ADMINISTRATIVE SUBMITTAL**

#### **REQUIREMENTS**

**DRAFT January 24, 2019**

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## **B1.0 GENERAL INSTRUCTIONS**

This ITP Appendix B provides the general instructions and establishes the content and formatting requirements for the Administrative Submittal, Volume 1, of each Proposal.

Each Proposer shall submit the Administrative Submittal required pursuant to this ITP Appendix B, organized, separated and labeled in accordance with the checklist in Table B.

The administrative submittals shall be limited to the page limitations (if any) specified for that submittal in this ITP Appendix B. All the forms referenced in this ITP Appendix B are provided in ITP Appendix E unless otherwise noted. Each sheet shall be 8.5" by 11" and printed double sided, unless otherwise stated below. Text shall be in a standard font, a minimum of ten points in height, single-spaced.

Volume 1 shall consist of the following major elements:

- A) Proposer's offer, and
- B) Information, certifications and documents (including required forms).

Unless indicated on a specific Form, the supplied Forms are not to be altered. Any Form found to be altered may, at the discretion of the Authority's Office of Capital and Contracts Management, be removed from the Proposal before evaluation. In addition:

- Photographs or external web links are not to be included in the Forms.
- All required information must be contained in the Forms.
- Additional lines or pages are only allowed when indicated on the Form.

## **B2.0 CONTENTS OF VOLUME 1**

### **B2.1 Proposer's Offer**

Provide a firm offer to the Authority valid for the period stated in ITP Section 2.9.1, using the Form of Proposal (Form FP, Appendix E). The offer shall be executed by the Proposer or by its legally authorized representative. If the Proposer is a joint venture or partnership, the offer shall be executed by all joint venture members or all general partners, as applicable.

Submit the Appendix to Form of Proposal (Form FP(A), Appendix E).

Upon award, the selected Proposer's offer (Form FP), including the Appendix thereto (Form FP(A)), will be incorporated into the Contract as Part 9.

### **B2.2 Proposer Information, Certifications and Documents**

#### **B2.2.1 Proposer Information**

Provide a detailed description of the legal structure of the entity submitting the Proposal (i.e. the Proposer).

#### **B2.2.2 Changes in Proposer's Organization**

Provide Form RFC approved by the Authority for any change(s) to the Proposer's organization as represented in the Proposer's SOQ. Attached to each approved Form, the Proposer shall provide a written description (two pages maximum) of the change(s) approved in the Form.

### **B2.2.3 Forms and Certificates**

Proposers shall submit the Forms in the format as they are provided in the ITP, and shall not alter them. This includes:

- not embedding links to external web pages or photographs,
- not increasing the page length of the Form, unless explicitly allowed on the Form,
- including all Footers and Headers shown on the Forms,
- not inserting company logo's.

Any Form found to be altered may, at the discretion of the Authority's Office of Capital and Contracts Management, be removed from the Proposal before evaluation.

In addition to the Form of Proposal (Form FP) and Appendix to Form of Proposal, (Form FP(A)) described in Section B2.1, provide the following:

- a) Form AAP-10 MWBE/SDVOB Solicitation Log;
- b) Form AR, Acknowledgement of Receipt of RFP, Addenda and Responses to Questions;
- c) Form C, Proposer's Representative;
- d) Form CR, Commitment to Assign Identified Resources to Project, providing a written commitment, signed by the designated Project Principal, that the resources identified in the Proposal, including Key Personnel and identified design staff, will be available and assigned to the Project if the Proposer is awarded the Contract, to the extent and term such assignment remains within the control of the Proposer;
- e) Form EEO, Equal Employment Opportunity Certification;
- f) Form KP, Key Personnel Information
- g) Form L-3, Authorization to Provide Professional Services in New York State;
- h) Form LC, Lobbying Certificate;
- i) Form LLL, Disclosure of Lobbying Activities
- j) Form LDB, List of Proposed MWBE/SDVOBs;
- k) Form LSI, Letter of Subcontract Intent;
- l) Form NC, Non-Collusion Affidavit, certifying that the Proposal is not the result of, and has not been influenced by, collusion
- m) Form RFC, Request for Change (Changes in Participants or Key Personnel (if approved by the Authority));
- n) Form SDU, Schedule of Proposed MWBE/SDVOBs Utilization; and
- o) Form U, Conflict Questionnaire. Organizational Conflicts of Interest Disclosure Statement (see ITP Section B2.3.4).

### **B2.2.4 Conflict of Interest Disclosure**

Provide a conflict of interest disclosure statement on Form U (ITP Appendix E) if and as required by ITP Appendix F, identifying and describing any potential Organizational Conflicts of Interest and any relevant facts concerning past, present or currently planned interests that may present

an Organizational Conflict of Interest. The conflict of interest disclosure statement shall be signed by the Proposer's Representative.

### **B2.2.5 Letter of Commitment from Surety**

Provide a letter from a surety licensed to issue bonds in the State indicating that the surety has reviewed the Contract, and is prepared to issue a Labor and Material Bond and a Faithful Performance Bond in the forms and amounts set forth in Form FP(A), Form PAB and Form PEB (see ITP Appendix E).

The surety providing such letter must be rated at least AA-/Aa3 by two nationally recognized rating agencies or at least A-VIII by A.M. Best and Company and be listed on Treasury Authority Circular 570.

The letter must specifically state that the surety has read the RFP (including the ITP) in determining its willingness to issue the Labor and Material Bond and the Faithful Performance Bond. Separate letters for one or more of the Major Participants are acceptable, as is a single letter covering all Proposer team members.

### **B2.2.6 Licensing Requirements**

Requirements and information to be provided in Section 2, Volume 1 of the proposal (Response to RFP):

- Use Form L-3 (Appendix E) to submit a copy of the Certificate of Authorization to provide Engineering Services issued by the New York State Education Department for the appropriate team members, or submit documentation on Form L-3 (Appendix E) demonstrating the ability to obtain said Certificates and licenses, in accordance with the New York State Education Law, Title VIII, Articles 130, 145, 147 and 148.
- Key personnel positions that require the possession of a New York State professional engineering license ("shall have") must be supported with proof of current license. The Design-Builder shall provide a copy of the current professional license of the individuals submitted to fill those key personnel positions. Copies shall be supplied in Sections 2, Volume 1 of the proposal.
- Key personnel positions that do not require a New York State professional engineering license do not need any proof of license. However, for those key personnel positions where qualifications state "should have" or "preferably should have" a New York State professional engineering license, the Design-Builder may submit proof of current license possession to receive higher scoring consideration, but it is not required. However, without such proof, no higher scoring consideration will be given.

In all instances where licenses are submitted, they must be current.

## **B2.3 Information To Be Included in Appendices to Volume 1**

### **B2.3.1 Evidence of Authorization**

Provide appropriate evidence that the Form of Proposal (Form FP) has been properly executed or that the representative has bound the Proposer, so that there is a valid Proposal that the Authority can accept and constitute a binding Contract:

1. **Corporation.** If the Proposer is a corporation, it shall provide evidence in the form of a resolution of its governing body certified by an appropriate officer of the corporation.
2. **Partnership.** If the Proposer is a partnership, such evidence shall be in the form of a partnership resolution and a general partner resolution (as to each general partner) providing such authorization, in each case, certified by an appropriate officer of the general partner.
3. **Joint Venture.** If the Proposer is a joint venture, submit notarized powers of attorney executed by each joint venture or partnership member appointing and designating one or more individuals of the joint venture or partnership to execute the Proposal on behalf of the Proposer, and to act for and bind the Proposer in all matters relating to the Proposal. Submit evidence of Authorization of the power of attorney with respect to each joint venture member, certified by an appropriate officer of such joint venture member.
4. **Limited Liability Company.** If the Proposer is a limited liability company, such evidence shall be in the form of a limited liability company resolution and a managing member(s) resolution providing such authorization, certified by an appropriate officer of the managing member(s). If there is no managing member, each member shall provide the foregoing information.

If a Proposer has not yet been legally formed at the time of Designation of Best Value by the Authority, the Proposer must be legally formed before the Authority will Award or execute a Contract with the Proposer. If there is a delay, for any reason whatsoever, in the forming of the legal entity, the Award, contract execution and the notice to proceed will be postponed until the legal entity is fully formed. The resulting delay shall not change any of the contractual intermediate or Project completion dates, and liquidated damages will be assessed for each day the intermediate or Project completion dates are not met. If the Proposer has not yet been legally formed within 7 calendar days of designation of Best Value, the Authority may, at its discretion, reject the Proposal and proceed to award the Contract to the Proposer having the apparent next Best Value Proposal.

#### **B2.3.2 Joint and Several Liability Statement**

If the Proposer is a joint venture, submit evidence that each member of the joint venture shall be jointly and severally liable for any and all of the duties and obligations of the Proposer assumed under the Proposal and under any Contract arising therefrom, should its Proposal be accepted by the Authority. Submit evidence of authorization of the joint and several liability statement with respect to each joint venture member, certified by an appropriate officer of such joint venture member.

#### **B2.3.3 Organizational Documents**

Submit organizational documents in the form of copies of incorporation and bylaws, the joint venture agreement, partnership agreement, limited liability company operating agreement or equivalent organizational documents for the Proposer and each Principal Participant, which documents shall be consistent with the responsibilities to be undertaken by the Proposer and Principal Participants under the Contract.

#### **B2.3.4 Financial Information**

Submit financial statements, reports and other information updating the financial statements and information including financial information for any guarantors as well as the Proposer and Principal Participants or if available provide links to online public records thereof.

Provide information regarding any applicable changes relative to the Proposer’s SOQ submission in the financial condition of the Proposer.

If the financial situation has not changed since the SOQ’s were submitted by the Design-Build Proposer, than a declarative statement to that affect shall be submitted. Specifically, the Principal Participants shall provide letters from their chief financial officers or treasurers so certifying that the financial condition of the Proposer has not changed. However, if the equity participants have incurred additional liabilities, and/or taken on new responsibilities/contracts a reaffirmation from the Surety or Insurance Company is necessary.

Requirements and information to be submitted – Surety Letter(s):

- 1) Provide a letter from a surety or insurance company indicating that the Proposer is capable of obtaining a Proposal Bond, and Performance and Payment Bonds covering the Design-Build Contract;
- 2) The bonding/security capacity levels in the table below represent minimum levels necessary to pass the Pass/Fail criteria for this Contract;

<b>Proposal Bond/ Security</b>	<b>Payment Bond/ Security</b>	<b>Performance Bond/ Security</b>
5% of Proposal Amount	100% of Contract Amount	100% of Contract Amount

- 3) The letter must state that the surety or insurance company is rated AA-/Aa3 by two nationally recognized rating agencies or at least A-VIII by A.M. Best and Company, be listed on Treasury Authority Circular 570 and be on the list of companies approved by the State of New York;
- 4) The letter must specifically state that the surety/insurance company has evaluated the team’s backlog and work-in-progress in determining its bonding capacity and the letter must expressly identify the team’s amount of current backlog and utilized bonding capacity; and
- 5) Letters indicating “unlimited” bonding/security capability are not acceptable.

Information shall be packaged separately for each separate equity entity with a cover sheet identifying the name of the organization and its role in the Proposer’s organization.

**B3.0 FORMAT OF VOLUME 1**

Organize Volume 1 in the format shown in Table B, with the cover of the volume labeled as follows:

**Cashless Tolling  
DESIGN-BUILDER'S PROPOSAL**

**VOLUME 1**

**ADMINISTRATIVE SUBMITTAL**

**PROPOSER:** \_\_\_\_\_

Sections 1 through 3 of Volume 1 plus the Appendix A and B to Volume 1 shall be submitted in a package together.

**Table B**  
**Format of Volume 1**

<b>Proposal Section No.</b>	<b>Required Information</b>	<b>ITP Reference</b>
Section 1 (Proposer's Offer)	<ul style="list-style-type: none"> <li>· Form FP, Form of Proposal</li> <li>· Form FP(A), Appendix to Form of Proposal</li> </ul>	B2.1
Section 2 (Proposer Information)	<ul style="list-style-type: none"> <li>· Summary of Organization (2 single sided pages)</li> <li>· Changes in Organization (Form RFC)(If applicable)</li> <li>· Licensing Information</li> </ul>	B2.2
Section 3 (Forms and Certificates)	<ul style="list-style-type: none"> <li>· Form AAP-10 MWBE/SDVOB Solicitation Log</li> <li>· Form AR, Acknowledgement of Receipt of RFP, Addenda and Responses to Questions</li> <li>· Form C, Proposer's Representative</li> <li>· Form CR, Commitment to Assign Identified Resources to Project</li> <li>· Form EEO, Equal Employment Opportunity Certification</li> <li>· Form KP, Key Personnel Information</li> <li>· Form L-3, Authorization to Provide Professional Services in New York State</li> <li>· Form LC, Lobbying Certificate</li> <li>· Form LLL, Disclosure of Lobbying Activities</li> <li>· Form LDB, List of Proposed MWBE/SDVOBs</li> <li>· Form LSI, Letter of Subcontract Intent</li> <li>· Form NC, Non-Collusion Affidavit</li> <li>· Form SDU, Schedule of Proposed MWBE/SDVOB Utilization</li> <li>· Form U, Conflict Questionnaire</li> <li>· Surety Commitment Letters</li> </ul>	B2.2
Appendix A	<ul style="list-style-type: none"> <li>· Evidence of Authorization</li> <li>· Joint and Several Liability Statement (If Applicable)</li> <li>· Organizational Documents</li> </ul>	B2.3
Appendix B	<ul style="list-style-type: none"> <li>· Updated Financial Information</li> </ul>	B2.3.4

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# **CASHLESS TOLLING**

TA 19-1, Contract No. D800002

## **REQUEST FOR PROPOSALS**

### **INSTRUCTIONS TO PROPOSERS**

#### **APPENDIX C**

##### **TECHNICAL PROPOSAL**

##### **SUBMITTAL REQUIREMENTS**

**DRAFT January 24, 2019**

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**C1.0 GENERAL INSTRUCTIONS**

This ITP Appendix C provides the general instructions and establishes the content and formatting requirements for the Technical Proposal, Volumes 2. Additional criteria is outlined in ITP Appendix A.

Each Proposer should submit the Technical Proposal required pursuant to this ITP Appendix C, organized, separated and labeled in accordance with the format in Table C.

The submittals should be limited to the page limitations (if any) specified in this ITP Appendix C. Each sheet shall be 8.5" by 11" and printed double sided, unless otherwise stated below. Text shall be in a standard font, a minimum of ten points in height, single-spaced. All design drawings submitted with Proposals shall be printed single-sided on 11" by 17" sheets, and all as-printed text font sizes on plans shall be at least 8 points or per NYSDOT HDM Standards.

**C2.0 DESIGN-BUILDER'S ORGANIZATION AND PROCESS**

**C2.1 KEY PERSONNEL**

The Proposer shall include Form R – Summary Individual's Experience for each of the Key Personnel identified in the ITP Appendix A, outlining his/her experience and qualifications.

The content of each Form R that should be filled in includes:

- A) Proposed role on Project;
- B) Relevant licenses, registrations and certifications;
- C) Total years of professional experience and years of experience performing the work the individual would perform on this Project; Form R for Quality Manager should include an attached sheet that provides a description of experience in quality systems based on ISO 9001 if applicable;
- D) Relevant past project experience including project names, locations and total construction costs; the individual's start and end dates on each project; the individual's role on each project; the duties performed on each project. Contact Information should be owners or clients for whom the individual has performed project work for in the past five (5) years and should not be current employers of the individual. The proposed key personnel individual shall have performed the work duties being evaluated, in the past year.
- E) Employment time with participant;
- F) Percent time (percentage of working time) allocated/committed to this Project for each 12 month period of the Project from its NTP through project completion;
- G) If more than one key position is to be filled by the same individual, so indicate.

The Proposer should include Form KP in Volume 1 to communicate any approved changes in the Proposer's proposed roster of Key Personnel, relative to the Proposer's SOQ submission. For each change in Key Personnel since the SOQ, the Proposer should include in the Proposal with Form KP a copy of the written approval received from the Authority for such change (see ITP Section 1.15), details of such Key Personnel's role and a completely filled in Form R of the substitute personnel. If no changes in Key Personnel have been requested since the SOQ, Proposers should use Form KP to state that there is no change relative to the SOQ.

**C2.2 OVERALL DESIGN-BUILD TEAM ORGANIZATION AND APPROACH TO QUALITY**

**C2.2.1 Design-Build Organization Chart**

The Proposer should include a narrative describing the organizational arrangements it intends to implement for quality, safety, design and construction to achieve the Project's goals. The organizational arrangements described should clearly identify responsibilities and reporting lines of staff, particularly relating to Key Personnel. The narrative should include a review of the Proposer's assessment of the roles that the Key Personnel shall take in the Proposer's organization.

The Proposer should provide an organization chart (on an 11"x17" sheet of paper), illustrating the Proposer's Key Personnel and their prospective roles and responsibilities, as well as other principal participants and any known Subcontractors having a material role in the Project's design Work, design check Work and construction Work and construction inspection work and any other personnel the Design-Builder considers critical or the Authority has required to be included in other parts of the RFP to the successful completion of the Project. The Proposer should describe the interrelationships and interfaces between each member of the Design-Builder's Team (e.g., design, design checks, shop drawing preparation and review, construction, construction Inspection, materials testing, quality management, etc.). (The information in the Organizational Chart shall indicate: name, title on Project, firm associated with (employed by), and the Key Personnel boxes shall be shaded in yellow. The Organization Chart should include a legend that identifies the different text colors, representing the different firms depicted in the Chart)

The Proposer should describe the interrelationships and interfaces between the Proposer's organization, third parties (including other agencies), utility owners, the public and other contractors working in the vicinity and impacted by the construction of the Project.

**C2.2.2 Design-Build Team Communication Protocol**

The Proposer shall provide a Design-Build Team Communication Protocol Graphic, that addresses communication internal to the Design-Build Team structure, by superimposing the proposed lines of communication over the Proposer's Design-Build Team Organization Chart. Communication arrows (one arrow or two arrows) should be used to show the lines of communication. All the requirements associated with the Design-Build Team Organization Chart should apply and the communication protocol arrows shall be pink color. In addition, communication with the Authority's Project Manager, the Design Quality Assurance Engineer, and the Construction Quality Assurance Engineer shall be indicated on the Communication Protocol Graphic using Orange arrows. Finally, the Proposer shall include, as a supplement to the Communication Protocol Graphic, a narrative clarifying and/or supplementing the Proposer's proposed communication protocol.

The Proposer should describe how the Proposer will communicate with the Authority's Project Manager, Construction Quality Assurance Engineer, the Design Quality Assurance Engineer and their staff and describe the integration of the design and construction efforts to achieve efficient progression of the work that is consistent across the state, and in conformance with the Project Requirements. The Proposer should also describe the means of reporting on and controlling progress of the work to the Authority and for Project control.

**C2.2.3 Design-Build Quality Control Plan**

The Proposer should include an Initial Quality Control Plan. The Initial Quality Control Plan should follow the format shown in DB §113, Appendix 113A, and describe the Proposer's proposed quality control program for the design Work, the QC program for the construction Work, and how

the design and construction activities performed by different entities will be coordinated to ensure consistency of quality. The Initial Quality Control Plan shall be considered an initial document for the purpose of conveying the overall approach of the Proposer regarding QC, and shall be expanded and/or amended prior to implementation on the Project. See Contract Document Part 2 - DB §113. The Quality Control Plan serves as a “living document” throughout the project and should require updating as the project progresses.

The Initial Quality Control Plan should include two, separate QC organization charts (on 11”x17” sheets) for the design Work and the construction Work, clearly defining to whom the QC staff shall report within the Proposer’s organization.

The Initial Quality Control Plan **shall** describe the approximate number, roles and responsibilities of key QC personnel during each phase of the Project to ensure quality design and construction, and describe the inter-relationship and relative authority within the Proposer’s organization of QC staff and design and construction staff and the interaction with Design and Construction QA Engineers. The Proposer **shall** also describe the proposed Construction Inspection staffing to be provided throughout construction.

### **C3.0 DESIGN-BUILD APPROACH TO THE PROJECT (TECHNICAL SOLUTIONS)**

The Proposer should include a Technical Solutions submittal, as described in ITP Appendix A, which should include a Project Understanding, Design Approach, and a Construction Approach in accordance with ITP Appendix A, Section A12.1.2 and ITP Appendix C Sections C3.1, C3.2 and C3.3. The narratives and drawings described in C3.2.1 and C3.2.2, respectively should (i) provide an overview of the proposed design and construction concepts, (ii) describe the key features and any innovative aspects of the Proposer’s design concepts.

The Technical Solutions submittal should represent a level of design sufficient to enable a thorough evaluation of the Proposer’s design concepts, should address all elements of the proposed design and construction and should be consistent with the requirements of the Contract Documents.

### **C3.1 PROJECT UNDERSTANDING**

The Proposer should provide the following as part of their Understanding of the Project:

- A) Identify and discuss three (3) critical risks for this Project in Priority Order, focusing on what the Proposer’s team considers the most relevant and critical to the success of this Project in order to achieve the Project goals. Provide a narrative for each risk that:
  - i. describes why the risk is critical;
  - ii. indicates the impact the risk could have on the Project; and
  - iii. discusses the mitigation strategies the Proposer’s team shall implement to address the risk.
  - iv. describe the role that the Proposer expects the Authority or other agencies may have in addressing these Project risks;
  
- B) Briefly describe how the Proposer will use its organization and the Design-Build process to ensure the Project will meet the objectives as stated in the RFP, while considering the Authority’s Project goals listed in Section ITP 1.2. The Proposal should describe as a minimum how the Proposer will manage the logistics of the design and construction of the

Project and describe how the firms and personnel will communicate and collaborate to deliver a quality Project.

### **C3.2 DESIGN-BUILD APPROACH TO DESIGN**

#### **C3.2.1 Design Narrative**

Provide a narrative describing how the Proposer will apply the requirements of Contract Documents Part 3 - Project Requirements to the roadways and structures, while complying with any environmental and permitting requirements and other Contract requirements during the performance of the design and construction Work. The Proposer should provide a description of why particular aspects of the design were selected and the benefits of these design decisions, including the Proposer's selection of structure (Mainline Gantries and Mini-Gantries) types, the span lengths, foundation types, and materials and other items as specified in ITP, Appendix A, Section A12.1.2. A summary of any ATCs approved or conditionally approved by the Authority should be included.

- A) Describe the proposed general arrangements and materials of the Mainline Gantries and Mini-Gantries and other elements of the Proposer's designs; why the Proposer is proposing the chosen general arrangements and materials; and how the Authority benefits from the Proposer's proposal; and
  - i. Provide as part of the narrative the requirements described in ITP, Appendix A, Section A12.1.2.2
  - ii. Provide copies of the Authority's approval letters for each ATC that is incorporated into the Proposer's Proposal along with a copy of each submitted ATC that was approved.
- B) Describe the design method that will be used to determine foundation capacities;
- C) Describe any Design Non-Conformances or aspects of the Design that do not conform to the Project Requirements and/or Standards listed in the RFP. Any Design Non-Conformances or designs that do not conform to the Project Requirements and/or Standards listed in the RFP, have not been approved by the Authority, and have not been described in the Proposer's Proposal will be rejected by the Authority after Contract Award.

#### **C3.2.2 Design Drawings**

Provide design drawings showing the plan view, typical cross section and elevation view as required to appropriately convey the scope of work and relevant information, with elements appropriately labeled and/or dimensioned.

The Drawings should include the following information:

- A) Plans showing Work Zone Traffic Control for Toll Booth removal for Exits 16, 17 and 18, each stage to accomplish that as part of work;
- B) Plans showing proposed lanes, shoulders, mini-gantry locations, barriers, delineators, railings and the reduction of foot prints for the ORT sites;
- C) Plans showing proposed lanes, shoulders, barriers, railings, and final alignment with reduced footprints of infrastructure of the interchanges;
- D) Plans and Cross Sections of Roadway under the Mainline Gantry and final alignment for the Mainline Gantry locations and terminus locations.. The cross sections should show as a minimum: lanes, shoulders, railings, barriers, Communications Buildings and reduced footprints of the infrastructure;



- E) Plans, elevations and cross sections showing proposed configurations and dimensions of the primary structural elements of the Mainline Gantry structures, the means of accessing Cashless Tolling Equipment on the Mainline Gantries, and the Communication Buildings supporting the Cashless Tolling Systems; Table of minimum vertical clearances to be provided at each Gantry and ORT Site Gantries for every lane in each direction. Drawings may be used in combination with or in place of the table

### **C3.3 DESIGN BUILD CONSTRUCTION APPROACH (MEANS AND METHODS)**

#### **C3.3.1 Overall Construction Sequence of the Work**

Provide a narrative describing the overall construction sequence of the Work in the Contract, including all staging areas, as well as the final permanent footprint of the constructed improvements. The narrative **shall** discuss the logistics and challenges of constructing the project elements while meeting the Work Zone Traffic Control requirements, and shall discuss why the sequence was chosen, how the sequence benefits the Authority, and why it is the best solution for constructing the project elements. The Narrative **shall** also discuss the requirements as stated under ITP, Appendix A, Section A12.1.2.3.

#### **C3.3.2 Work Zone Traffic Control (WZTC)**

Provide a narrative describing the proposed WZTC at each Gantry removals and Toll Plazas to be demolished including a description of the Proposer's plan to maintain safety and use of traffic control to minimize disruption to the travelling toll payers and minimize congestion, stemming from the construction work. At a minimum, the Work Zone Traffic Control narrative should:

- A) Describe the major phases of the Work;
- B) Include complete typical sections by phase, including information regarding maintenance of access and egress. It should provide phase notes and details regarding sequence of work activities;
- C) Identify each affected road and access way within the vicinity of the Project site, and describe the potential impacts, mitigation measures, limitations of use, and the number and duration of time that each road and maintenance access way may be impacted in performing the Work, including information regarding detours;
- D) Describe the Proposer's approach to accommodate emergency service providers and commercial vehicles; and
- E) Describe how the WZTC will be coordinated with adjacent projects to provide safe passage of traffic.

#### **C3.3.3 Protection of Existing Facilities**

Provide a narrative describing the proposed methods of protecting existing facilities, including a description of the specific means the Proposer intends to use to minimize impacts to existing utilities, local roads and properties adjacent to or within the Project Limits. This description should identify how the Proposer intends to mitigate impacts due to vibrations conditions and other effects of the Proposer's construction operations.

#### **C3.3.4 Utility Work**

Provide a narrative describing the proposed approach to the required Utility Work, including a description of how utility work will be approached with minimal disruptions to utility operations and other activities on the Project. Identify specific and/or unique design and/or construction methods

that will be implemented to minimize the impacts on existing utilities and facilities as a result of construction activities. If no impacts, provide a declarative statement stating such.

### **C3.3.5 Drainage Modifications**

Provide a narrative describing the proposed approach to any Drainage Modifications that will be required, including concepts for Stormwater management and connections to existing facilities and pipes. If no impacts, provide a declarative statement stating such.

## **C4.0 PROJECT SCHEDULE**

### **C4.1 INITIAL BASELINE PROGRESS SCHEDULE (CPM)**

The Proposer should include an Initial Baseline Progress Schedule that is comprised of a logic based, critical path method (CPM) project schedule for the Work to be performed from the execution of the Contract up to and including Final Acceptance. The Initial Baseline Progress Schedule should include a start date and the duration in days for all major Design and Construction activities, as well as a detailed work plan with a hierarchical breakdown of work scope by location, type and task.

The successful Proposer will be required to develop and complete a project schedule using Primavera P6 Enterprise software in conformance with Part 2, DB §100 – General Provisions and Part 5, Special Provision SP-3 – Critical Path Method Schedule within 10 calendar days, after award of the contract. The successful Proposer will be required to maintain the dates, durations and other milestones shown on the Initial Baseline Schedule when preparing the Primavera P6 Enterprise based schedule. See Contract Document Part 2 - DB §108 and Special Provision SP-3.

The Initial Baseline Progress Schedule should include the following information, at a minimum, for the overall project:

- A) Notice to Proceed;
- B) Design and design reviews;
- C) Start of work at the project site(s);
- D) Duration and dates of start and end for roadway closures, staging phases, and detours;
- E) Dates for start and end of major design and construction activities, all Mainline Gantry work, Interchange Work, ORT Exist Site Work, and Special Exit Work;
- F) AETC “go live” date; and
- G) Final Completion date.

With the Initial Baseline Progress Schedule, the Proposer should provide a narrative that lists and describes the assumptions used in preparing the schedule, which should include the timing, duration and subject matter for the review and processing of all required submittals. The narrative should also include an explanation of the sequencing and phasing of construction activities and how the construction activities are planned to be performed based on different/multiple work shifts.

The Initial Baseline Progress Schedule should be provided in hard copy and electronically on thumbdrive. The schedule shall be presented in hard copy printed on 11” by 17” sheets with all as-printed font sizes at least 8 point. The electronic copy shall be in portable document format

(pdf). The thumbdrive shall be labeled “Cashless Tolling, Project INITIAL BASELINE PROGRESS SCHEDULE, then the Proposer’s name. In addition, submit the electronic file in P6V8.2 format.

**C4.2 SCHEDULE OF CONTRACT DURATIONS**

The Proposer shall submit Form SCD.

**C4.3 GANTT CHART**

The Proposer should submit the Gantt Chart, supplied on Form G, which is a simplification of the Initial Baseline Progress Schedule showing all major construction activities. The Gantt Chart shall be presented in hard copy printed on an 11” by 17” sheets with all as-printed font sizes at least 8 point. For the purposes of this section, the following are examples of major construction activities (if applicable):

- Start of Construction
- All Mainline Gantry Work locations start and end dates; ;
- Interchange (11 locations) start and end dates; ;
- Toll Plaza Removal start and end dates;
- Toll Plaza demolition of each stage;
- ORT Exit site(s) start and end dates;
- All Special Exits start and end dates;
- Modifications of access to and from NYSTA Maintenance Facilities;
- Highway paving work for all locations start and end dates;
- Utility relocations and/or new installation work at applicable sites;
- AETC “go live” date;
- Overall Construction Project Completion.

**C5.0 FORMAT OF VOLUME 2**

<p><b>Cashless Tolling</b></p> <p><b>DESIGN-BUILDER’S PROPOSAL</b></p> <p><b>VOLUME 2</b></p> <p><b>TECHNICAL PROPOSAL</b></p> <p><b>PROPOSER: _____</b></p>
---

Organize Volume 2 in the format shown in Table C, with the cover of the volume labeled as follows:

Provide the Technical Proposal submittals in Volume 2 in the order set forth in Table C. Separate the individual submittals in Volume 2 with tabs labeled as outlined in Table C (e.g., “Design-Build Quality Control Plan”), and use a copy of the Table C as a checklist for the basis of the table of contents for Volume 2 (which shall be the first page of Volume 2).

**Table C  
Format of Volume 2**

Proposal Component	Reference
<b>Volume 2, Section A – Design-Build Organization and Process</b>	
<b>Volume 2, Section A1 – Key Personnel</b>	
Key Personnel Form R	C2.1
<b>Volume 2, Section A2 – Overall Design-Build Team Organization and Approach to Quality</b>	
Design-Build Organization Chart (Narrative, Max 10 pages plus 11” x 17” org. chart)	C2.2.1
Design-Build Team Communication Protocol (Narrative, max. 10 pages plus 11” x 17” communication graphic)	C2.2.2
Design-Build Quality Control Plan (max. 15 pages plus org. chart)	C2.2.3
<b>Volume 2, Section B – Design Build Approach to the Project (Technical Solutions)</b>	
<b>Volume 2, Section B1– Project Understanding</b>	
Project Understanding (Narrative, max. 10 Pages)	C3.1
<b>Volume 2, Section B2 – Design-Build Approach to Design</b>	
Design Narrative (Narrative, max. 18 pages)	C3.2.1
Copies of Authority’s approval letters for each ATC that is incorporated into the Proposer’s Proposal along with each submitted ATC that was approved and used.	C3.2.1
<b>Volume 2, Section B3 – Design Build Construction Approach (Means and Methods)</b>	
Overall Project Construction Sequence (max. 15 pages)	C3.3.1
Work Zone Traffic Control (max.10 pages)	C3.3.2
Protection of Existing Facilities (max. 3 pages)	C3.3.3
Utility Work (max. 3 pages)	C3.3.4
Drainage Modifications (max. 3 page)	C3.3.5
<b>Volume 2, Attachment A – Design Drawings (separate 11” x 17” binder)</b>	
Project Limits Plans Special Exit Sites (3 locations)	C3.2.2
Plans ORT Exit Sites (34 Sites)	C3.2.2
Plans Interchanges (11 removed)	C3.2.2
Plans Mainline Gantry Areas (min. 16 sites)	C3.2.2
Plan Designs of Mainline Gantry and Mini-Gantry Structures	C3.2.2
<b>Volume 2B, Attachment B – Project Schedule</b>	
Initial Baseline Progress Schedule (max. 15 pages)	C4.1
Initial Baseline Progress Schedule Narrative (max. 10 pages)	C4.1
Form SCD – Schedule of Contract Durations	C4.2
Form G – Gantt Chart (max. 10 pages)	C4.3

Note: Volume 2, Attachment A – Design Drawings, shall be submitted in a separate 11” x 17” binder.

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# **CASHLESS TOLLING**

TA 19-1, Contract No. D800002

## **REQUEST FOR PROPOSALS INSTRUCTIONS TO PROPOSERS**

### **APPENDIX D**

### **PRICE PROPOSAL SUBMITTAL REQUIREMENTS**

**DRAFT January 24, 2019**

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## **D1.0 INTRODUCTION**

This ITP Appendix D specifies the Pricing Information to be submitted by all Proposers for the Project.

All forms named herein are found in ITP Appendix E unless otherwise noted.

Submit all information as specified herein, using the forms and formats specified. Alterations to the forms will only be permitted where specifically allowed.

## **D2.0 PRICE PROPOSAL**

Provide a Price Proposal using the forms listed herein and provided in ITP Appendix E. Failure to provide the requested information on the forms and in the format specified may result in the Authority declaring the Price Proposal non-responsive.

Upon Award, the agreed Price Proposal of the selected Proposer will be incorporated into the Contract Documents Parts 1 and 9.

The Price Proposal shall consist of:

- Form PP, Price Proposal Cover Sheet;
- Form SP, Schedule of Prices;
- Form WPS, Work Payment Schedule; and
- Form PB, Proposal Bond.

Unless indicated on a specific Form, the supplied Forms are not to be altered.

- Photographs or external web links are not to be included in the Forms;
- All required information must be contained in the Forms;
- Additional lines or pages are only allowed when indicated on the Form.

Any Form found to be altered may, at the discretion of the Authority's Office of Capital and Contracts Management, be removed from the Proposal before evaluation.

### **D2.1 Proposal price submittal**

The Items listed in Section D2.0 shall be submitted in a separate, sealed envelope.

Mark the envelope "Cashless Tolling VOLUME 3" plus the Proposer's name. Securely attach a duplicate copy of Form PP to the outside of the envelope. Have all persons signing the Form of Proposal (Form FP) also sign Form PP.

The Price Proposal Due Date is found in Appendix A, Section A5.1 and Section A5.3

### **D2.2 Schedule of Prices (Form SP)**

Complete Form SP, Schedule of Prices (see ITP Appendix E).

Form SP shall be in compliance with the following instructions:

- A) Price in US dollars (\$);
- B) Provide a lump sum price for each Price Item on Form SP;
- C) The Lump Sum Price for each Price Item shall be the total price to complete all Work for that Price Item, including such planning, management, overhead, design, materials, labor, use of tools and equipment, hazardous material and environmental inspections and remediation, utility work, and other work as required to complete such work and such costs necessary to integrate the work with the work of other Price Items except those costs included in other Price Items;
- D) The sum of the Lump Sum Price for each Price Item shall be the Proposal Price. The Proposal Price will become the Contract Price, as agreed to by the Authority, less the unused portion of the lump sum price for the Design-Build – Force Account Work (Item No. 800.04000015), if the Contract is Awarded.

**D2.3 Work Payment Schedule**

Using Form WPS, provide the proposed percent of the Lump Sum Price for Design-Build Construction Work (Item Nos. 800.06000115 through 800.06006915) for each Work Item listed on the Form. The total percent for all Work Items on each Form WPS shall equal 100%.

**D2.4 Proposal Bond**

Using Form PB, submit a Proposal Bond in the sum indicated in the Appendix to Form of Proposal (Form FP(A)). See also ITP Section 2.10.

**D3.0 FORMAT FOR VOLUME 3**

Organize and submit the Price Proposal in the format shown in Table D and submit the Price Proposal on the Date per ITP, Appendix A, with the cover of the volume labeled as follows:

<p><b>Syracuse Division Bundled Bridges</b> <b>DESIGN-BUILDER'S PROPOSAL</b> <b>VOLUME 3</b> <b>Price PROPOSAL</b></p> <p><b>PROPOSER:</b> _____</p>
--

**Table D**  
**Format of Volume 3**

<b>Section</b>	<b>Description</b>	<b>Appendix Reference</b>
Section 1	· Form PP, Price Proposal Cover Sheet	D2.1
Section 2	· Form SP, Schedule of Prices	D2.2
	· Form WPS, Work Payment Schedule	D2.3
Section 3	· Form PB, Proposal Bond	D2.4



# **CASHLESS TOLLING**

TA 19-1, Contract No. D800002

## **REQUEST FOR PROPOSALS INSTRUCTIONS TO PROPOSERS**

### **APPENDIX E**

### **FORMS**

**DRAFT January 24, 2019**

## APPENDIX E

### **Form Designator    Form Title**

#### Proposal Form

FP                      Form of Proposal  
FP(A)                 Appendix to Form of Proposal

#### General Forms

AAP-10                MWBE/SDVOB Solicitation Log  
AR                     Acknowledgement of Receipt of RFP, Addenda and Responses to Questions  
ATC                    Alternative Technical Concept Submittal Form  
BDEA\*\*              Bid Document Escrow Agreement  
C                        Proposer's Representative  
CR                     Commitment to Assign Identified Resources to Project  
EEO                    Equal Employment Opportunity Certification  
G                        Gantt Chart  
KP                     Key Personnel Information  
L-3                    Authorization to Provide Professional Services in New York State  
LC                     Lobbying Certificate  
LLL                    Disclosure of Lobbying Activities  
LDB                    List of Proposed MWBE/SDVOBs  
LSI                    Letter of Subcontract Intent  
NC                     Non-Collusion Affidavit  
PAB\*\*                Form of Payment Bond (Labor and Material Bond)  
PEB\*\*                Form of Faithful Performance Bond  
R                        Summary of Individual's Experience  
RFC                    Request for Change  
SA\*                    Stipend Agreement  
SCD                    Schedule of Contract Durations  
SDU                    Schedule of Proposed MWBE/SDVOB Utilization  
U                        Conflict Questionnaire

#### Price Proposal Forms

PP                     Price Proposal Cover Sheet  
SP                     Schedule of Prices  
WPS                    Work Payment Schedule  
PB                     Proposal Bond

\* Included for reference only. Form or Agreement to be submitted after Proposal Due Date

\*\* Included for reference only. Form or Agreement to be submitted after Proposal Due Date by the selected Best Value Proposer

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**FORM FP – FORM OF PROPOSAL**

Form FP shall be filled out by the Proposer only or by each Principal Participant if the Proposer is a Joint Venture and does not have a Federal ID Number and a New York State Vendor ID Number.

<b>PROPOSER</b>	
<b>NAME</b>	
<b>TITLE</b>	
<b>TELEPHONE No.</b>	
<b>ADDRESS</b>	
<b>STATE FINANCIAL SYSTEMS VENDOR ID NUMBER</b>	
<b>FEDERAL ID NUMBER</b>	

**TO NEW YORK STATE THRUWAY AUTHORITY (THE “AUTHORITY”):**

The undersigned proposes to design and construct this Project in accordance with the Part 1 - Design-Build Agreement, Part 2 - Design-Build Section 100, Part 3 - Project Requirements and all other Contract Documents and certifies to furnish and deliver all the materials and to do all work and labor required for the design and construction and other identified activities for the Cashless Tolling, in Orange, Ulster, Greene, Albany, Schenectady, Montgomery, Herkimer, Oneida, Madison, Onondaga, Cayuga, Seneca, Ontario, Monroe, Genesee, Erie, Chautauqua, Rensselaer and Columbia Counties, at the prices stated in the Schedule of Prices (Form SP). The undersigned also certifies that the undersigned has examined the Site and the RFP, including Parts 1 through 10 inclusive of the Contract Documents before submitting the Proposal and is satisfied as to the requirements therein. As further consideration for the award of this Contract, the undersigned agrees to the following terms, conditions and acknowledgments:

**SECTION 1.** *To execute the Contract and to furnish Contract security, as specified in Contract Documents Part 2, DB Section 103-3 and Form FP(A) within the time period prescribed in Section 6.0 to the Instructions to Proposers, and failing to do so, to forfeit the accompanying check or Proposal Bond to the Authority as liquidated damages, and the Authority may proceed to award the Contract to others.*

**SECTION 2.** *To commence Work promptly following the effective date of the Notice to Proceed, and to complete the Work by the milestone dates and completion deadlines specified in the Contract Documents.*

**SECTION 3.** *To furnish a performance bond and a payment bond in the amount specified in the RFP for the full, complete and faithful performance of this Contract.*

**SECTION 4.** *The undersigned declares that it is the only entity or party interested in the Proposal as principal and that its officers, employees, subsidiaries or parent corporations (check appropriate box following):*



**New York State Thruway Authority**

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Have not in any way participated in any activities in restraint of trade, or been debarred with relation to public contracts either in the State of New York or any other State of the United States or on any federally-assisted contract during the five-year period immediately preceding this Proposal or either directly or indirectly entered into any agreement, participated in any collusion or otherwise taken any action in restraint of free competitive bidding in connection with this Contract.

Have participated in activities in restraint of trade with relation to public contracts either in the State of New York or any other State of the United States or on any federally assisted contracts during the five-year period immediately preceding this Proposal or entered into collusion, or restraint of free competitive bidding on this Contract, and are of the opinion that they are a responsible Proposer entitled to the award of a contract involving public moneys and attach hereto an explanation of their activities in restraint of free trade, restraint of free competitive bidding, or collusion.

**SECTION 5.** *In accordance with the Contract to repair, maintain and guarantee all work performed thereunder as specified in the Contract Documents.*

**SECTION 6.** *The undersigned agrees that any and all claims that the undersigned may have for overcharges resulting from antitrust violations as to goods, services and materials purchased in connection with this Proposal are hereby assigned to the Authority, but only to the extent that such overcharges are passed on to the Authority. The undersigned further agrees to require its Subcontractors to assign any and all such claims for overcharges to the Authority, but only to the extent such overcharges are passed on to the Authority, by executing an assignment on a form obtainable from the Authority prior to the commencement of work by a Subcontractor. The undersigned retains all rights to any such antitrust claims to the extent of any overcharges not passed on to the Authority.*

*The undersigned tenders herewith a Proposal Bond in the form of Form PB (see Appendix E to Instruction to Proposers).*

**Proposer** \_\_\_\_\_  
**Organization** \_\_\_\_\_  
**By** \_\_\_\_\_  
**Title** \_\_\_\_\_  
**State of** \_\_\_\_\_  
**County of** \_\_\_\_\_ }ss



**FORM FP(A) - APPENDIX TO FORM OF PROPOSAL**

1. Proposal Validity Period 120 days from the Price Proposal Due Date
2. Warranty Period: Per DB §104
3. Proposal Bond (Form PB) 5% of Proposal Amount
4. Performance Bond (Form PEB) 100% of Contract Amount
5. Payment Bond (Form PAB) 100% of Contract Amount
6. Design-Builder's minimum required insurance Per Contract Documents Part 1 DB Agreement Article 14 and Part 2, DB § 107-27.3
7. Liquidated Damages Per Part 1 Design-Build Agreement Article 15 and Special Provision SP-6
8. The address of Authority's Designated Representative:

**James Chicoine and Michael Doyle  
Attention: Cashless Tolling Design-Build Project  
Office of Capital and Contracts Management  
New York State Thruway Authority  
200 Southern Blvd., 2<sup>nd</sup> Floor North  
Albany New York 12209**

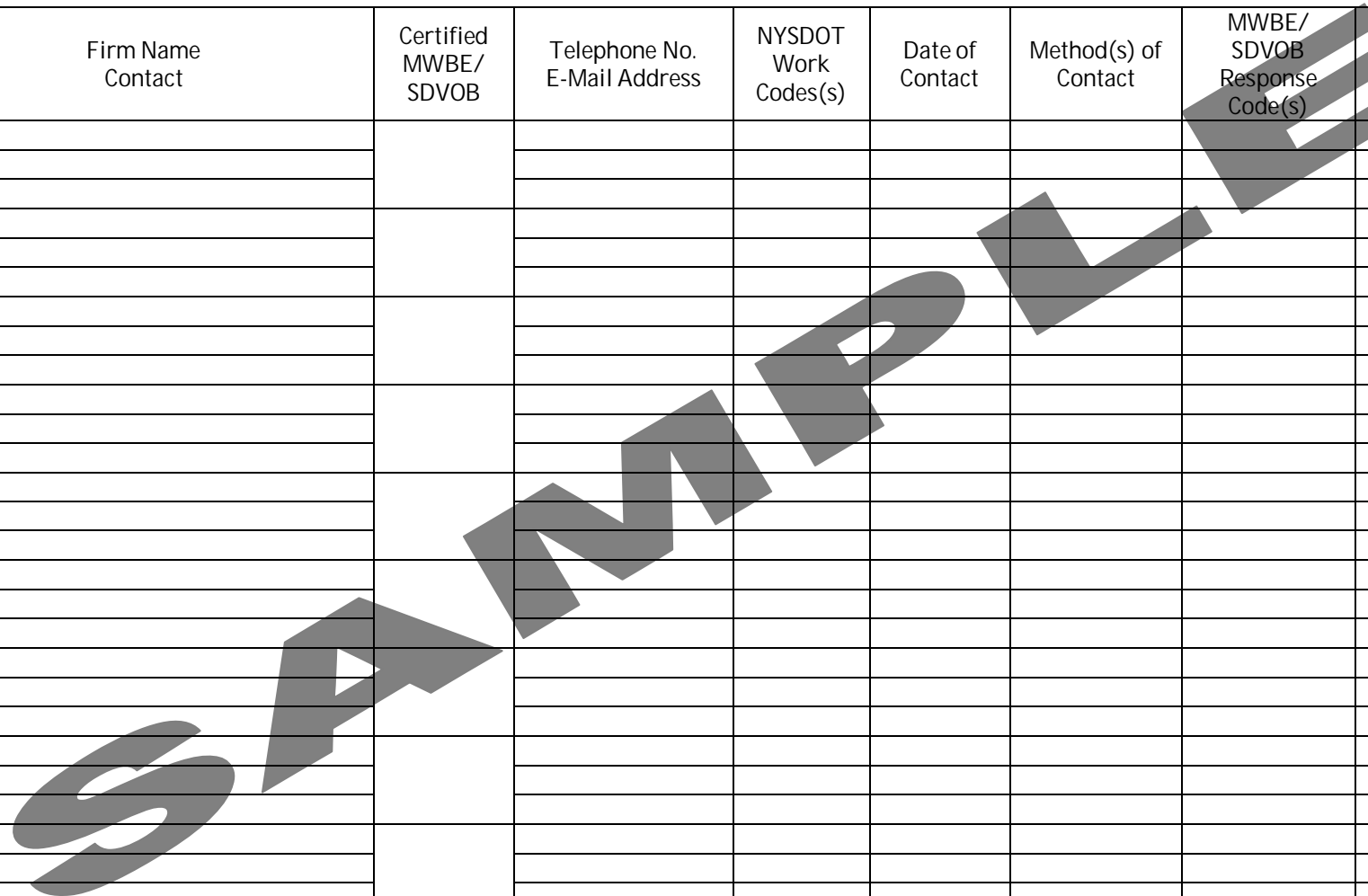
E-mail: [CTDB@thruway.ny.gov](mailto:CTDB@thruway.ny.gov)

**New York State Thruway Authority**

Form AAP-10  
MWBE/SDVOB SOLICITATION LOG

Contract No. \_\_\_\_\_ County \_\_\_\_\_ Proposal Due Date \_\_\_\_\_ Date Submitted \_\_\_\_\_ Page \_\_\_\_ of \_\_\_\_  
 Contractor Name / Address \_\_\_\_\_ Contract Name: \_\_\_\_\_  
 \_\_\_\_\_ E-Mail: \_\_\_\_\_  
 \_\_\_\_\_ Telephone No: \_\_\_\_\_

	Firm Name Contact	Certified MWBE/ SDVOB	Telephone No. E-Mail Address	NYS DOT Work Codes(s)	Date of Contact	Method(s) of Contact	MWBE/ SDVOB Response Code(s)	Bidder Action Code(s)
1								
2								
3								
4								
5								
6								
7								
8								
9								
10								



## New York State Thruway Authority

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Notes:

Certification: MWBE, MBE, WBE, or SDVOB

Method(s) of Contact: Mail, E-Mail, Phone, Fax, or Face-to-Face

M/WBE Response Codes: 11-Submitted Written Quote 12-Submitted Verbal Quote 13-Negotiating with Prime 14-Developing Quote 21-Not Certified for Item(s) 22-Location Unacceptable 23-No Price Agreement 24-No Time for Bid 25-Schedule Unacceptable 26-Other

Bidder Codes: 31-Selected 32-Unavailable 33-No Longer in Business 34-Undeliverable 35-Unreachable 36-Unresponsive 37-Not Selected

Proposers shall complete Form AAP-10 using the form-enabled pdf file located on the Authority's Project web site.

**FORM AR - ACKNOWLEDGMENT OF RECEIPT OF RFP,  
ADDENDA AND RESPONSES TO QUESTIONS**

(to be attached to Volume 1 of Proposal)

<b>NAME OF PROPOSER</b>

We hereby acknowledge receipt of the Cashless Tolling, Design-Build Project RFP, dated February 4, 2019 and subsequent responses to questions and Addenda issued by the Authority, as listed below.

*Add additional lines in tables below, if needed.*

<b>Addendum number:</b>	<b>Date issued by Authority:</b>

<b>Responses to questions number:</b>	<b>Date issued by Authority:</b>

<b>SIGNED</b>	
<b>DATE</b>	
<b>NAME</b> (printed or typed)	
<b>TITLE</b>	

**ALTERNATIVE TECHNICAL CONCEPT (ATC)**

**SUBMITTAL FORM**

**FORM ATC**

<b>Proposer:</b>			
<b>Project Title, Contract #:</b>			
<b>ATC Title:</b>			
<b>ATC No.:</b>		<b>Date:</b>	

<b>A</b>	<b>Description: Provide a detailed description of the configuration of the ATC or other appropriate descriptive information.</b>
<b>B</b>	<b>Usage: Describe where and how the ATC would be used on the Project.</b>
<b>C1</b>	<b>Deviations: Provide references to any requirements of the RFP Documents or to any elements of the Contract Documents that are inconsistent with the proposed ATC.</b>
<b>C2</b>	<b>Provide an explanation of the nature of the proposed deviation and a request for: (a) approval of such deviations or (b) a determination that the ATC is consistent with applicable requirements.</b>

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<b>D</b>	<b>Analysis: Provide an analysis justifying use of the ATC and why the deviations from the requirements of the RFP Documents should be allowed.</b>
<b>E1</b>	<b>Impacts: Provide an explanation of potential impacts of the ATCs on vehicular traffic with an emphasis on truck traffic in the community due to the construction.</b>
<b>E2</b>	<b>Provide an explanation of potential impacts of the ATCs on the environment (favorable and unfavorable) identified in appropriate environmental documents (especially with regard to the impacts and commitments of the EIS).</b>
<b>E3</b>	<b>Provide an explanation of potential impacts of the ATCs on the surrounding community.</b>
<b>E6</b>	<b>Provide an explanation of potential impacts of the ATCs on the safety and life-cycle, Project and infrastructure costs (including impacts on the cost of repair and maintenance).</b>



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<b>F1</b>	<b>Environmental Approvals: Provide an explanation of any changes in any Environmental Approval which would be required as a result of the ATC.</b>
<b>F2</b>	<b>Provide an explanation of whether the ATC would require any deviation from the terms and conditions of any permit or of any anticipated or existing Environmental Approval or new Environmental Approval and, if so, an analysis of the steps required, costs involved and time that would be required to obtain, and the likelihood of success in obtaining, the required approval from the appropriate Governmental Agencies, as well as an analysis of all potential impacts on the Project.</b>
<b>G</b>	<b>History: Provide a detailed description of other projects where the ATC has been used under comparable circumstances, if any, the success of such usage, and names, email addresses and contact telephone numbers of project owners that can confirm such statements.</b>
<b>H</b>	<b>Risks: Provide a description of any added or reduced risks to the Authority and other Persons associated with implementing the ATC.</b>
<b>I</b>	<b>Schedule: Provide an estimate of the impact of the ATC upon the Contract duration and schedule, including the Proposer's estimate of the likely durations for any permits and consents necessary for the ATC.</b>

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<b>J</b>	<b>Price: Provide an estimate of the impact (<u>Savings Only</u>) of the ATC on the Proposal Price.</b>
<b>K</b>	<b>ROW Requirements: Provide a list of additional ROW requirements, if any, and a description of when additional ROW would be required in order to implement the ATC.</b>
<b>L</b>	<b>One-on-One Meeting: Provide a statement as to whether, in the Proposer's view, a one-on-one meeting with the Authority would be appropriate to discuss the ATC.</b>
<b>M</b>	<b>Attach supporting drawings/sketches (Required).</b>

**FORM BDEA**  
**BID DOCUMENT ESCROW AGREEMENT**

**COMPTROLLER'S CONTRACT NO.** \_\_\_\_\_

**TAS:** \_\_\_\_\_

**PROJECT:** \_\_\_\_\_

This Agreement made this \_\_\_\_ day of \_\_\_\_\_, 2019, by and between NEW YORK STATE THRUWAY AUTHORITY (hereinafter "NYSTA"), whose principal office is located at 200 Southern Blvd., Albany, New York 12209, and \_\_\_\_\_, duly organized and existing under the laws of the State of \_\_\_\_\_, having its principal office at \_\_\_\_\_ (hereinafter referred to as "Proposer").

WITNESSETH:

WHEREAS, NYSTA is currently procuring a design-build contract (the "Contract") for the \_\_\_\_\_ Project (the "Project");

WHEREAS, the Proposer submitted a proposal ("the Proposal") in response to the Request for Proposals issued by NYSTA on \_\_\_\_\_, as amended by any addenda (as amended, the "RFP"); and

WHEREAS, NYSTA has decided to award the Contract to the Proposer.

NOW, THEREFORE, the parties agree as follows:

**ARTICLE 1. ESCROWING OF BID DOCUMENTS.** The Proposer must agree, as a condition of the award of the Contract, to submit all Bid Documents to NYSTA, to be held by NYSTA in escrow. Failure to submit the Bid Documents to NYSTA within 15 days of the execution of this Agreement may result in the Proposer's bid being deemed non-responsive, which would end the contracting process between NYSTA and Proposer on the Project.

The Bid Documents must clearly itemize the estimated costs of performing the work of each bid item contained in the RFP. The bid items should be separated into sub-items as required to present a complete and detailed cost estimate and allow a detailed cost review.

Estimated cost should be broken into the Proposer's usual estimate categories such as direct labor, equipment operations, expendable materials, permanent materials, and subcontractor costs. Plant and equipment and indirect costs should be detailed. The Proposer's allocation of plant and equipment, indirect costs, contingencies, markup, and other items allocated to each bid item must also be included.

"Bid Documents" include all documents and data used by the Proposer to determine the bid on the project, include all writings, charts, data compilation, working papers, computer printouts and other documents, in any media, including hard copy and electronic, including but not limited to materials relating to the determination and application of design costs, construction

inspection services costs, Material and lab testing services costs, equipment rates, overhead rates and related time schedules, labor rates, equipment rates, efficiency or productivity factors, arithmetic extensions, and subcontractor and material supplier quotations. Electronic copies of bid estimating software must have the audit trail option enabled.

“Bid Documents” also includes any manuals standard to the industry and used by the Proposer in determining its bid. Such manuals may be included in the Bid Documents by reference. The reference shall include the name and date of the manual, as well as its publisher.

The Bid Documents must constitute all of the information used in preparation of the bid, and the Proposer may not rely on any other documents it generated in the bid process in resolving disputes or claims, or in the course of litigation. This term does not limit NYSTA’s right to use other information in resolving disputes or claims, or in the course of litigation, nor does this term limit NYSTA’s right to discovery from Proposer.

If Proposer’s bid is based on subcontracting any part of the work, Proposer shall provide documentation sufficient to determine the basis for Proposer’s assignment of the portion of the bid designated to cover the subcontracted work. This documentation includes any Bid Documents submitted by the subcontractor to the extent they have been considered as part of the Proposer’s bid.

**ARTICLE 2. ESCROWED BID DOCUMENTS TO BE HELD BY NYSTA.** The Bid Documents will be held by the NYSTA in a locked container, to be provided by the Proposer. The Bid Documents will be maintained in NYSTA’s main office (Southern Blvd., Albany, New York, 12209).

The Bid Documents must be delivered to NYSTA in a sealed envelope or other container clearly labeled as to its contents and the name of the Project. A description of the Bid Documents, which makes their organization clear, must accompany the delivery of the Bid Documents. Each page of the Bid Documents must be marked with consecutive Bates Numbers. Each page of electronically-stored Bid Documents must also be Bates Numbered. Electronic Bid Documents that do not have pages, i.e. copies of bid estimating software, must be identified by a unique Bates Number. The Proposer will not be allowed to submit any additional Bid Documents.

The Proposer agrees to indemnify and hold NYSTA harmless against any loss, claim, damage, liability or expense incurred in connection with any action, suit, proceeding, claim or alleged liability arising from this Agreement; provided, however, that the NYSTA shall not be so indemnified or held harmless for its negligence or acts of bad faith by it or any of its agents or employees. This indemnification does not cover any action, suit, proceeding, claim or alleged liability asserted by the Proposer against NYSTA relating to the Contract.

**ARTICLE 3. CERTIFICATION OF BID DOCUMENTS.** The Bid Documents must be accompanied with a notarized certification signed by a chief officer of the Proposer. The certification must state that the material in the escrowed Bid Documents constitutes all the documentary information used to prepare the bid and that the certifying individual has personally examined the contents of the Bid Documents container and has found that the collection of documents in the container is complete. The certification shall also attest that the enclosed documentation is an exact copy of the original documentation. Further, the certification must also authenticate the Bid Documents, and state that the Bid Documents or copies thereof are admissible as evidence.

The certification must set forth the name and title of the certifying chief officer, and must contain the language below:

The undersigned hereby certifies that the Bid Documentation contained herein constitutes all of the information used in preparation of the bid. I have personally examined the collected

**New York State Thruway Authority**

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documents and have found that this Bid Documentation is complete. The enclosed documentation is an exact copy of the original documentation, and is admissible as evidence.

**ARTICLE 4. TERMS FOR ACCESSING BID DOCUMENTS.** The Bid Documents shall be examined by both the Proposer and NYSTA at any time deemed necessary by either the Proposer or NYSTA to assist in the negotiation of price adjustments and change orders, or in the settlement of disputes and claims arising under the Contract.

Access to the Bid Documents shall be given to the Proposer's and NYSTA's designated representatives, and then only when and for the duration that both designated representatives are physically present. The Bid Documents shall be available during normal business hours. NYSTA will be entitled to review all or any part of the Bid Documents in order to satisfy itself regarding the applicability of the individual documents to the matter at issue. NYSTA will be entitled to make and retain copies of such documents as it deems appropriate in connection with any such matters, provided that NYSTA has executed and delivered to Proposer a confidentiality agreement specifying that all proprietary information contained in such documents will be kept confidential; that copies of such documents will not be distributed to any third parties other than NYSTA's agents, attorneys, and experts; and that all copies of such documents (other than those delivered to a court) will be either destroyed, returned to the Bid Document collection, or returned to the Proposer upon final resolution of the negotiations or dispute.

Notwithstanding any other provisions herein, notification that the Proposer has initiated litigation or any other type of proceeding against NYSTA will be construed as permission for the NYSTA to review, copy, and otherwise make use of the Bid Documents, either with or without the presence of Proposer's designated representative. However, under these circumstances NYSTA must still execute and deliver a confidentiality agreement, as described above.

**ARTICLE 5. NYSTA'S DESIGNATED REPRESENTATIVE.** The following person, or his/her successor, is NYSTA's Designated Representative:

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Email : \_\_\_\_\_

**ARTICLE 6. PROPOSER'S DESIGNATED REPRESENTATIVE.** The following person, or his/her successor, is the Proposer's Designated Representative:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Email: \_\_\_\_\_

**ARTICLE 7. STATUS OF ESCROWED BID DOCUMENTS.** The Bid Documents are and shall remain the property of the Proposer, subject to joint review by the Proposer and NYSTA as provided herein. NYSTA has not reviewed or considered the Bid Documents at the time of this Agreement. However, NYSTA understands that the Bid Documents may contain information: (1) known only to a limited extent and only by a limited number of employees of the Proposer; (2) that is safeguarded while in the Proposer's possession; (3) that would be extremely valuable to the Proposer's competitors by virtue of it reflecting the Proposer's contemplated techniques of

**New York State Thruway Authority**

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construction; (4) that could not be otherwise obtained or determined by Proposer's competitors; and (5) that would cause a great deal of competitive harm to the Proposer if the information were to become public. Accordingly, pursuant to New York Public Officers Law § 89(5)(a)(1), Proposer may designate the Bid Documents, in all or in part, as exempt from disclosure under Public Officers Law § 87(2)(d).

NYSTA will have no interest in or right to the Bid Documents unless the Contractor gives written notice of intent to file a dispute or claim, files a written claim, files a written and verified claim, or initiates litigation against NYSTA. Under these conditions, or upon written authorization from the Proposer releasing the Bid Documents, NYSTA may review the bid documentation for the limited purpose of evaluating a dispute or claim or conducting litigation.

**ARTICLE 8. END OF ESCROW.** The Bid Documents will remain in escrow during the duration of the Contract and until such time as the following conditions have been satisfied: (1) the Contract has been completed; (2) Final payment has been issued by NYSTA and accepted by the Proposer; and (3) All litigation has been completed, and a written agreement has been executed between the Proposer and NYSTA that no further litigation or claims will be made.

**ARTICLE 9. MISCELLANEOUS TERMS.**

A) Any amendment to this Agreement must be in writing and will not be effective until it has been executed and approved by the same parties that executed and approved this Agreement, or their successors.

B) Nothing in the Bid Documents shall change or modify the terms or conditions of the Contract.

C) If NYSTA fails to enforce any provision of this Agreement, that failure does not waive the provision or NYSTA's right to subsequently enforce it.

D) New York law, without regard to its choice-of-law provisions, governs the validity, interpretation, and enforcement of this Agreement.

E) This Agreement contains all prior negotiations and agreements between the parties. No other understanding regarding this Agreement, whether written or oral, may be used to bind either party.

F) All costs associated with preparation and submission of the Bid Documents must be included in the Contract bid price.

**ARTICLE 10. POWER TO EXECUTE AGREEMENT**

The undersigned representative of the Proposer certifies that he or she has full and complete authority to bind the Proposer to all terms and conditions of this Agreement, and that by executing the Agreement does so bind the Proposer.

IN WITNESS WHEREOF, this agreement has been executed by NYSTA and the Proposer, who have executed this Agreement on the day and year first written above.

Recommended by (NYSTA)

Contract No. \_\_\_\_\_

\_\_\_\_\_

**New York State Thruway Authority**

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(Signature)

In addition to the acceptance of this contract, I also certify that original copies of this signature page will be attached to all other exact copies of the contract.

ATTORNEY GENERAL:

\_\_\_\_\_  
New York State Thruway Authority  
(Signature)

\_\_\_\_\_  
Date

Approved

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature) (Title)

\_\_\_\_\_  
For State Comptroller

\_\_\_\_\_  
(Design-Builder's Authorization Signature)

**[Proposer]**  
Name of Proposer

Print: \_\_\_\_\_

Sign: \_\_\_\_\_

**BID DOCUMENT ESCROW AGREEMENT**  
**APPENDIX A**

**COMPTROLLER'S CONTRACT NO.** \_\_\_\_\_

**TAS:** \_\_\_\_\_

**PROJECT:** \_\_\_\_\_

**The successful Proposer must agree to an escrow of all Bid Documents as a condition of the award of the Contract.**

Escrowing of Bid Documents is intended to further the spirit of cooperation and atmosphere of honesty and candor between the Authority and the Proposer. Escrowed Bid Documents are used to assist in the negotiation of price adjustments and change orders, and in settling disputes and claims.

The successful Proposer must agree, as a condition of the award of the Contract, to submit all Bid Documents to the Authority, to be held by the Authority in escrow and to be accessed only under the conditions set forth in the Bid Document Escrow Agreement. The Bid Documents must constitute all of the information used in preparation of the bid, and the Proposer may not rely on any other documents it generated during the bid process in resolving disputes or claims, or in the course of litigation.

The escrowed Bid Documents must clearly itemize the estimated costs of performing the work of each bid item contained in the RFP. The bid items should be separated into sub-items as required to present a complete and detailed cost estimate and allow a detailed cost review.

"Bid Documents" includes all documents and data used by the Proposer to determine the bid on the project, including all writings, charts, data compilation, working papers, computer printouts and other documents, in any media, including hard copy and electronic documentation, including but not limited to materials relating to the determination and application of design costs, construction inspection costs, equipment costs and/or rates, overhead costs and/or rates and related time schedules, labor costs and/or rates, equipment costs and/or rates, efficiency or productivity factors, arithmetic extensions, subcontractor, fabricator, and material supplier quotations.

Escrowed Bid Documents must be accompanied with a notarized certification signed by a chief officer of the Proposer. The certification will state that the material in the escrowed Bid Documents constitutes all the documentary information used to prepare the bid and that the certifying individual has personally examined the contents of the Bid Documents and found that they are complete.

It is understood that the Bid Documents, or any portion thereof, are designated by the Proposer as trade secret material, and that the documents shall be protected from disclosure through FOIL.



**FORM C**

**PROPOSER'S REPRESENTATIVE**

In accordance with ITP Section 2.2.3, the following person is named as the Proposer's Representative:

<b>Proposer</b>	
<b>Name of Proposer's Representative</b>	
<b>Company Affiliation</b>	
<b>Address</b>	
<b>Office phone (direct dial)</b>	
<b>Cell phone</b>	
<b>Email</b>	

**FORM CR**

**COMMITMENT TO ASSIGN IDENTIFIED RESOURCES TO PROJECT**

Understanding the Authority's concern that the personnel resources, materials, equipment and supplies specifically represented and listed in this Proposal actually be assigned to the Contract (if awarded to this Proposer) and not also be committed to other Projects.

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(Name of Proposer)

commits that the personnel resources shown in the Proposal, including identified design staff, and materials, equipment and supplies specifically listed in this Proposal will be available to the extent within this Proposer's control. If awarded the Contract, this Proposer will undertake all reasonable efforts to provide all the Key Personnel identified in its Proposal on a full time basis for the periods necessary to fulfill their responsibilities.

In making this commitment, we include the following reservations:

(If made without reservation, enter "NONE" above.)

Signed: \_\_\_\_\_  
Printed name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

*(To be executed by the Proposer's designated Lead Principal Participant)*

**FORM EEO - EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION**

To be executed by the Proposer, The Proposers Team (Design-Build Team) of Design, Construction Inspection, Materials Testing or Laboratory, Principal Participants and proposed known Subcontractors.

The undersigned certifies on behalf \_\_\_\_\_ that:  
of

\_\_\_\_\_  
(Name of entity making certification)

*check one of the following boxes)*

- It has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2 (Affirmative Action Programs).
- It is not subject to the requirements to develop an affirmative action program under 41 CFR Part 60-2 (Affirmative Action Programs).  
*(check one of the following boxes)*
- It has not participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246.
- It has participated in a previous contract or subcontract subject to the equal opportunity clause described in Executive Orders 10925, 11114 or 11246 and, where required, it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

If not Proposer, relationship to Proposer: \_\_\_\_\_

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b)(1)), and must be submitted by Proposers only in connection with contracts which are subject to the equal opportunity clause. Contracts that are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally, only contracts of \$10,000 or under are exempt.) Currently, Standard Form 100 (EEO-1) is the only report required by Executive Orders or their implementing regulations.

Proposers, Principal Participants, and proposed Subcontractors who have participated in a previous contract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b)(1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or

**New York State Thruway Authority**

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such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Authority of Labor.



**FORM KP - KEY PERSONNEL INFORMATION**

In accordance with ITP Appendix C , complete either (A) or (B) below

<b>PROPOSER:</b>							
Either (A), the Proposer hereby confirms that there is no change in the Proposer's Key Personnel relative to the Proposer's SOQ submission:							
<b>Signed</b>							
<b>Name</b>							
<b>Title</b>							
<b>Date</b>							
Or (B), the Proposer has proposed changes to the Proposer's Key Personnel relative to the Proposer's SOQ submission. The Proposer summarizes below <u>all</u> the Key Personnel proposed in the SOQ; states which Key Personnel differ from those named in the SOQ; and, for the substitute Key Personnel, attaches copies of the Authority's written consent (Form RFC) for the personnel change.							
Key Personnel Role	Changed relative to SOQ? (Yes/No)	Name	Years of experience	Parent Firm name	% of time dedicated to Project	Resume attached (Yes/No)	Authority's consent attached (Yes/No)
Project Manager							
Design Manager							
Quality Manager							
Supervisor of Resident Engineers							

**FORM L-3**

**AUTHORIZATION TO PROVIDE PROFESSIONAL SERVICES IN NEW YORK STATE**

<b>NAME OF PROPOSER</b>		
<b>NAME OF FIRM PROVIDING DESIGN AND/OR ENGINEERING SERVICES</b>		
<b>EITHER</b> (1) Copy of current Certificate of Authorization to provide Engineering Services issued by the New York State Education Department is attached.	<b>Yes</b> (copy attached)	<b>No</b> (Item (2) applies)
<b>OR</b> (2) Documentation is attached to this Form L-3 demonstrating the ability to obtain Certificate of Authorization to provide Engineering Services from the New York State Education Department in accordance with the New York State Education Law, Title VIII, and Articles 130, 145, 147 and 148.	<b>Yes, documentation attached and further details are given below</b>	
If (2) applies, give details of attached documentation demonstrating ability to obtain the relevant certification / license: <span style="float: right;">(Add additional lines if required.)</span>		

**FORM LC**

**LOBBYING CERTIFICATE**

The undersigned certifies, by signing and submitting its Proposal, to the best of his or her knowledge and belief, that:

- (1) **No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned**, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal loan, the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.
  
- (2) **If any funds other than Federal appropriated funds have been paid or will be paid** to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure of Lobbying Activities", in accordance with its instructions

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Proposer/Design-Builder also agrees by submitting its Proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such sub-recipients shall certify and disclose accordingly.

Date \_\_\_\_\_  
Company name \_\_\_\_\_  
Signature \_\_\_\_\_  
Name (typed or printed) \_\_\_\_\_  
Title \_\_\_\_\_



**New York State Thruway Authority**

**Form LLL - Disclosure Of Lobbying Activities**

COMPLETE THIS FORM TO DISCLOSE LOBBYING ACTIVITIES PURSUANT TO 31 U.S.C. 1352

FORM LLL APPLICABLE? (Check applicable box)      YES       NO

If no, complete only box #4 below.

<p><b>1. Type of Federal Action:</b></p> <p><input type="checkbox"/> a. contract  <input type="checkbox"/> b. grant  <input type="checkbox"/> c. cooperative agreement  <input type="checkbox"/> d. loan  <input type="checkbox"/> e. loan guarantee  <input type="checkbox"/> f. loan insurance</p>	<p><b>2. Status of Federal Action:</b></p> <p><input type="checkbox"/> a. bid/offer/application  <input type="checkbox"/> b. initial award  <input type="checkbox"/> c. post-award</p>	<p><b>3. Report Type</b></p> <p><input type="checkbox"/> a. initial filing  <input type="checkbox"/> b. material change</p> <p><b>For Material Change Only:</b>  Year ____ quarter ____  date of last report _____</p>
<p><b>4. Name and Address of Reporting Entity</b></p> <p><input type="checkbox"/> Prime      <input type="checkbox"/> Subawardee  Tier ____, if known</p> <p><b>Congressional District</b>, if known</p>		<p><b>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</b></p> <p><b>Congressional District</b>, if known</p>
<p><b>6. Federal Authority/Agency:</b></p>	<p><b>7. Federal Program Name/Description:</b></p> <p><b>CFDA Number</b>, if applicable _____</p>	
<p><b>8. Federal Action Number</b>, if known:</p>	<p><b>9. Award Amount</b>, if known:</p>	
<p><b>10. a. Name and Address of Lobby Entity</b></p>	<p><b>b. Individuals Performing Services</b> (including address if different from No 10a)  (last name, first name, MI)</p> <p align="center">(attach Continuation Sheet(s) if necessary)</p>	
<p><b>11. Amount of Payment (check all that apply)</b></p> <p>\$ _____      <input type="checkbox"/> actual      <input type="checkbox"/> planned</p>	<p><b>13. Type of Payment (check all that apply)</b></p> <p><input type="checkbox"/> a. retainer  <input type="checkbox"/> b. one-time fee  <input type="checkbox"/> c. commission  <input type="checkbox"/> d. contingent fee  <input type="checkbox"/> e. deferred  <input type="checkbox"/> f. other, specify _____</p>	
<p><b>12. Form of Payment (check all that apply):</b></p> <p><input type="checkbox"/> a. cash  <input type="checkbox"/> b. in-kind; specify: nature _____  value _____</p>		

## New York State Thruway Authority

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**14. Brief Description of Services Performed or to be performed and Date(s) of Service, including officer(s), employee(s), or member(s) contacted, for Payment Indicated in Item 11:**

(attach Continuation Sheet(s) if necessary)

**15. Continuation Sheet(s) attached:** Yes  No

**16.** Information requested through this form is authorized by Title 31 U.S.C. Section 1352. This disclosure of lobbying reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to Congress semiannually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature:

Print Name:

Title:

Telephone No.:

Date:

**Federal Use Only:**

Authorized for Local Reproduction

Standard Form – LLL

Standard Form LLL Rev. 09-12-97

**Instructions for Completion of Standard Form LLL  
Disclosure of Lobbying Activities**

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of covered Federal action or a material change to previous filing pursuant to Title 31 U.S.C. Section 1352. The filing of a form is required for such payment or agreement to make payment to lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Attach a continuation sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state, and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is or expects to be a prime or subaward recipient. Identify the tier of the subawardee (e.g., the first subawardee of the prime is the first tier). Subawards include, but are not limited to, subcontracts, subgrants, and contract awards under grants.
5. If the organization filing the report in Item 4 checks "Subawardee," then enter the full name, address, city, state, and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organization level below agency name, if known. For example, Authority of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (Item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identification in Item 1 (e.g., Request for Proposal [RFP] number, Invitation for Bid [IFB] number, grant announcement number, the contract grant or loan award

## New York State Thruway Authority

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number, the application/proposal control number assigned by the Federal agency). Include prefixes (e.g., "RFP-DE-90-001)."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitments for the prime entity identified in Item 4 or 5.
10. (a) Enter the full name, address, city, state, and zip code of the lobbying entity engaged by the reporting entity identified in Item 4 to influence the covered Federal action.  
  
(b) Enter the full names of the individual(s) performing services and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (Item 4) to the lobbying entity (Item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed or will be expected to perform and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal officer(s) or employee(s) contacted or the officer(s) employee(s) or Member(s) of Congress that were contacted.
15. Check whether or not a continuation sheet(s) is attached.
16. The certifying official shall sign and date the form and print his/her name title and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.





**FORM LSI - LETTER OF SUBCONTRACT INTENT**

\_\_\_\_\_ intends to subcontract Work for the Project to  
 \_\_\_\_\_  
 (Proposer's Name)

\_\_\_\_\_ to perform the following types of Work:  
 \_\_\_\_\_  
 (Name of Subcontractor/Consultant)

(Details of Work. Proposer to identify any changes if Non-HARS Alternative is used)

The minimum value of the Subcontract is:					
The Subcontractor/Consultant is a certified (if yes, please enter MW of SD) MWBE/SDVOB firm:	Yes	MW	SD	(see below)	No
If Subcontractor/Consultant is a certified MWBE/SDVOB firm:					
Certifying entity:					
Telephone number for certifying entity:					

**For the Proposer:**

**For the Subcontractor/Consultant<sup>(1)(2)</sup>:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Confirmed by: (Signature)

\_\_\_\_\_  
(Printed or typed name)

\_\_\_\_\_  
(Printed or typed name)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**Certification Regarding Debarment, Suspension, Ineligibility  
and Voluntary Exclusion Lower Tier Covered Transactions**

- (1) The prospective lower tier participant (Subcontractor/consultant) certifies, by submission of its proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in the Cashless Tolling, Design-Build Project, TA 19-1, Contract No. D800002, Contract No. D800002, by any Federal Authority or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to its proposal..

**FORM NC**  
**NON-COLLUSION AFFIDAVIT**

State of \_\_\_\_\_ }ss  
County of \_\_\_\_\_

Each of the undersigned, being first duly sworn, deposes and says that:

\_\_\_\_\_  
(Name and Signature) is the \_\_\_\_\_  
(Title) of \_\_\_\_\_  
(Firm)

\_\_\_\_\_  
(Name and Signature) is the \_\_\_\_\_  
(Title) of \_\_\_\_\_  
(Firm)

which entity(ies) are the \_\_\_\_\_  
(details) of \_\_\_\_\_  
(Proposer)

the entity making the foregoing Proposal:

(a) By submission of its Proposal, the Proposer and each person signing on behalf of the Proposer certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his knowledge and belief:

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

(b) A Proposal shall not be considered for award nor shall any award be made where (a)(1)(2) and (3) above have not been complied with; provided however, that if in any case the Proposer cannot make the foregoing certification, the Proposer shall so state and shall furnish with the Proposal a signed statement which sets forth in detail the reasons therefore. Where (a)(1)(2) and (3) above have not been complied with, the Proposal shall not be considered for award nor shall any award be made unless the head of the Authority, or his designee, determines that such disclosure was not made for the purpose of restricting competition. The fact that a bidder (a) has published price lists, rates, or tariffs covering items being procured, (b) has informed prospective customers of proposed or pending publication of new or revised price lists for such items or (c) has sold the same items to other customers at the same prices being bid, does not constitute, without more, a disclosure within the meaning of subparagraph (a).

If the Proposal is made by a corporate Proposer, such Proposal shall be deemed to have been authorized by the board of directors of the Proposer and such authorization shall be deemed to include the signing and submission of the Proposal and the inclusion therein of the certificate as to non-collusion as the act and deed of the corporation.





**FORM PAB**  
**FORM OF PAYMENT BOND**  
**(LABOR AND MATERIAL BOND)**

KNOW ALL PERSONS BY THESE PRESENTS, that

\_\_\_\_\_  
(Name of Design-Builder)

\_\_\_\_\_  
(Address)

(hereinafter called the "Principal") and \_\_\_\_\_, as surety or as co-sureties ("Co-Sureties"), each a corporation duly organized and existing under the laws of the State indicated on the attached Appendix 1, having its principal office at the address (including City and State) indicated on the attached Appendix 1, and authorized as a surety in the State of New York (such surety or Co-Sureties are hereinafter called the "Surety"), are hereby jointly and severally held and firmly bound unto the New York State Thruway Authority (the "Obligee") in the full and just sum of [100% of the Contract Amount] good and lawful money of the United States of America, to the payment of which said sum of money, well and truly to be made and done the said Principal binds itself, its heirs, executors, administrators or assignees and the said Surety binds itself, its successors or assigns, jointly and severally, firmly by these presents:

WHEREAS, said Principal has entered into a certain written contract, on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ with the Obligee, 200 Southern Blvd., Albany, New York, 12209 (mailing address: \_\_\_\_\_), for design, construction and other specified activities for the Cashless Tolling, Design-Build Project, in the counties of Orange, Ulster, Greene, Albany, Schenectady, Montgomery, Herkimer, Oneida, Madison, Onondaga, Cayuga, Seneca, Ontario, Monroe, Genesee, Erie, Chautauqua, Rensselaer and Columbia, which constitutes TA 19-1, Contract No. D800002.

NOW, THEREFORE, the condition of this obligation is such that if the said Principal shall pay all monies due to all persons furnishing labor or materials to it or its subcontractors in the prosecution of the work provided for in said contract, then this obligation shall be void, otherwise to remain in full force and effect;

Provided, however, that the Comptroller of the State of New York having required the said Principal to furnish this bond in order to comply with the provisions of Section 137 of the State Finance Law, all rights and remedies on this bond shall inure solely to such persons and shall be determined in accordance with the provisions, conditions and limitations of said Section to the same extent as if they were copied at length herein; and

Further, provided, that the place of trial of any action on this bond shall be in the county in which the said contract was to be performed, or if said contract was to be performed in more than one county then in any such county, and not elsewhere.

**[Note: Use in case of multiple or co-sureties or, otherwise, delete.]** The Co-Sureties agree to empower a single representative with authority to act on behalf of all of the Co-Sureties with respect to this Bond, so that the Obligee will have no obligation to deal with multiple sureties hereunder. All correspondence from the Obligee to the Co-Sureties and all claims under this Bond shall be sent to such designated representative, and all correspondence so sent shall be

**New York State Thruway Authority**

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deemed to have been sent to all Co-Sureties. The Co-Sureties also agree to designate a single agent for service of process with respect to any actions on this Bond, which agent shall either be a natural person or a corporation qualified to act as an agent for service of process under the laws of the State of New York. The designated representative and agent for service of process may be changed only by delivery of written notice (by personal delivery or by certified mail, return receipt requested) to the Obligee designating a single new representative and/or agent, signed by all of the Co-Sureties. The initial representative shall be:

\_\_\_\_\_  
\_\_\_\_\_

***[Note: Add name and address and delete this bracketed text.]***

and the initial agent for service of process shall be:

\_\_\_\_\_  
\_\_\_\_\_

***[Note: Add name and address and delete this bracketed text.]***

[SIGNATURE PAGE TO FOLLOW]

**New York State Thruway Authority**

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IN TESTIMONY WHEREOF, the said Principal has hereunto set its hand and the said Surety or each Co-Surety has caused this instrument to be signed by its authorized officer, the day and year above written.

Signed and delivered this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, in the presence of:

\_\_\_\_\_) )  
(Company)

By \_\_\_\_\_ ) Principal  
(Signature)

\_\_\_\_\_) )  
(Title)

\_\_\_\_\_) )  
(Company)

By \_\_\_\_\_ ) Surety [**or Co-Surety**]  
(Signature)

\_\_\_\_\_) )  
(Title of Authorized Officer)

\_\_\_\_\_) )  
(Company)

By \_\_\_\_\_ ) Co-Surety  
(Signature)

\_\_\_\_\_) )  
(Title of Authorized Officer)

\_\_\_\_\_) )  
(Company)

By \_\_\_\_\_ ) Co-Surety  
(Signature)

\_\_\_\_\_) )  
(Title of Authorized Officer)

(The Surety shall append a single copy of a statement of its financial condition and a copy of the resolution authorizing the execution of bonds by officers of the Surety to the bond(s).)



**New York State Thruway Authority**

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I hereby approve the foregoing contract and bond as to form and manner of execution.

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State of New York Office of the Attorney General

**New York State Thruway Authority**

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**Appendix 1 to Labor and Material Bond**

**SURETY/CO-SURETIES INFORMATION**

SURETY NAME

SURETY ADDRESS

JURISDICTION OF ORGANIZATION

**FORM PEB - FORM OF FAITHFUL PERFORMANCE BOND**

KNOW ALL PERSONS BY THESE PRESENTS, that

\_\_\_\_\_  
(Name of Design-Builder)

\_\_\_\_\_  
(Address)

(hereinafter called the "Principal") and the \_\_\_\_\_, as surety or as co-sureties ("Co-Sureties"), each a corporation duly organized and existing under the laws of the State indicated on the attached Appendix 1, having its principal office at the address (including City and State) indicated on the attached Appendix 1, and authorized as a surety in the State of New York (such surety or Co-sureties are hereinafter called the "Surety"), are held and firmly bound unto the New York State Thruway Authority (hereinafter the "Obligee"), in the full and just sum of [100% of the Contract Amount] good and lawful money of the United States of America, for payment of which said sum of money, well and truly to be made and done, the said Principal binds itself, its heirs, executors and administrators, successors and assigns, and the said Surety binds itself, its successors and assigns, jointly and severally, firmly by these presents:

WHEREAS, said Principal has entered into a certain written contract, on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ with the Obligee, 200 Southern Blvd., Albany, New York, 12209, (mailing address: \_\_\_\_\_), for design, construction and other specified activities for the Cashless Tolling, Design-Build Project, in the counties of Orange, Ulster, Greene, Albany, Schenectady, Montgomery, Herkimer, Oneida, Madison, Onondaga, Cayuga, Seneca, Ontario, Monroe, Genesee, Erie, Chautauqua, Rensselaer and Columbia, which constitutes TA 19-1, Contract No. D800002.

NOW, THEREFORE, the condition of this obligation is such that if the said Principal shall well, truly and faithfully perform the work in accordance with the terms of the contract and as said contract may be modified or amended, and will commence and complete the work within the time prescribed in the contract, and shall protect the Obligee against, and pay any excess of cost as provided in said contract, and all amounts, damages, costs and judgments which may be recovered against the Obligee or its officers or agents of which the Obligee may be called upon to pay to any person or corporation by reason of any damages, direct or indirect, arising or growing out of the doing of said work, or from the negligence, nonfeasance, misfeasance or malfeasance of any officer, agent or employee of the Obligee thereof, or suffered or claimed on account of said public works contract during the time thereof or the manner of doing the same, or the neglect of the said Principal, or its agents, or servants, or the improper performance of the said work by the said Principal, or its agents, or servants, or from any other cause, then this obligation shall be null and void, otherwise to remain in full force and virtue.

In the event of a failure of performance of the contract by the Principal, which shall include, but not be limited to, any breach or default of the contract by the Principal, or in case said contract is forfeited by the Principal in the manner provided for in the contract, and the said Surety, for value received, hereby stipulates and agrees, if requested to do so by the Obligee, has the option to either remedy the default, or breach or forfeiture of the Principal or take charge and fully perform and complete the work, mentioned and described in said contract, pursuant to the terms, conditions and covenants thereof and as may be amended, at its own expense. The procedure by which the Surety undertakes to discharge its obligations under the bond shall be subject to the advance written approval of the Obligee. If the Surety completes the contract, it shall be paid for



## New York State Thruway Authority

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the actual items of work performed in accordance with the Principal's contract terms and prices. In this event the Surety assumes the rights and obligations of the Principal.

It shall be the duty of the Surety to give unequivocal notice in writing to the Obligee, within 45 days after receipt of written notice from the Obligee to the Surety, of the Surety's election to remedy default(s) or breach(es) or forfeiture(s) promptly or to perform and fully complete the contract promptly as provided herein, time being of the essence of this bond. In said notice of election, the Surety shall state the date on which the remedy or performance shall commence. During the period between the Obligee's notice and Surety's performance of the contract or remedy of the default, breach or forfeiture, the Surety shall be liable for and agrees to pay any and all reasonable and necessary costs as determined by the Obligee to maintain the contract site safe and convenient to the public.

It shall also be the duty of the Surety to give prompt notice in writing to the Obligee upon the completion of the remedy and/or correction of each breach or default or completion of the contract. The Surety shall not assert solvency of its Principal or its Principal's denial of default as justification for its failure to give notice of election or for its failure to promptly remedy the breach or default or to complete the contract.

In the event the Surety shall fail to exercise either option or to act promptly then the Obligee shall give 10 days' notice of such failure, both to Principal and Surety, and after the expiration of the 10 days the Obligee may cause the work to be completed pursuant to Section 40 of the Highway Law, and the Surety and the Principal shall be jointly and severally liable for the amount of excess cost of completing the contract work beyond the amounts remaining for this contract adjusted for the work actually performed. When the cost of completion of performance by the Obligee is estimated, the Principal and Surety shall pay, free from all liens and encumbrances, the estimated completion costs determined by the Obligee above the funds remaining for this contract, to the Obligee within 30 days of receipt of the estimate. Adjustment of the Obligee's estimated completion cost will be made upon the Obligee's final acceptance of the work and appropriate refunds, if any, will be promptly made to the Surety. Any actual costs in excess of the estimated price shall be paid to the Obligee promptly on demand. Additionally, Principal and Surety shall be liable for any applicable warranties, liquidated and/or engineering costs or damages.

In addition, the said Principal and Surety further agree, as part of this obligation, to pay all damages of any kind to person or property that may result from a failure in any respect to perform and complete said contract including, but not limited to costs necessary to protect the traveling public or to avoid inconvenience to the traveling public, liquidated damages as provided above, all repair and replacement costs necessary to rectify construction errors, architectural and engineering costs and fees, all consultant fees, all testing and laboratory fees, and all interest, legal fees and litigation costs incurred by the Obligee.

And the said Surety thereby stipulates and agrees that no change, extension, alteration, deduction or addition in or to the terms of the said contract or the plans, requirements or specifications accompanying the same, shall in any way affect the obligations of said Surety of its bond.

**[Note: Use in case of multiple or co-sureties or, otherwise, delete.]** The Co-Sureties agree to empower a single representative with authority to act on behalf of all of the Co-Sureties with respect to this Bond, so that the Obligee will have no obligation to deal with multiple sureties hereunder. All correspondence from the Obligee to the Co-Sureties and all claims under this Bond shall be sent to such designated representative, and all correspondence so sent shall be deemed to have been sent to all Co-Sureties. The Co-Sureties also agree to designate a single

**New York State Thruway Authority**

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agent for service of process with respect to any actions on this Bond, which agent shall either be a natural person or a corporation qualified to act as an agent for service of process under the laws of the State of New York. The designated representative and agent for service of process may be changed only by delivery of written notice (by personal delivery or by certified mail, return receipt requested) to the Obligee designating a single new representative and/or agent, signed by all of the Co-Sureties. The initial representative shall be:

\_\_\_\_\_  
\_\_\_\_\_

**[Note: Add name and address and delete this bracketed text.]**

and the initial agent for service of process shall be:

\_\_\_\_\_  
\_\_\_\_\_

**[Note: Add name and address and delete this bracketed text.]**

[SIGNATURE PAGE TO FOLLOW]

**New York State Thruway Authority**

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IN TESTIMONY WHEREOF, the said Principal has hereunto set its hand and the said Surety or each Co-Surety has caused this instrument to be signed by its authorized officer, the day and year above written.

Signed and delivered this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, in the presence of:

\_\_\_\_\_) )  
(Company)

By \_\_\_\_\_ ) Principal  
(Signature)

\_\_\_\_\_) )  
(Title)

\_\_\_\_\_) )  
(Company)

By \_\_\_\_\_ ) Surety [**or Co-Surety**]  
(Signature)

\_\_\_\_\_) )  
(Title of Authorized Officer)

\_\_\_\_\_) )  
(Company)

By \_\_\_\_\_ ) Co-Surety  
(Signature)

\_\_\_\_\_) )  
(Title of Authorized Officer)

\_\_\_\_\_) )  
(Company)

By \_\_\_\_\_ ) Co-Surety  
(Signature)

\_\_\_\_\_) )  
(Title of Authorized Officer)

(The Surety shall append a single copy of a statement of its financial condition and a copy of the resolution authorizing the execution of bonds by officers of the Surety to the bond(s).)



**New York State Thruway Authority**

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I hereby approve the foregoing contract and bond as to form and manner of execution.

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State of New York Office of the Attorney General

**Appendix 1 to Performance Bond**

**SURETY/CO-SURETIES INFORMATION**

SURETY NAME

SURETY ADDRESS

JURISDICTION OF ORGANIZATION

**FORM R**  
**SUMMARY OF INDIVIDUAL'S EXPERIENCE**

Form R shall be completed by the Proposer for the Key Personnel indicated in ITP Appendix A, as well as any key personnel that have been changed since submission of the SOQ. Add lines/pages as necessary. Under "Contact Information", provide the contact name, phone number, and e-mail address for the Project Owner. NYSTA reserves the right to contact any Project Owner to verify the information provided. "Project Owner" is not a Prime Consultant or Prime Contractor for which the Firm served as a subconsultant or subcontractor. "Project Name" should include the relevant contract number if available.

<b>Name of Proposer:</b>					
<b>Name of Firm:</b>					
<b>Individual's Name:</b>					
<b>Is Applicant Licensed as a Professional Engineer in the State of New York?</b>			<b>Yes:</b>		<b>No:</b>
<b>NYS Professional Engineering License Number</b>					
<b>Education:</b>					
<b>Years of Experience</b>					
<b>Years with this Firm</b>					
<b>Title for this Project:</b>					
12 Month period (NTP to month 12) (beg mo - end mo)	Percentage	12 Month period(13 <sup>th</sup> to 24 <sup>th</sup> Month) (beg mo - end mo)	Percentage	12 Month period (25 <sup>th</sup> to Completion Date) (beg mo - end mo)	Percentage
<b>Total number of year's experience meeting requirements stated in Appendix A for Title above:</b>					
Please complete the information below to confirm the total year's experience stated above					
<b>Project Name:</b>					
<b>Project Owner:</b>					
<b>Contact Information:</b>					
<b>Project Cost Value</b>					
<b>Title on Project:</b>					
<b>% Qualifying time spent on Project</b>					
<b>Individual's Start Date on Project:</b>		<b>Individual's End Date on Project:</b>		<b>Individual's Total Time on Project *:</b>	
<b>Project Description:</b>					
<b>Individual's Duties and Responsibilities:</b>					
<b>Project Name:</b>					
<b>Project Owner:</b>					
<b>Contact Information:</b>					

**New York State Thruway Authority**

<b>Project Cost Value</b>					
<b>Title on Project:</b>					
<b>% Qualifying time spent on Project</b>					
<b>Individual's Start Date on Project:</b>		<b>Individual's End Date on Project:</b>		<b>Individual's Total Time on Project*:</b>	
<b>Project Description:</b>					
<b>Individual's Duties and Responsibilities:</b>					
<b>Project Name:</b>					
<b>Project Owner:</b>					
<b>Contact Information:</b>					
<b>Project Cost Value</b>					
<b>Title on Project:</b>					
<b>% Qualifying time spent on Project</b>					
<b>Individual's Start Date on Project:</b>		<b>Individual's End Date on Project:</b>		<b>Individual's Total Time on Project*:</b>	
<b>Project Description:</b>					
<b>Individual's Duties and Responsibilities:</b>					

**\* Refers to the individual's time spent on the project meeting the experience required for the Title on the Design Build project**



**FORM RFC**

**REQUEST FOR CHANGE**

In accordance with ITP Section 1.15, complete the following if requesting a change for either a member of the Design-Build Team or the Key Personnel identified in the submitted Statement of Qualifications. Also, attach the required justification information as specified in ITP Section 1.15. Use a single Form RFC for each change requested. All requests must be approved by the Authority. If approved, include a copy of the approved Form RFC, and accompanying information described in ITP Section 1.15 with the Proposal, Volume 1, Section 3.

Proposer: \_\_\_\_\_

Contract No: \_\_\_\_\_

**A: Requesting a change in a member of the Design-Build team**

Name of firm submitted in the SOQ: \_\_\_\_\_

Role in Design-Build team: \_\_\_\_\_

Name of substitute firm: \_\_\_\_\_

**B: Requesting a change in Key Personnel**

Name of Key Personnel submitted in the SOQ: \_\_\_\_\_

Title of individual for this project: \_\_\_\_\_

Name of substitute individual: \_\_\_\_\_

**C: For NYSTA use**

Date Received: \_\_\_\_\_

Name of NYSTA Reviewer: \_\_\_\_\_

Title: \_\_\_\_\_

Request Approved                       Request Rejected

Signature of NYSTA Reviewer: \_\_\_\_\_

Date of Review: \_\_\_\_\_

**FORM SA**  
**STIPEND AGREEMENT**

**COMPTROLLER'S CONTRACT NO.:**

**PIN:**

**PROJECT: Stipend Agreement for the Preparation & Submission of the Design Build Proposal for Cashless Tolling**

This Agreement made this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and between NEW YORK STATE THRUWAY AUTHORITY (hereinafter "NYSTA"), whose principal office is located at 200 Southern Blvd., Albany, New York 12209, and \_\_\_\_\_, duly organized and existing under the laws of the State of New York, having its principal office at \_\_\_\_\_ (hereinafter referred to as "Proposer").

WITNESSETH:

WHEREAS, NYSTA is currently procuring a design-build contract (the "Contract") for the \_\_\_\_\_ Project (the "Project");

WHEREAS, the Proposer submitted a proposal ("the Proposal") in response to the Request for Proposals issued by NYSTA on \_\_\_\_\_, as amended by any addenda (as amended, the "RFP");

WHEREAS, the Proposal met the criteria set forth in Article 4(A) of this Stipend Agreement; and

WHEREAS, the Authority has not awarded the Contract to the Proposer.

NOW, THEREFORE, the parties agree as follows:

**ARTICLE 1. DOCUMENTS FORMING THIS AGREEMENT.** The Agreement consists of the following in the following descending order of precedence:

1. Appendix A – New York State Required Contract Provisions
2. Agreement Form – this document titled "Stipend Agreement"
3. Attachment 1 to Stipend Agreement

**ARTICLE 2. WORK PRODUCT AND INTELLECTUAL PROPERTY RIGHTS.** The term "Work Product" shall mean ideas or information, and the expression of ideas or information, included in the Proposal or otherwise submitted or communicated in any manner by or on behalf of the Proposer to NYSTA during the Project's procurement process at any time prior to the awarding of the Contract. Work Product does not include any sensitive and confidential financial information regarding the Proposer that was included in the Proposal.

**ARTICLE 3. NYSTA'S RIGHTS TO WORK PRODUCT.** Under the terms of this Agreement, NYSTA may use the Work Product for the purposes of the Project or any future

project pursued by NYSTA without any obligation to pay any additional compensation to the Proposer.

With respect to any Work Product that incorporates intellectual property owned or developed by the Proposer, the Proposer's team members or other third parties, the Proposer represents and warrants that it has the right to grant NYSTA irrevocable, non-exclusive, perpetual, royalty-free licenses to use such intellectual property for the purposes specified herein. As of the date of this Agreement, the Proposer hereby assigns such licenses to NYSTA, and agrees to indemnify, defend, and hold harmless NYSTA and the State of New York from any and all claims, costs, expenses, and damages of every kind resulting from infringement allegations related to NYSTA's exercise of the intellectual property rights granted herein.

The foregoing shall not be deemed a requirement for the Proposer to provide off-the-shelf software to NYSTA.

#### **ARTICLE 4. PROVISION FOR PAYMENT.**

A) The Stipend will be paid by NYSTA to the Proposer only under the circumstances specified in this Article 4. The Proposer will not be entitled to payment of any Stipend Amount if the Proposal fails to:

- 1) Achieve a rating of "pass" on all Pass/Fail Evaluation Factors found in the RFP for the Project; or
- 2) Meet or exceed the minimum qualifying quality based evaluation threshold as required in the RFP; or
- 3) Include a competitive and reasonable price proposal for the Project.

B) The Proposer will not be entitled to payment of any Stipend Amount if the Proposer has filed an unsuccessful protest of the procurement process, award or cancellation of the procurement. In addition, as a condition of accepting payment of any Stipend Amount, the Proposer agrees to not file any protest of the procurement process, award, or cancellation of the procurement.

C) The Proposer will not be entitled to payment of any Stipend Amount if the Proposer fails to submit an invoice in accordance with 4(D), below, or fails to provide satisfactory evidence substantiating its Qualified Costs (as defined in 4(E), below) in accordance with (D), below.

D) In order to receive payment of the Stipend Amount, the Proposer shall submit to NYSTA: two signed originals of Attachment 1 of this Stipend Agreement, two copies of a single invoice for its proposed Stipend Amount, and two copies of all documentation required under (E), below, not later than 20 calendar days after the Proposal Due Date. If NYSTA disagrees with the proposed Stipend Amount set forth in the Proposer's initial invoice, NYSTA will notify the Proposer in writing of its determination of the appropriate Stipend Amount based on its review of the Proposer's substantiated costs, and the Proposer shall submit a revised invoice to NYSTA within 14 days following receipt of any such notice.

E) The Proposer shall maintain written records substantiating all Qualified Costs in sufficient detail to permit a proper audit thereof. Such records shall be made available for audit or verification of Qualified Costs upon request of NYSTA at the time of this Agreement and for three years after final payment of the Stipend Amount is made. "Qualified Costs" shall comprise the direct costs and overhead costs that are allowable and reasonable, and incurred by the Proposer, the Proposer's team, or third-parties acting at the direction of the Proposer in the

production of the Work Product. Examples of qualified costs (subject to limitations of any other contract stipulations such as limits on hourly rates or not to exceed Government travel rates) can include the following:

- Compensation of employee's time charges related to preparation of the Proposal;
- Cost of materials acquired, consumed, or expended related to preparation of the Proposal;
- Cost of equipment utilized related to preparation of the Proposal; and
- Travel expenses incurred related to preparation of the Proposal.

The overhead rate applied to the Stipend calculation shall be equal to the Proposer's current audited rate on file with the NYSTA. An overhead rate of 115% will be applied for firms with no current rate on file. Unallowable Proposer costs are described in CFR-2011 - title 48 – volume 1 - part 31 – subpart 31.6. The Proposer shall submit to NYSTA copies of all substantiating documentation of Qualified Costs concurrently with the submission of its invoice for the Stipend Amount, and at any other time upon NYSTA's request. Failure of the Proposer, the Proposer's team, or third-parties acting at the direction of the Proposer to maintain and retain sufficient records to allow audit or verification of Qualified Costs, or failure to allow NYSTA or its agents access to the same, shall constitute a waiver of the right to any payment of a Stipend, and any Stipend Amount paid to the Proposer under this Agreement shall be immediately returned to the NYSTA.

F) The Proposer must execute this Stipend Agreement and provide NYSTA with the licenses required by Article 3 no later than 20 calendar days after the Proposal Due Date. Extensions may be granted at the sole discretion of NYSTA.

G) A failure by any Proposer to comply with Article 4(F) constitutes a waiver to the right to any payment of a Stipend

H) Subject to the requirements and limitations set forth herein, NYSTA shall pay to the Proposer, and the Proposer agrees to accept as full compensation for its Work Product, an amount (the "Stipend Amount") equal the Proposer's total Qualified Costs, as substantiated in accordance with (D) & (E), above, not to exceed \$350,000.00.

#### **ARTICLE 5. PAYMENT OF STIPEND AND WAIVER OF CLAIMS.**

A) The Proposer is required, if it is a foreign or out of state corporation or entity, to obtain and submit the required tax clearance certificate to NYSTA to enable the processing of the payment of the Stipend Amount. It should be noted that any time taken to satisfy or furnish this tax clearance certificate shall extend any required payment date by an equal period of time.

B) Acceptance by the Proposer of payment of the Stipend Amount from NYSTA shall constitute a waiver by the Proposer of any and all rights, equitable or otherwise, to bring any claim or protest against either of NYSTA or the State of New York, or any of their officers, directors, agents, employees, representatives or advisers and their successors and assigns, in connection with the procurement of the Project, including, without limitation, the procurement process, any award of the Contract or any cancellation of the procurement.

**ARTICLE 6. NYSTA'S PROJECT MANAGER.** The following person, or his/her successor, is NYSTA's Project Manager:

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**New York State Thruway Authority**

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Name: Timothy Conway  
Title: Project Manager  
Address: 200 Southern Blvd., Albany, NY 12209  
Phone: 518-436-2988  
Email: Timothy.Conway@thruway.ny.gov

**ARTICLE 7. PROPOSER'S PERSONNEL.** The following person, or his/her successor, is the Proposer's Authorized Representative:

Name:  
Address:  
Phone:  
Email:

**ARTICLE 8. NEW YORK STATE FINANCE LAW §§ 139-J AND 139-K CERTIFICATION.** By execution of this Agreement, the Proposer certifies that all information the Proposer has provided to NYSTA with respect to New York State Finance Law §§ 139-j and 139-k is complete, true and accurate. NYSTA shall have the right to terminate this Agreement if NYSTA finds that the certification made by Proposer in accordance with New York State Finance Law §§ 139-j and 139-k was intentionally false or intentionally incomplete.

**ARTICLE 9. MISCELLANEOUS TERMS.**

A) All of the Proposer's team members and subcontractors shall be bound by the same provisions of this Agreement as the Proposer. All agreements between the Proposer, Proposer's team members, and/or subcontractors shall include provisions effectuating this term, and all such agreements shall be subject to review by NYSTA.

B) Proposer may neither assign nor transfer any rights or obligations under this Agreement without the prior consent of NYSTA.

C) Any amendment to this Agreement must be in writing and will not be effective until it has been executed and approved by the same parties that executed and approved this Agreement, or their successors.

D) If NYSTA fails to enforce any provision of this Agreement, that failure does not waive the provision or NYSTA's right to subsequently enforce it.

E) New York law, without regard to its choice-of-law provisions, governs the validity, interpretation, and enforcement of this Agreement.

F) This Agreement contains all prior negotiations and agreements between the parties. No other understanding regarding this Agreement, whether written or oral, may be used to bind either party.

G) All confidentiality provisions of the RFP shall continue to apply to the Proposer.

**ARTICLE 10. POWER TO EXECUTE AGREEMENT**

The undersigned representative of the Proposer certifies that he or she has full and complete authority to bind the Proposer, the Proposer's team members, and subcontractors to all terms and conditions of this Agreement, and that by executing the Agreement does so bind such entities.

**New York State Thruway Authority**

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**IN WITNESS WHEREOF**, this Contract No. D800002 has been executed by the STATE, acting by and through the Executive Director, and the PROPOSER has duly executed this Agreement effective the day and year first above written.

In addition to the acceptance of this Agreement, the Authority certifies that original copies of this signature page will be attached to all other exact copies of this Agreement.

RECOMMENDED BY

FOR THE PEOPLE OF THE STATE OF NEW YORK

By \_\_\_\_\_

\_\_\_\_\_  
NYSTA OFFICE OF CAPITAL and  
CONTRACTS MANAGEMENT

\_\_\_\_\_  
THRUWAY AUTHORITY

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

I certify that all information provided to the STATE with respect to the requirements contained in State Finance Laws 139j & 139k is complete, true and accurate.

By: \_\_\_\_\_  
(FIRM NAME)

Date: \_\_\_\_\_

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**APPROVALS**

ATTORNEY GENERAL

THOMAS P. DiNAPOLI  
STATE COMPTROLLER

By: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**Acknowledgement for Contract # D800002**

For contracts signed in New York State

State of New York        )

County of                               ) ss.:

On the \_\_\_\_ day of \_\_\_\_\_ in the year 201\_, before me the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

**ATTACHMENT 1 TO STIPEND AGREEMENT D**

***CERTIFICATION BY PROPOSER***

I, \_\_\_\_\_, do hereby certify that I am the \_\_\_\_\_ of \_\_\_\_\_, for the work referred to in the forgoing payment request, that I am the person in whose name the foregoing account against the State of New York is rendered, that the labor, materials, expenses or services charged for were actually delivered, incurred or rendered, as named heretofore, and that the prices charged are just and reasonable; that no percentage or compensation has been paid or promised to be paid to any manager, trustee, officer or employee of said institution, authority, board or commission, by reason of the claimant having been allowed to sell to, incur expense for, or render services to, said institution; and also, that to the best of my knowledge and belief, no manager, trustee, officer or employee of said institution, authority, board or commission has, or has had, any interest directly or indirectly in said articles, materials, expenses or services; and that no part of the foregoing account has been paid, and that the above statement is true and correct.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature)

***CERTIFICATION BY THE AUTHORITY***

I, \_\_\_\_\_ (name), do hereby certify that I am the \_\_\_\_\_ (title) employed in the supervision of the work described in the attached Payment Request; that the materials, labor and services have been furnished and the work properly performed in accordance with the contract; and that payment in the sum of \$\_\_\_\_\_ can be made on this contract without detriment to the interests of the State, to the best of my knowledge and belief.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature)

**FORM SCD**  
**SCHEDULE OF CONTRACT DURATIONS**

Table SCD - 1

<b>OVERALL PROJECT COMPLETION</b>				
<b>ACTIVITY</b>	<b>DURATION (Calendar Days past NTP)</b>	<b>PROJECTED COMPLETION DATE (MM/DD/YYYY)</b>	<b>LIQUIDATED DAMAGES AMOUNT (PER DAY) (See Note 3)</b>	<b>Early Completion Bonus Project Completion (See Note 5)</b>
<b>PROJECT COMPLETION</b> (See Notes 1, 3)			<b>\$20,000.00</b>	<b>\$20,000.00</b>

Table SCD – 2

<b>DEFINED COMPLETION DATE</b>				
<b>MILESTONE (See Notes 2, 4)</b>	<b>DURATION (Calendar Days past NTP)</b>	<b>PROJECTED AETC COMPLETION DATE (MM/DD/YYYY)</b>	<b>LIQUIDATED DAMAGES AMOUNT (PER DAY) (See Note 4)</b>	<b>Early Completion Bonus Amount per Day (See Note 6)</b>
<b>ALL ELECTRONIC CASHLESS TOLLING COMPLETION DATE (AETC COMPLETION DATES)</b>			<b>\$125,000.00</b>	<b>\$125,000.00</b>



**New York State Thruway Authority**

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**Notes:**

- 1.) The Project Completion Date, to be included in the DB Agreement, Article 2.3, shall be defined by the number of calendar days past NTP as proposed by the successful Proposer and agreed to by the Authority. Project Completion for the purposes of this Form SCD is defined as all construction activities completed, no additional impacts to traffic, and complete demobilization from the work site(s). Remaining paperwork (i.e. As-Builts, close-out documentation, payments) may occur after the Project Completion date for the purposes of this Form SCD.
- 2.) The Defined Completion Dates, to be included in the DB Agreement, Article 2.4, shall be defined by the number of calendar days past NTP as proposed by the successful Proposer and agreed to by the Authority.
- 3.) Liquidated Damages will be assessed, in the amount indicated, , for failure to achieve Project Completion by the Project Completion Date in accordance with Articles 2.3 and 15 of the DB Agreement.
- 4.) Liquidated Damages will be assessed, in the amount indicated, for failure to achieve the Defined Completion Date in accordance with Article 2.4 and 15 of the DB Agreement.
- 5.) An Early Completion Bonus will be paid for: each calendar day work is completed in advance of the Overall Project Completion date submitted by the Design-Builder; each calendar day work is completed in advance of the Overall Completion Date submitted by the Design-Builder. Such bonus days shall be based on the durations / number of days listed in Tables SCD-1, subject to the daily bonus amounts and maximum bonus amounts listed in SP-6.
- 6.) An Early Completion Bonus will be paid for: each calendar day work is completed in advance of the Defined Project Completion date submitted by the Design-Builder; each calendar day work is completed in advance of the Defined Completion Date submitted by the Design-Builder. Such bonus days shall be based on the durations / number of days listed in Tables SCD-2, subject to the daily bonus amounts and maximum bonus amounts listed in SP-6.
- 7.) The duration(s) shall be inclusive of the Notice to Proceed date and the projected completion date SCD-1 and SCD-2

The Proposer commits to meet the Contract Durations specified above.

<b>PROPOSER</b>	
<b>SIGNED</b>	
<b>DATE</b>	
<b>NAME</b> (printed or typed)	
<b>TITLE</b>	

**FORM SDU - SCHEDULE OF PROPOSED MWBE/SDVOB UTILIZATION**

List proposed MWBE/SDVOB Utilization by indicating percentages of the contract value that are anticipated for each 3 interval over the duration of the contract. Total MWBE/SDVOB utilization should agree with Forms LDB – Tables 1 & 2.

*Use additional rows as necessary.*

<b>PROPOSER</b>		
<b>Time Interval</b> (Beginning at Notice to Proceed )	<b>MWBE/SDVOB Work Codes</b> (To be utilized during interval)	<b>Anticipated Utilization</b> (Proposed Participation in dollars)
0 – 3 months		
4 – 6 months		
7 – 9 months		
10 – 12 months		
13 – 15 months		
16 – 18 months		
19 – 21 months		
22 – 24 months		
25 – 27 months		
28 – 30 months		
31 – 33 months		
34 – 36 months		
Etc.		

**FORM U**

**CONFLICT QUESTIONNAIRE**

To be completed for Principal Participants, Constructor(s), Designer(s), Construction Inspection Professional Engineering Firm(s), and the Materials Testing Firm(s) or Laboratories.

**COMPTROLLER'S CONTRACT NO.** \_\_\_\_\_

**PIN:** \_\_\_\_\_

**PROJECT:** \_\_\_\_\_

The purpose of this Conflict Questionnaire is to help identify potential conflicts of interest with regard to the Project. There may be potential conflicts that are not covered by the questions below. If a proposer or team member has knowledge of circumstances that may be, or present the appearance of, a potential conflict of interest, the proposer or team member must disclose that potential conflict, even if it is not covered by any of the Conflict Questionnaire's inquiries.

Proposers should undertake reasonable due diligence, including conflict searches, to determine whether actual, potential or perceived conflicts of interest exist. Due diligence should extend to investigation of past relationships and to officers, directors, and other employees of the proposer and its team members.

The disclosure of a potential conflict will not necessarily result in the disqualification of the proposer or team member. When a proposer or team member discovers and discloses a potential conflict of interest, the proposer or team member should propose a process whereby the potential conflict may be mitigated. The proposer must provide all details of the potential conflict of interest and the proposed mitigation methods in its submission.

**Instructions**

All terms used in the Conflict Questionnaire shall have the same meaning as set forth in the Authority's Conflict of Interest Policy. Evaluation of potential conflicts of interest will follow the procedure set forth in that Policy.

The Conflict Questionnaire must be filled out by the proposer and each team member.<sup>1</sup> As team members are added, additional and/or amended Conflict Questionnaires must be submitted. If potential conflicts arise or are discovered in the course of the Contract, the proposer or team member must inform the Authority of the situation as soon as possible.

If the answer to any of the questions below is "yes," provide: (1) complete details of the facts underlying that response; and (2) a proposed method of mitigating the potential conflict. The mitigation method may include releasing non-public documents or information to all potential bidders, the strict "quarantining" of individuals or information, or any other means that the proposer or team member believes will eliminate any appearance of conflict.

If proposers or team members consider information submitted in response to a Questionnaire to be confidential, it should be clearly labeled as such.

After award of the Contract, the Authority reserves the right to cancel or amend the Contract, or declare the winning proposer to be in breach, if the proposer or team member: (1) failed to disclose a potential conflict about which it knew or should have known; (2) failed to provide

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<sup>1</sup> Although "team member" is defined to include individual employees or agents, individual employees or agents of a team member do not need to separately fill out and file a Conflict Questionnaire.

timely updates of the Conflict Questionnaire reflecting new team members; or (3) provided false, misleading, or incomplete information regarding potential conflicts of interest. If the Contract with the proposer is terminated or amended due to a previously undisclosed conflict, the Authority assumes no obligations, responsibilities, or liabilities to reimburse all or any part of the costs incurred or alleged to have been incurred by the proposer or any team member.

**Questions**

1. Does the proposer or any team member use the resources of any current or former Authority employee?
2. Does any current or former Authority employee have a financial interest in the businesses of the proposer or any team member?
3. Has the proposer or any team member assisted the Authority in any phase of this project?
4. Has the proposer or any team member had access to any private or nonpublic data relevant to the project?
5. Is the proposer or any team member under contract to perform oversight of the project after the proposal due date?
6. Has the proposer or any team member performed work related to this project for any other proposer or team member of another proposer's team?
7. Does the proposer or any team member have a financial interest in any other proposer or team member of another proposer's team?
8. Does any other proposer or team member of another proposer's team have a financial interest in this team's proposer or team members?
9. Does the proposer or any team member own real property in a location that may be positively or adversely impacted by this Contract?
10. Is the proposer or any team member providing any services related to the project, or the areas to be impacted by the project, to any entity other than the Authority, the proposer, or another team member?
11. Is there a possibility that the proposer or any team member, because of any current or planned business arrangement, investment interest, or ownership interest in any other business, may be unable to provide objective advice to the Authority?
12. Has the proposer set forth any information not otherwise covered by this Questionnaire which may be perceived by the Authority or the general public as constituting a potential conflict of interest with regard to the Project?

**[Submitting entity]**

By \_\_\_\_\_



**New York State Thruway Authority**

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**FORM SP**  
**SCHEDULE OF PRICES**

Proposer: \_\_\_\_\_

<b>Item #</b>	<b>Item Name</b>	<b><u>Price</u> (1)</b>
806.06000115	Design Build – Construction Work Woodbury	
806.06000215	Design Build – Construction Work Special Exit 16	
806.06000315	Design Build – Construction Work Special Exit 17	
806.06000415	Design Build – Construction Work Exit 18	
806.06000515	Design Build – Construction Work Exit 19	
806.06000615	Design Build – Construction Work Exit 20E	
806.06000715	Design Build – Construction Work Exit 20W	
806.06000815	Design Build – Construction Work Exit 21	
806.06000915	Design Build – Construction Work Exit 21B	
806.06001015	Design Build – Construction Work Exit B1	
806.06001115	Design Build – Construction Work Exit B2	
806.06001215	Design Build – Construction Work Canaan	
806.06001315	Design Build – Construction Work Exit 22	
806.06001415	Design Build – Construction Work Gantry	
806.06001515	Design Build – Construction Work Interchange 23	
806.06001615	Design Build – Construction Work Gantry	
806.06001715	Design Build – Construction Work Interchange 24	
806.06001815	Design Build – Construction Work Gantry	
806.06001915	Design Build – Construction Work Interchange 25	
806.06002015	Design Build – Construction Work Gantry	
806.06002115	Design Build – Construction Work Interchange 25A	
806.06002215	Design Build – Construction Work Gantry	
806.06002315	Design Build – Construction Work Exit 26	
806.06002415	Design Build – Construction Work Exit 27	
806.06002515	Design Build – Construction Work Exit 28	
806.06002615	Design Build – Construction Work Exit 29	
806.06002715	Design Build – Construction Work Exit 29A	
806.06002815	Design Build – Construction Work Exit 30	

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806.06002915	Design Build – Construction Work Exit 31	
806.06003015	Design Build – Construction Work Exit 32	
806.06003115	Design Build – Construction Work Exit 33	
806.06003215	Design Build – Construction Work Exit 34	
806.06003315	Design Build – Construction Work Gantry	
806.06003415	Design Build – Construction Work Interchange 34A	
806.06003515	Design Build – Construction Work Gantry	
806.06003615	Design Build – Construction Work Special Exit 35	
806.06003715	Design Build – Construction Work Gantry	
806.06003815	Design Build – Construction Work Interchange 36	
806.06003915	Design Build – Construction Work Gantry	
806.06004015	Design Build – Construction Work Exit 37	
806.06004115	Design Build – Construction Work Exit 38	
806.06004215	Design Build – Construction Work Gantry	
806.06004315	Design Build – Construction Work Exit 39	
806.06004415	Design Build – Construction Work Gantry	
806.06004515	Design Build – Construction Work Exit 40	
806.06004615	Design Build – Construction Work Exit 41	
806.06004715	Design Build – Construction Work Exit 42	
806.06004815	Design Build – Construction Work Exit 43	
806.06004915	Design Build – Construction Work Gantry	
806.06005015	Design Build – Construction Work Interchange 44	
806.06005115	Design Build – Construction Work Gantry	
806.06005215	Design Build – Construction Work Interchange 45	
806.06005315	Design Build – Construction Work Gantry	
806.06005415	Design Build – Construction Work Interchange 46	
806.06005515	Design Build – Construction Work Gantry	
806.06005615	Design Build – Construction Work Interchange 47	
806.06005715	Design Build – Construction Work Gantry	
806.06005815	Design Build – Construction Work Exit 48	
806.06005915	Design Build – Construction Work Exit 48A	
806.06006015	Design Build – Construction Work Exit 49	
806.06006115	Design Build – Construction Work Williamsville	
806.06006215	Design Build – Construction Work Lackawanna	
806.06006315	Design Build – Construction Work Exit 56	

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806.06006415	Design Build – Construction Work Exit 57	
806.06006515	Design Build – Construction Work Exit 57A	
806.06006615	Design Build – Construction Work Exit 58	
806.06006715	Design Build – Construction Work Exit 59	
806.06006815	Design Build – Construction Work Exit 60	
806.06006915	Design Build – Construction Work Ripley	
800.04000025	Design Build – Force Account Work	\$5,000,000.00
	Subtotal A	
800.05000015	Design Build – Site Mobilization (Maximum 4% of Subtotal A)	
	Subtotal B (Sum of Subtotal A and Site Mobilization)	
800.01000015	Design Build – Design Services	
800.02000015	Design Build – Construction Inspection Services	
800.03000015	Design Build – Quality Control Services (Materials and Testing)	
	<b>TOTAL PROPOSAL PRICE</b>	

**Notes:**

- 1.) Proposers shall complete Form SP using the excel spreadsheet located on the Authority's Project web site.
- 2.) Subtotal B will be the value used to *calculate* the 51% Prime/MWBE/SDVOB self-work requirement less any Self Performance Specialty Items included in Part 5 – Special Provisions.

**Instructions:**

- 1.) Enter Lump Sum Price for each Price Item in the white, non-shaded, cells.



**FORM WPS**  
**WORK PAYMENT SCHEDULE**

<b>WORK PAYMENT SCHEDULE</b> <b>(Mainline Gantry Work (minimum of 16 locations and maximum of 32))</b> <b>Mainline Gantry Location MP _____</b> <b>Indicate Direction(s) _____ (i.e. North, South, East or West or Both Directions)</b>		
WORK ITEM	MAXIMUM PERCENT OF LUMP SUM PRICE	PERCENT OF LUMP SUM PRICE (To be completed by D-B) <sup>1</sup>
Survey	5%	
Gantry - Gantry Order (50%) - Gantry Delivery (20%) - Gantry in place (30%)	17%	
Highway Concrete Slab and Asphalt Removal - Direction 1 (50%) - Opposing Direction 2 (50%)	6%	
Concrete Slab Construction - Direction 1 (50%) - Opposing Direction 2 (50%) - Concrete Slab Ordering (if precast) (50%) - Concrete Slab Delivery (if precast) (20%) - Concrete Slab Installation (if precast) (30%)	17%	
Communication Building Foundation - Direction 1 (50%) - Opposing Direction 2 (50%)	4%	
Communication Buildings (Proper) - Direction 1 (50%)* - Opposing Direction 2 (50%)* - Order Communication Building (if precast) (50%) - Delivery of Communication Building (if precast) (20%) - Erection and Completion of Communication Building (if precast) (30%) - Material Delivery (if stick built) (50%)	9%	

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- Communication Building Complete (50%)		
Parking Area for Communication Building Complete	2%	
Electric Service to Communication Building	2%	
Fiber Conduit to Communication Building and Rack Installation	2%	
Mainline Gantry Signage Construction - Ordering Signage (50%) - Delivery of Signage (complete to site) (10%) - Completed Erection of Permanent Signage and Public Visibility (40%)	4%	
Removal of Old Signage	2%	
Installation of Positive Separation of Opposing Traffic	6%	
Asphalt Paving Work (includes shoulders) - Direction 1 (50%) - Opposing Direction 2 (50%) - Repair Work on Mainline (including crack sealing) (10%) - Asphalt T and L and Base Complete (25%) - Asphalt Binder Complete (35%) - Asphalt Top Complete (correct superelevation) (30%)	23%	
Striping of Project Limits (complete)	2%	
Temporary Striping (during staging and asphalt lifts) - Direction 1 (50%) - Opposing Direction 2 (50%)	2%	
Work Zone Traffic Control - Direction 1 (50%) - Opposing Direction 2 (50%)	21%	
Footprint Reduction	3%	
Landscaping	2%	
Guiderail Work	4%	
Punch List Work, Site Cleanup and Restoration	1% (fixed)	1% (fixed)
As-Builts Provided, Compiled Design Plans, Nonconformance Issues Resolved, All Construction Inspection Diaries and Records Complete (Final Acceptance per DB §109-12.1)	2% (fixed)	2% (fixed)
Final Agreement (Per DB §109-12.2)	2% (fixed)	2% (fixed)

\* If more than one gantry or communication building used to look

**FORM WPS**  
**WORK PAYMENT SCHEDULE**

<b>WORK PAYMENT SCHEDULE</b> <b>(Interchange Work (11 Interchanges))</b> <b>Interchange at Exit _____ (i.e. 24)</b>		
WORK ITEM	MAXIMUM PERCENT OF LUMP SUM PRICE	PERCENT OF LUMP SUM PRICE (To be completed by D-B) <sup>1</sup>
Survey	5%	
Highway Asphalt Work - Direction 1 (50%) - Opposing Direction 2 (50%) - Highway Concrete Repairs (includes sealing of cracks) (10%) - Toll Plaza Removal Area Reconstruction (25%) - Asphalt T and L and Base Complete (15%) - Asphalt Binder Course Complete (25%) - Asphalt Top Complete (correct super elevation) (25%)	20%	
Toll Plaza Removed - Direction 1 (50%) - Opposing Direction 2 (50%)	15%	
Positive Separation (Final)	5%	
Removal of Existing TUB Complete	5%	
Tandem Lot Modifications of Intersections as per Legislative Proposed Routes	10%	
New Tandem Lot Construction (Exit 39 only)	10%	
Tandem Lot Modifications - Access Modifications - Accelerating Lane Construction - Camera Installation - Misc. Work (separation of traffic, lighting installation, striping, gate installations)	14%	
Signing Package - Ordering of Signage (Complete) (50%) - Delivery of Signage (Complete) (10%)	10%	

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- Transitional Signage Installation (10%) - Completed Erection of Permanent Signage and Public Visibility (30%)		
Electrical Work Complete	5%	
Fiber Work Complete	4%	
Work Zone Traffic Control (During staging to complete, toll plaza removal and asphalt completion) - Direction 1 (50%) - Opposing Direction 2 (50%)	20%	
Work Zone Traffic Control for All Other Applications - Direction 1 (50%) - Opposing Direction 2 (50%)	14%	
Temporary Striping During Staging and Asphalt Paving Lifts - Direction 1 (50%) - Opposing Direction 2 (50%)	3%	
Final Striping Complete	3%	
Footprint Reduction	4%	
Landscaping	3%	
Guiderail Work	5%	
Overhead Sign Structure Erection (where required) * - Structure Foundation (15%) - Structure Order (40%) - Structure Delivery (20%) - Structure Complete with Signs (25%)	10%	
Punch List Work	1% (fixed)	1% (fixed)
Final Acceptance (Per DB §109-12.1)	2% (fixed)	2% (fixed)
Final Agreement (Per DB §109-12.2)	2% (fixed)	2% (fixed)

**FORM WPS**  
**WORK PAYMENT SCHEDULE**

<b>WORK PAYMENT SCHEDULE</b> <b>(Mainline Gantry Work Terminus Locations (minimum of 5 locations and maximum of 10))</b> <b>Terminus Location Name: _____</b> <b>Indicate Direction(s) _____ (i.e. North, South, East or West or Both Directions)</b>		
WORK ITEM	MAXIMUM PERCENT OF LUMP SUM PRICE	PERCENT OF LUMP SUM PRICE (To be completed by D-B) <sup>1</sup>
Survey	5%	
Gantry - Gantry Order (50%) - Gantry Delivery (20%) - Gantry in place (30%)	17%	
Highway Concrete Slab and Asphalt Removal - Direction 1 (50%) - Opposing Direction 2 (50%)	6%	
Concrete Slab Construction - Direction 1 (50%) - Opposing Direction 2 (50%) - Concrete Slab Ordering (if precast) (50%) - Concrete Slab Delivery (if precast) (20%) - Concrete Slab Installation (if precast) (30%)	17%	
Communication Building Foundation - Direction 1 (50%) - Opposing Direction 2 (50%)	4%	
Communication Buildings (Proper) - Direction 1 (50%)* - Opposing Direction 2 (50%)* - Order Communication Building (if precast) (50%) - Delivery of Communication Building (if precast) (20%) - Erection and Completion of Communication Building (if precast) (30%) - Material Delivery (if stick built) (50%) - Communication Building Complete (50%)	9%	

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Parking Area for Communication Building Complete	2%	
Electric Service to Communication Building	2%	
Fiber Conduit to Communication Building and Rack Installation	2%	
Mainline Gantry Signage Construction <ul style="list-style-type: none"> <li>- Ordering Signage (50%)</li> <li>- Delivery of Signage (complete to site) (10%)</li> <li>- Completed Erection of Permanent Signage and Public Visibility (40%)</li> </ul>	4%	
Removal of Old Signage	2%	
Installation of Positive Separation of Opposing Traffic	6%	
Asphalt Paving Work (includes shoulders) <ul style="list-style-type: none"> <li>- Direction 1 (50%)</li> <li>- Opposing Direction 2 (50%) <ul style="list-style-type: none"> <li>- Repair Work on Mainline (including crack sealing) (10%)</li> <li>- Asphalt T and L and Base Complete (25%)</li> <li>- Asphalt Binder Complete (35%)</li> <li>- Asphalt Top Complete (correct superelevation) (30%)</li> </ul> </li> </ul>	23%	
Toll Plaza Removed <ul style="list-style-type: none"> <li>- Direction 1 (50%)</li> </ul> Opposing Direction 2 (50%)	15%	
Removal of Existing TUB Complete	5%	
Striping of Project Limits (complete)	2%	
Temporary Striping (during staging and asphalt lifts) <ul style="list-style-type: none"> <li>- Direction 1 (50%)</li> <li>- Opposing Direction 2 (50%)</li> </ul>	2%	
Work Zone Traffic Control <ul style="list-style-type: none"> <li>- Direction 1 (50%)</li> <li>- Opposing Direction 2 (50%)</li> </ul>	21%	
Footprint Reduction	3%	
Landscaping	2%	
Guiderail Work	4%	
Punch List Work, Site Cleanup and Restoration	1% (fixed)	1% (fixed)
As-Builts Provided, Compiled Design Plans, Nonconformance Issues Resolved, All Construction Inspection Diaries and Records Complete (Final Acceptance per DB §109-12.1)	2% (fixed)	2% (fixed)
Final Agreement (Per DB §109-12.2)	2% (fixed)	2% (fixed)

**FORM WPS**  
**WORK PAYMENT SCHEDULE**

<b>WORK PAYMENT SCHEDULE – (ORT Sites (34 Required))</b>		
Exit _____		
<b>WORK ITEM</b>	<b>MAXIMUM PERCENT OF LUMP SUM PRICE</b>	<b>PERCENT OF LUMP SUM PRICE (To be completed by D-B)<sup>1</sup></b>
Survey	5%	
Highway Asphalt Repairs (includes sealing of cracks)	3%	
Highway Asphalt Work (includes all shoulder work) - Direction 1 (max 70%)* - Opposing Direction 2 (max 70%)* - Toll Plaza Removal Area Reconstruction (25%) - Asphalt T and L and Base Complete (10%) - Asphalt Binder Complete (35%) - Asphalt Top Complete (20%)	20%	
Toll Plaza Removal - Direction 1 (50%) - Opposing Direction 2 (50%)	20%	
Gantry Construction - Foundations of Gantry (25%) - Order Gantry (40%) - Delivery of Gantry (10%) - Gantry Erection and Gantry Complete (complete) (25%)	20%	
Positive Protection of Gantry Supports and Guiderail Work and Tie-ins Complete	6%	
Concrete Slab Installations with Treadle (Exit Side of Thruway System Only)	10%	
Construction of Communication Building Slab	4%	
Construction of Communications Building - Order Communication Building (if precast) (50%) - Communication Building Delivery (if precast) (20%) - Communication Building Erection and Concrete (if precast) (30%) - Material Delivery (if stick built) (50%) - Communication Building Complete (50%)	10%	

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Maintenance and Tandem Lot Modifications (includes access or departure modifications)	10%	
Tandem Lot Camera Work/Supply - Ordering (50%) - Delivery to Thruway Installation (20%) - Installing Complete (30%)	10%	
Tandem Lot Lighting Installation	6%	
Signage Package - Ordering of Signage (complete) (40%) - Delivery of Signage (complete) (10%) - Transitional Signage Installed (before booth removals) (10%) - Complete Final Installation of Permanent Signage and Public Visibility (25%) - Removal of Obsolete Signage Mainline and ORT sites (15%)	6%	
Electrical Work Complete	2%	
Fiber and Conduit Work Complete	3%	
Striping of Project Limits Complete	3%	
Generator Installation Complete - Order Generator (40%) - Delivery (10%) - Install (50%)	3%	
Separation of Opposing Traffic (Positive or delineators)	6%	
Work Zone Traffic Control - Direction 1 (50%) - Direction 2 (50%)	25%	
Work Zone Traffic Control (outside of ORT site)		
Punch List Work	1% (fixed)	1% (fixed)
Final Acceptance (Per DB §109-12.1)	2% (fixed)	2% (fixed)
Final Agreement (Per DB §109-12.2)	2% (fixed)	2% (fixed)

\* Must add to 100%



**FORM WPS**  
**WORK PAYMENT SCHEDULE**

<b>WORK PAYMENT SCHEDULE – (Exit 17 (Newburgh))</b>		
<b>WORK ITEM</b>	<b>MAXIMUM PERCENT OF LUMP SUM PRICE</b>	<b>PERCENT OF LUMP SUM PRICE (To be completed by D-B)<sup>1</sup></b>
Survey	5%	
Barrier/Guiderail Installation - Entry (50%) - Exit (50%)	20%	
Attenuator Installation - Entry (50%) - Exit (50%)	20%	
Toll Booth Removals - Entry (50%) - Exit (50%)	30%	
Striping Complete - Entry (50%) - Exit (50%)	4%	
VMS Installation (Entry only)	10%	
Delineator Installation - Entry (50%) - Exit (50%)	5%	
Work Zone Traffic Control - Entry (50%) - Exit (50%)	30%	
Signage Package - Entry (50%) - Exit (50%) - Sign Package Order (40%) - Delivery of Signage (10%) - Installation Complete (50%)	4%	
Concrete Barrier Removal Toll Booth - Entrance (50%) - Exit (50%)	10%	
Punch List Work	1% (fixed)	1% (fixed)

**New York State Thruway Authority**

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Final Acceptance (Per DB §109-12.1)	2% (fixed)	2% (fixed)
Final Agreement (Per DB §109-12.2)	2% (fixed)	2% (fixed)

**FORM WPS**  
**WORK PAYMENT SCHEDULE**

<b>WORK PAYMENT SCHEDULE – (Exit 16 Harriman Work)</b>		
<b>WORK ITEM</b>	<b>MAXIMUM PERCENT OF LUMP SUM PRICE</b>	<b>PERCENT OF LUMP SUM PRICE (To be completed by D-B)<sup>1</sup></b>
Survey	5%	
Toll Booth Removal	60%	
Electrical Work	20%	
Striping	20%	
Work Zone Traffic Control	30%	
Signage Package Complete - Order Signage (50%) - Signage Delivery (10%) - Install Signage (40%)	10%	
Punch List Work	1% (fixed)	1% (fixed)
Final Acceptance (Per DB §109-12.1)	2% (fixed)	2% (fixed)
Final Agreement (Per DB §109-12.2)	2% (fixed)	2% (fixed)

**FORM WPS**  
**WORK PAYMENT SCHEDULE**

<b>WORK PAYMENT SCHEDULE – (Exit 35 (Thompson Road))</b>		
<b>WORK ITEM</b>	<b>MAXIMUM PERCENT OF LUMP SUM PRICE</b>	<b>PERCENT OF LUMP SUM PRICE (To be completed by D-B)<sup>1</sup></b>
Survey	5%	
Highway Asphalt Work (includes complete shoulder construction) - Direction 1 (50%) - Opposing Direction 2 (50%) - Toll Plaza Removal Reconstruction (40%) - Highway Concrete Repairs (includes crack sealing) (5%) - Asphalt T and L and Base Complete (10%) - Asphalt Binder Complete (30%) - Asphalt Top Complete Superelevation (15%)	30%	
Signage Package - Order Signage Package Complete (40%) - Delivery of Signs Complete (10%) - Installation of Signs Complete (50%)	10%	
Toll Booth Removal - Direction 1 (50%) - Opposing Direction 2 (50%)	30%	
Footprint Reduction	5%	
Landscaping	4%	
Striping	3%	
Work Zone Traffic Control - Direction 1 - Opposing Direction 2	25%	
Maintenance and Tandem Lot Modification Punch List Work	1% (fixed)	1% (fixed)
Final Acceptance (Per DB §109-12.1)	2% (fixed)	2% (fixed)
Final Agreement (Per DB §109-12.2)	2% (fixed)	2% (fixed)

**WORK PAYMENT SCHEDULE NOTES PERTAINING TO FORM WPS**

- (1) Percent of Lump Sum Price to be completed by Proposer. Total percent for all Work Items shall equal 100%
- (2) Subsequent to Selection of Best Value, the Design-Builder may submit to the Authority a more detailed Work Payment Schedule which breaks individual work items into multiple stages, for the Authority's review and acceptance. However, the sum of the percentages proposed for each stage shall equal the percentage for that work item submitted by the Design-Builder included on Form WPS, and in no case shall the payment for any individual stage be more than 50% nor less than 10% of the total percentage bid for that work item.

**FORM PB**

**PROPOSAL BOND**

**New York State Thruway Authority**

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KNOW ALL PERSONS BY THESE PRESENTS, that

\_\_\_\_\_  
(Name of Proposer)

\_\_\_\_\_  
(Address)

(hereinafter called the "Principal") and \_\_\_\_\_, as surety or as co-sureties ("Co-Sureties"), each a corporation duly organized and existing under the laws of the State indicated on the attached Appendix 1, having its principal office at the address (including City and State) listed on the attached Appendix 1, and authorized as a surety in the State of New York (such surety or Co-Sureties are hereinafter called the "Surety"), are held and firmly bound unto the New York State Thruway Authority (the "Obligee"), in the full just sum of five percent of the proposal amount, good and lawful money of the United States of America, for the payment of which said sum of money, well and truly to be made and done, the said Principal binds itself, its heirs, executors and administrators, successors and assigns, and the said Surety binds itself, its successors and assigns, jointly and severally, firmly by these presents:

WHEREAS, the said Principal has submitted to the Authority, a proposal for the Cashless Tolling Design-Build Project, (the "Project"), TA 19-1, Contract No. D800002.

WHEREAS, under the terms of the Laws of the State of New York as above indicated, the said Principal has filed or intends to file this bond to guarantee that the Principal will execute all required contract proposal documents and furnish such faithful performance or other bonds as may be required by law in accordance with the terms of the Principal's said proposal.

NOW, THEREFORE, the condition of the foregoing obligation is such, that if the said Principal shall promptly execute and submit, and the Authority shall accept, all required contract proposal documents including such faithful performance bond or other bonds as may be required by law in accordance with the terms of the Principal's said proposal, then this obligation shall be null and void, otherwise to remain in full force and virtue.

Any extensions of the time for award of the Contract that the Principal may grant in accordance with the Instruction to Proposers in the Request for Proposals for the Project, or otherwise, shall be subject to the reasonable approval of the Surety.

**[Note: Use in case of multiple or co-sureties or, otherwise, delete.]** The Co-Sureties agree to empower a single representative with authority to act on behalf of all of the Co-Sureties with respect to this Proposal Bond, so that the Obligee will have no obligation to deal with multiple sureties hereunder. All correspondence from the Obligee to the Co-Sureties and all claims under this Proposal Bond shall be sent to such designated representative, and all correspondence so sent shall be deemed to have been sent to all Co-Sureties. The Co-Sureties also agree to designate a single agent for service of process with respect to any actions on this Proposal Bond, which agent shall either be a natural person or a corporation qualified to act as an agent for service of process under the laws of the State of New York. The designated representative and agent for service of process may be changed only by delivery of written notice (by personal delivery or by certified mail, return receipt requested) to the Obligee designating a single new representative and/or agent, signed by all of the Co-Sureties. The initial representative shall be:

**New York State Thruway Authority**

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\_\_\_\_\_

\_\_\_\_\_

***[Note: Add name and address and delete this bracketed text.]***

and the initial agent for service of process shall be:

\_\_\_\_\_

\_\_\_\_\_

***[Note: Add name and address and delete this bracketed text.]***

[SIGNATURE PAGE TO FOLLOW]

**New York State Thruway Authority**

---

IN TESTIMONY WHEREOF, the said Principal has hereunto set its hand and the said Surety or each Co-Surety has caused this instrument to be signed by its authorized officer, the day and year above written.

Signed and delivered this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, in the presence of:

\_\_\_\_\_) )  
(Company)

By \_\_\_\_\_) Principal  
(Signature)

\_\_\_\_\_) )  
(Title)

\_\_\_\_\_) )  
(Company)

By \_\_\_\_\_) Surety [**or Co-Surety**]  
(Signature)

\_\_\_\_\_) )  
(Title of Authorized Officer)

\_\_\_\_\_) )  
(Company)

By \_\_\_\_\_) Co-Surety  
(Signature)

\_\_\_\_\_) )  
(Title of Authorized Officer)

\_\_\_\_\_) )  
(Company)

By \_\_\_\_\_) Co-Surety  
(Signature)

\_\_\_\_\_) )  
(Title of Authorized Officer)

(The Surety shall append a single copy of a statement of its financial condition and a copy of the resolution authorizing the execution of bonds by officers of the Surety to the bond(s).)





**New York State Thruway Authority**

---

I hereby approve the foregoing contract and bond as to form and manner of execution.

---

State of New York Office of the Attorney General

**New York State Thruway Authority**

---

**Appendix 1 to Proposal Bond**

**SURETY/CO-SURETIES INFORMATION**

SURETY NAME

SURETY ADDRESS

JURISDICTION OF ORGANIZATION

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# **CASHLESS TOLLING**

TA 19-1, Contract No. D800002

## **REQUEST FOR PROPOSALS INSTRUCTIONS TO PROPOSERS**

### **APPENDIX F CONFLICTS OF INTEREST POLICY**

**DRAFT January 24, 2019**

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## APPENDIX F

### CONFLICTS OF INTEREST POLICY

#### F1.0 POLICY STATEMENT

The Authority's conflict of interest policy is intended to: (1) protect the integrity, transparency, competitiveness, and fairness of the project development, planning, procurement, design, and construction processes; (2) avoid circumstances where a proposer obtains or appears to obtain an unfair competitive advantage; (3) ensure that the Authority receives assistance that is free from potential conflict or bias; (4) provide guidance regarding potential conflicts of interest; (5) ensure compliance with applicable legal requirements; and (6) protect the interests of the Authority and the People of the State of New York.

All proposers, team members, consultants, contractors, and subcontractors must disclose all potential conflicts as set forth herein and in Conflicts Questionnaires. An undisclosed, later-discovered conflict of interest, even in the absence of verifiable harm, may result in the revocation of a contract.

#### F2.0 TYPES OF CONFLICTS

There are two primary types of conflict that can arise in the context of a Design-Build procurement. The first, individual conflict of interest, involves instances where a person involved in the decision to award a contract has an interest in the outcome of that procurement, or where a former Authority employee is working on behalf of a proposer. The second, organizational conflict of interest, occurs when a proposer has a potential unfair competitive advantage, or is potentially unable to give impartial assistance or advice to the Authority.

#### F2.1 Definitions

For the purposes of the Authority's conflict of interest policy and procedures herein, a person shall be deemed to have an interest in the contract of (a) his or her relative, (b) a firm, partnership, or association of which such person is a member or employee, (c) a corporation of which such person is an officer, director, or employee, and (d) a corporation, any stock of which is owned or controlled directly or indirectly by the person or his or her relative.

A "relative" means spouse, parent, grandparent, sibling, child, grandchild, uncle, aunt, cousin, nephew, niece, mother or father-in-law, sister or brother-in-law, daughter or son-in-law, any person with whom the subject person has been making his/her home, or those for whom the subject person or subject person's spouse is legally responsible.

An "affiliate" shall mean any entity that owns all or part of, or is owned in whole or in part by, a proposer, team member, contractor, subcontractor, or consultant. "Affiliate" includes officers, directors, executives, shareholders active in management, employees, and agents of the affiliate, including consultants, contractors, subcontractors, proposed consultants, proposed contractors, proposed subcontractors, or the relatives of any of the foregoing.

As used herein, a "proposer" is the entity seeking award of a contract. "Team member" includes any entity that is a part of the proposer, including joint venture participants, corporate partners, corporate owners, contractors, subcontractors, consultants, employees, or agents.

“Proposer” and “team member” shall include each of the entity’s or individual’s affiliates. A proposer or team member is deemed to possess the knowledge or access to information that any of its affiliates have or had, even if that affiliate gained the knowledge or potential access to information prior to the time the affiliate began to work for the proposer or team member.

## **F2.2 Individual Conflicts**

There are two types of individual conflicts of interests. The first involves instances where a person involved in the procurement process on behalf of the Authority, including the drafting of proposals and decisions on additional costs under contracts, has a financial interest or personal relationship that could impair that person’s ability to act impartially and in the Authority’s best interest. The second involves former Authority employees now working on behalf of entities soliciting business, as addressed in Public Officers Law § 73.

## **F2.3 Organizational Conflicts**

There are generally three situations where organizational conflicts of interest arise:

1. The first situation – “unequal access to information” – is one in which a team member has had access to nonpublic information as part of its performance of a public works project, and where that information may provide the proposer with an unfair advantage in competition for the contract at issue.
2. The second situation – “biased ground rules” – is one in which a team member, as part of its performance of a public works project, has helped set the project requirements for the contract at issue. An example of this would be if a team member helped draft the RFP. These situations could also involve team members that have a special knowledge of the agency’s future requirements for the contract, and thus those individuals, the entities they work for, and their affiliates also have an unfair advantage in the competition.
3. The third situation – “impaired objectivity” – is one in which a team member’s work under a public works project could entail its evaluating its own work or the work of an affiliate through, for example, an assessment of performance under a contract, or an evaluation of proposals.

## **F3.0 DESIGN-BUILD CONFLICT OF INTEREST PROCEDURE**

The Authority will endeavor to identify potential conflict of interest issues as early in the project development process as possible. Participants in the developmental stages of a project should carefully consider the possibility that their work on the project’s development may preclude them from later work on the same or related projects. In addition to the Authority’s efforts to identify potential conflicts of interest, proposers and their team members have an affirmative duty to identify potential conflicts of interest and bring them to the attention of the Authority.

The Authority’s Design-Build conflict of interest procedure is as follows:

- Prior to the announcement of the project in the New York State Contract Reporter (the “Reporter”), the Authority will review the work done to date on the project by all consultants and sub-consultants.

- The information regarding prior work will be reviewed by the Engineering Department. The member(s) making the decisions on the information shall not be tasked with evaluating or recommending proposers for the contract at issue.
- The member(s) will draft a list of bullets, which can be provided to each potentially conflicted entity, providing forth the basis of the determination regarding the potential conflicts.
- The draft list of bullets outlining the basis of preliminary findings of conflict shall only be shared to the potentially conflicted entities, upon request.
- Within seven calendar days of the notification to the entity of the determination by the Authority of the conflict, the entity may submit any and all information or basis for disagreement, in writing. It shall be e-mailed to the designated contact for the project, as per LOI, RFQ and RFP.
- The member(s) shall review and within a reasonable period of time, provide the Authority's determination.
- It is the intent of the Authority to complete all reviews of work done on the project prior to any solicitation of qualifications or proposals.

At any time after the announcement of the project in the Reporter – during the time teams are being assembled, or later in the procurement or contracting process – potential Design-Build team members may proactively seek an opinion from the Authority regarding a potential conflict of interest. Proposers and team members may communicate with the Authority regarding conflicts of interest during the procurement period under State Finance Law § 139-j (3)(a)(7)(a).

At each subsequent stage in the procurement process – RFQ, RFP, etc. – proposers and team members shall continue its due diligence and self-identify any potential conflict(s), and potentially propose potential mitigation steps. The proposer must provide all details of the potential conflict of interest and the proposed mitigation methods in its submission. Proposers should undertake reasonable due diligence, including conflict searches, to determine whether actual, potential or perceived conflicts of interest exist. Due diligence should extend to investigation of past relationships and to officers, directors, and other employees of the proposer and its team members. Any potential conflict will be forwarded to the Engineering Department member(s) for review by the Authority's designated contact, once received. If at any time during the procurement or duration of the contract a potential conflict is identified, it will follow the above procedures.

The successful proposer will be required to continue due diligence in preventing and identifying potential conflicts throughout the duration of the contract.

The Authority will award the contract to the apparent successful proposer unless a conflict of interest is determined to exist that cannot be avoided, neutralized, mitigated, or otherwise resolved.

#### **F4.0 FACTORS FOR EVALUATING CONFLICTS**

In evaluating conflicts, and particularly when considering possible mitigation measures, the Authority must balance conflict concerns with the need to promote competition in the procurement process. Specifically, the factors that affect conflict of interest issues include (1) the type of conflict at issue, (2) the circumstances of the procurement, and (3) the services needed by the Authority.

In the context of individual conflicts of interest, in addition to the requirements of the Public Officers Law, the Executive Law, and rules and regulations of the New York State Joint Commission on Public Ethics, former Authority employees are prohibited from participating on projects that were under development at the time of the employee's departure.

Guidance with regard to organizational conflicts of interest and mitigation strategies is available in 23 C.F.R. § 636.116. With regard to unequal access to information conflicts, when evaluating an instance where a firm did prior work on the Design-Build project, the prior work and the access to nonpublic information will be reviewed to determine the significance of the involvement. Examples of competitively useful information include source selection information and insights into a solicitation's requirements. The consideration is whether the information is competitively useful and if it provides an unfair advantage.

With regard to biased ground rules organizational conflicts, the primary concern is work on the RFP. A conflict would arise if an entity that helped develop the RFP later interpreted the same document. Similarly, there could be the appearance that a firm drafted the RFP to aid its chances of being awarded the contract. The relevant concern is not just whether the firm drafted specifications that were included in the RFP, but whether the firm was in a position to affect competition, intentionally or not, in its favor.

In the context of impaired objectivity organizational conflicts, the question is not whether the individual or entity involved actually gave biased assessments or otherwise demonstrated a lack of objectivity. The question is whether a reasonable person would find that objectivity could be impaired by a conflict of interests, regardless of what transpires.



# **CASHLESS TOLLING**

TA 19-1, Contract No. D800002

## **REQUEST FOR PROPOSALS INSTRUCTIONS TO PROPOSERS**

### **APPENDIX G**

#### **ABBREVIATIONS AND DEFINITIONS**

**DRAFT January 24, 2019**

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## APPENDIX G

This RFP includes abbreviations and specific defined terms as indicated below.

### ABBREVIATIONS

Wherever the following abbreviations are used in these Contract Documents, they are to be construed the same as the respective expressions represented. Some of these abbreviations may be acronyms and may appear without periods.

AASHTO	American Association of State Highway and Transportation Officials
ATC	Alternative Technical Concept
CD	Compact Disc
CFR	Code of Federal Regulations
CIPEF	Construction Inspection Professional Engineering Firm
CPM	Critical Path Method
CQAE	Construction Quality Assurance Engineer
CQCE	Construction Quality Control Engineer
DB	Design-Build
DBE	Disadvantaged Business Enterprise
DM	Design Manager
DONSI	Determination of No Significant Impact
DOT	New York State Department of Transportation
DQAE	Design Quality Assurance Engineer
DQCE	Design Quality Control Engineer
FHWA	Federal Highway Administration
FOIL	Freedom of Information Law (N.Y. Pub. Off. Law Art. 6)
IA	Independent Assurance
ISA	Initial Site Assessment
ITP	Instructions to Proposers
JV	Joint Venture
LLC	Limited Liability Company
LSE	Lead Structural Engineer
MWBE	Minority/Women Business Enterprise
MBE	Minority-owned Business Enterprise
MPT	Maintenance and Protection of Traffic
MURK	Manual on Uniform Record Keeping
MUTCD	Manual of Uniform Traffic Control Devices
N/A	Not Applicable
NCR	Non-Conformance Report
NEMA	National Electrical Manufacturers Association
NEPA	National Environmental Policy Act
NTP	Notice to Proceed
NYSTA	New York State Thruway Authority
ORT	Open Road Tolling
OSHA	Occupational Safety and Health Administration
PI	Public Information
PM	Project Manager
PSI	Preliminary Site Investigation
PDF	Portable document format

QA	Quality Assurance
QC	Quality Control
QM	Quality Manager
RE	Resident Engineer
RFP	Request for Proposals
RFQ	Request for Qualifications
ROD	Record of Decision
ROW	Right Of Way
SEQRA	New York State Environmental Quality Review Act
SOQ	Statement of Qualifications
WZTC	Work Zone Traffic Control

## DEFINITIONS

All capitalized terms used in the ITP and not otherwise defined herein, including in this ITP Appendix G (Abbreviations and Definitions), shall have the meanings ascribed to such terms in the Contract Documents, Part 2, DB §101.

**“Accept/Acceptance”** means the confirmation provided by the Authority that informs the Design-Builder that a submittal, deliverable, work product, or test result, is in conformance with the Contract requirements.

**“Addenda/Addendum”** means supplemental written additions, deletions, and modifications to the provisions of the RFP issued by the Authority, after the date of issuance of the RFP.

**“Advertisement”** means a public announcement inviting prospective Proposers to obtain an RFQ or RFP and submit an SOQ or a Proposal. The Advertisement shall include a brief description of the Work proposed to be the subject of the procurement, with an announcement where the RFQ may be obtained, the terms and conditions under which SOQs will be received, and such other matters as the Authority may deem advisable to include therein.

**“Affiliate”** means:

- A) Any Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the Design-Builder or any Principal Participant.
- B) An Affiliate may also be any Person for which 10% or more of the equity interest in such Person is held directly or indirectly, beneficially or of record, by the following:
  - 1) The Design-Builder;
  - 2) Any Principal Participant; or
  - 3) Any Affiliate of the Design-Builder under part (A) of this definition.

For purposes of this definition, the term “control” means the possession, directly or indirectly, of the power to cause the direction of the management of a Person, whether through voting securities, by contract, by family relationship, or otherwise.

**“Alternative Technical Concept”** means a concept that deviates from requirements set forth in the Request for Proposals and that has been included in the Proposal with the Authority’s prior written approval in accordance with the Instructions to Proposers, based on a determination by the Authority that the proposed end product, based on the deviation, is equal to or better than

the end product absent the deviation and approval of any deviations from the Project Environmental Approvals.

**“Authority”** means the New York State Thruway Authority.

**“Award”** means the decision of the Authority to accept a responsive Proposal from a responsible Proposer that provides the Best Value to the Authority for the work identified in the RFP, subject to the execution and approval of a satisfactory Contract, provision of Labor and Material and Performance Bonds to secure the payment and performance thereof, provision of such insurance as is required under the Contract, and the satisfaction of such other conditions as may be specified or otherwise required by law.

**“Baseline Progress Schedule”** means the time-scaled, Critical Path network schedule, updated from time to time in accordance with the Contract and depicting the subordinate activities and their durations, sequences, and interrelationships that represent the Design-Builder’s Work plans; the Design-Builder’s Work Breakdown Structure (WBS) for designing, constructing, and completing the Project.

**“Cashless Tolling”** means a new system by the Thruway where travelers no longer stop at Toll Booths to pay tolls. Tolls are either collected electronically through established accounts under E-Z Pass or the traveler is tolled via mail via equipment mounted on Gantries that travelers pass under on the Thruway system.

**“Civil Rights Compliance Manager”** means the Design-Builder’s designated person who is working under the direction of the Project Manager shall be responsible for monitoring and ensuring total compliance with all Civil Rights Compliance requirements and achieving the MWBE goals and EEO goals described in the Contract documents.

**“Clarifications”** means a written or oral exchange of information that takes place between a Proposer and the Authority after the receipt of all SOQs during the evaluation process. The purpose of Clarifications is to address minor ambiguities, omissions, errors or mistakes and clerical revisions in an SOQ.

**“Competitive and Reasonable”** means a Proposer’s proposed Lump Sum Price for the Contract that does not exceed 150% of the Lump Sum Price for the Contract included in the selected Best Value Proposal.

**“Construction Inspection (CI)”** means to inspect all construction operations and to enforce all safety measures (for employees and the traveling public) performed by the Design-Builder to ensure conformance with the contract documents. This includes performing daily inspection and testing activities in accordance with all the requirements set forth in Authority policies, manuals, engineering bulletins, and engineering instructions; preparation of applicable MURK forms; preparation of monthly estimates; monitoring compliance to safety procedures, including fall protection and work zone traffic control (WZTC) requirements; monitoring compliance to environmental requirements. Construction Inspection also includes Contract Administration functions including, but not limited to keeping required records, monitoring the DB Contractor’s progress, monitoring certified payroll compliance and processing of payments, monitoring adherence to Equal Opportunity and Labor requirements contained in the contract, taking measurements as required for payment, and maintaining a contemporaneous project diary documenting conformance with the contract documents. The Scope of Work to be performed as part of the Construction Inspection task may be changed after the RFQ Phase.

**“Construction Inspection Professional Engineering Firm”** means an independent Engineering firm, licensed in New York State to perform Engineering Services and having experience in Construction Inspection as defined herein. This firm shall be included as part of the Proposer’s team during the RFP Phase and shall be hired by the Design-Builder to perform Construction Inspection for the Project. The Construction Inspection Professional Engineering Firm shall report to the Design-Builder’s Quality Manager and supervise the Materials Testing Firm or Laboratory performing sampling and testing of materials.

**“Construction Manager”** means the Design-Builder’s designated representative who leads construction activities of the Design-Build Contract, including overall construction oversight, assignment of the construction workforces, coordination of the construction workforces, etc.

**“Construction Quality Assurance Engineer”** means the Authority’s representative with primary responsibility for monitoring and/or auditing the Design-Builder’s construction and environmental field activities for compliance with the Contract’s requirements and the Design-Builder’s Quality Control Plan.

**“Construction Quality Control Engineer”** means the Design-Builder’s designated representative who leads the Construction QC activities. The Construction QC Engineer, or his/her designees, shall be delegated the authority to actively monitor the quality of materials and workmanship and to make necessary improvements to the quality of Work, including the suspension of the Work if required.

**“Construction Subcontractor”** means a subcontractor on the Proposer’s team that will be involved in the construction of the Project, not identified in the SOQ.

**“Constructor”** means a Principal Participant or subcontractor retained by the Design-Builder, who is involved in the actual construction of the Project.

**“Contract”** means the written agreement between the Authority and the Design-Builder setting forth the obligations of the parties with respect to the Project, including, but not limited to, the performance of the Work, the furnishing of labor and materials, and the basis of payment, and including all provisions required by law to be inserted in the Contract whether actually inserted or not. The Contract will include the Contract Documents and any amendments, supplemental agreements, and Change Orders that are required to complete the design and construction of the Work in an acceptable manner, including authorized extensions thereof, all of which constitute one instrument.

**“Contract Documents”** means the document identified as such in the Contract, including all provisions required by law to be inserted in the Contract whether actually inserted or not.

**“Deficiency”** means a material failure of an SOQ or Proposal to meet the Authority’s requirements or a combination of significant weaknesses in an SOQ or Proposal that increases the risk of unsuccessful Contract performance to an unacceptable level.

**“Design-Build (DB)”** means a Project delivery methodology by which the Authority contracts with a single firm that has responsibility for the design and construction of the Project under a single contract.

**“Design-Build Team”** See Design-Builder.

**“Design-Builder”** means the Person selected pursuant to the RFP that enters into the Contract with the Authority to design and construct the Project. (Also referred to as the “Design-Build Team”).

**“Design Manager”** means the Design-Builder’s designated person who shall have primary responsibility for coordination and oversight of all the Project Designs including design plans, calculations, and specifications. He/She shall be a registered Professional Engineer in the State of New York.

**“Design Quality Assurance Engineer”** means the Authority’s representative with primary responsibility for monitoring and/or auditing the Design-Builder’s design and engineering activities for compliance with the Contract requirements and the Design-Builder’s Quality Control Plan.

**“Design Quality Control Engineer”** means the person appointed by the Design-Builder who reports directly to the Design-Builder’s Quality Manager and is responsible for the QC of all Work conducted by the Designer. The Design QC Engineer shall be a New York-licensed professional engineer with similar experience as the Design Manager. The Design QC Engineer shall ensure that checkers are assigned for each design discipline and for each Design Unit and that they are properly scheduled.

**“Designer”** means a Principal Participant, Required Design-Build team member, or in-house designer that has primary responsibility for design services for the Project.

**“Disadvantaged Business Enterprise (DBE)”** means a for-profit, small business concern as defined pursuant to Section 3 of the Federal Small Business Act (Public Law 85-536, as amended) and Small Business Administration regulations implementing it (13 CFR Part 121) that is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals and whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it, which meets the definitions set forth in 49 Code of Federal Regulations (CFR) 26.

**“Engineer-in-Charge (EIC)”** means the Authority’s Project Manager or designated representative when used in the NYSDOT/Authority standard specifications. When used in the Archaeological Work Plan (AWP), the Construction Protection Plan (CPP), and the Stormwater Pollution Prevention Plan (SWPPP), Engineer-in-Charge (EIC) means the Design-Builder’s Resident Engineer.

**“Executive Director”** means the Executive Director of the New York State Thruway Authority.

**“Equity Participant”** means any Person holding (directly or indirectly) a 15% or greater interest in the Proposer.

**“Fabricator”** means an individual, partnership, firm, Limited Liability Company (LLC), corporation, or joint venture with which the Design-Builder subcontracts to assemble, construct, or otherwise substantially alter material or supplies into assemblies, components, or finished items for inclusion into the work prior to resale.

**“Fast Track Design”** means the process of performing the design of a project in increments of the final design for the purpose of allowing the project construction to begin before the final

design of a project is completed. Fast Track Design will allow the project design and construction activities to overlap and occur simultaneously, thereby shortening the total duration of those activities.

**“Good Faith Efforts (GFE)”** means the efforts to achieve a MWBE goal or other MWBE requirement which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program requirement. Good Faith Efforts shall meet the requirements of 49 Code of Federal Regulations (CFR) 26.53.

**“Independent Assurance (IA)”** means activities that are undertaken in accordance with 23 CFR 637.203(a)(2), providing an unbiased and independent evaluation of all the sampling and testing procedures, equipment calibration, and qualifications of personnel (Design-Builder’s or Authority’s) used in the Acceptance Program, including the Design-Builder’s QC. The Independent Assurance (IA) agent for the Project will be designated by the Authority.

**“Instructions to Proposers (ITP)”** means those documents containing directions for the preparation and submittal of information by the Proposers in response to the RFP.

**“Lead Civil Engineer”** means the Design-Builder’s designated person who shall have primary responsibility for the design of all Highway and Traffic elements of the Project. Such individual shall be a licensed New York State Professional Engineer.

**“Lead Geotechnical Engineer”** means the Design-Builder’s designated person who shall have primary responsibility for the design of all Geotechnical elements of the Project. Such individual shall be a licensed New York State Professional Engineer.

**“Lead Hydraulic Engineer”** means the Design-Builder’s designated person who shall be responsible for meeting the RFP hydraulic requirements and making hydraulic determinations related to the project. Such individual shall be a licensed New York State Professional Engineer and shall be the Responsible Engineer regarding hydraulic design.

**“Lead Structural Engineer”** means the Design-Builder’s designated person who shall have primary responsibility for the design of all Structural elements of the Project. Such individual shall be a licensed New York State Professional Engineer.

**“Lead Principal Participant”** means the Principal Participant that is designated by the Proposer as having the lead responsibility for managing the Proposer’s organization.

**“Mainline Gantry”** means structures that are located on the Mainline of the Thruway (Not at exits or entrances or exit ramps). These Gantries require the following but not complete requirements: access from below without the use of a vehicle, requires maintenance access and repair, replacement, and adjustments to occur from the Gantry walkway. Requires a minimum of 4 feet wide walkway to access all equipment. Currently a minimum of 21 mainline Gantries are required and will service 11 interchanges and 5 Terminus locations.

**“Manufacturer”** means a Manufacturer as an entity that operates or maintains a factory or establishment that produces on its premises the material, equipment, or supplies obtained by the Design-Builder for incorporation into the Project.

**“Material”** means any approved material acceptable to the Authority and conforming to the requirements of the Specifications.

**“Materials Testing Firm or Laboratory”** means an independent testing firm or Laboratory having experience in performing Quality Control activities as defined herein. This firm shall be included as part of the Proposer’s team during the RFQ and RFP Phase and shall be hired by the Design-Builder to perform Quality Control sampling and Testing activities for the Project. The Materials Testing Firm or Laboratory shall report to the Construction Inspection Professional Engineering firm.

**“Mini-Gantries”** means structures that are located at specified exits on the Thruway system that carry Thruway system based equipment, that span over required lanes to collect tolls under the Open Road Tolling (ORT) system. These Mini-Gantries must provide for the geometrical relationship of the ORT system equipment.

**“Minority-owned Business Enterprise (MBE)”** means a business enterprise, including a sole proprietorship, partnership, or corporation that is a small business with at least 51% owned by one or more minority group members and meets the definition set forth in Article 15-A of the New York State Executive Law.

**“Non-responsive Price Proposal”** means a Proposer’s Price Proposal which is incomplete or which contains mathematical errors.

**“Notice to Proceed”** means written notice to the Design-Builder to proceed with some or all of the Work as specified in the Contract including, when applicable, the beginning date of the Contract Time. See *also*, Work Order.

**“Open Road Tolling”** means the implementation of a Thruway based toll collection system that does not require traffic be constrained to specific lanes to accurately collect appropriate tolls. The systems require treadles, cameras, antennas, and illuminators in its applications. It is intended to be used only at the following exits: B1 (Post Road), B2 (Taconic), 18 (New Paltz), 19 (Kingston), 20E (Saugerties E.), 20W (Saugerties W.), 21 (Catskill), 21B (Coxsackie), 22 (Selkirk), 26 (Rotterdam), 27 (Amsterdam), 28 (Fultonville), 29 (Canajoharie), 29A (Little Falls), 30 (Herkimer), 31 (Utica), 32 (Westmoreland), 33 (Verona), 34 (Canastota), 37 (Electronics Parkway), 38 (Liverpool), 40 (Weedsport), 41 (Waterloo), 42 (Geneva), 43 (Manchester), 48 (Batavia), 48A (Pembroke), 49 (Depew), 56 (Blasdell), 57 (Hamburg), 57A (Eden-Angola), 58 (Silvercreek), 59 (Dunkirk), and 60 (Westfield).

**“Oversight”** means actions by the Authority to satisfy itself that the Design-Builder is designing, constructing and managing the Work in accordance with the Contract Documents. It includes actions identified in the Contract Documents by the terms QA, Independent Assurance, Verification Sampling and Testing, compliant/compliance, accept/acceptance, inspect/inspection, audit, ensure, certify, confirm, review, verify or terms of similar import. Authority comments as a result of Oversight are conveyed to the Design-Builder through Consultation and Written Comment and shall be documented in a Non-Conformance Report if appropriate. Neither the activity of Oversight nor the lack of Consultation and Written Comment on the part of the Authority shall be construed to relieve the Design-Builder and its organization from the responsibility and costs for meeting all Contract and regulatory requirements.

**“Performance Bond”** means the bond, in the form set forth in the RFP or as otherwise approved by the Authority, executed by the Design-Builder and its Surety or Sureties, guaranteeing performance of all Work in compliance with the requirements of the Contract Documents, including all Orders on Contract, Amendments, and Supplemental Agreements pertaining thereto.

**“Person”** means any individual, firm, corporation, company, sole proprietorship, limited liability company (LLC), joint venture, voluntary association, partnership, trust, unincorporated organization, or other legal entity.

**“Plans”** means the official Design Plans and applicable Standard Sheets, which show the location, character, dimensions, and details of the Work to be performed. Also, the Design-Builder’s Design Plans showing profiles, typical cross sections, and other details; Work Plans; or exact reproductions which show the location, character, dimensions, and general or specific details of the Work to be done.

**“Price Proposal”** means the portion of the Proposal described in Appendix D.

**“Principal Participant”** means any of the following entities:

- A) The Design-Builder (or Proposer);
- B) If the Proposer is a partnership, joint venture, or limited liability company, any general partner or any member of the partnership, joint venture or LLC; and/or
- C) Any Equity Participant.

**“Professional Engineer”** means a Professional Engineer licensed or otherwise authorized to practice engineering under Article 145 and registered or otherwise authorized under Article 130 or the New York State Education Law.

**“Project”** means the improvements to be designed and constructed by the Design-Builder and all other Work products to be provided by the Design-Builder in accordance with the Contract Documents.

**“Project Manager”** means the Design-Builder’s designated representative responsible for all aspects of the Work, including construction oversight, design oversight, project finances, project scheduling, etc. Disputes regarding design or construction that cannot be resolved with the designer or in the field will be brought to the attention of the Design-Builder’s Project Manager for resolution.

**“Project Superintendent”** means the Design-Builder’s on-site designated representative who oversees the construction of the Design-Build Contract, including directing and coordinating the activities of the Design-Builder’s workforce and all subcontractors, ensuring that the work progresses according to schedule, and ensuring that material and equipment are delivered to the site on time, etc.

**“Proposal”** means a proposal submitted by a Proposer in response to the RFP, including any revisions thereto. If the RFP requests submittal of best and final offers, the term ‘Proposal’ means the best and final offer submitted by the Proposer, including any revisions thereto.

**“Proposal Bond”** means the security furnished with a Proposal to guarantee that the Proposer will enter into the Contract if the Proposer’s Proposal is accepted and satisfies all other conditions of Award.

**“Proposal Due Date”** means the date specified in the ITP on which the Proposal is due to the Authority’s Designated Representative.



**“Proposal Information”** means the documents so designated in the ITP and submitted to the Authority by the Proposer/Design-Builder in accordance with the ITP that will be included in the Contract Documents. The Proposal Information is part of the Quality Proposal.

**“Proposer”** means a Person on the Shortlist.

**“Proposer’s Representative”** means an individual authorized to bind a Proposer who is designated in writing by the Proposer (in the Proposer’s SOQ or other written notice to the Authority’s Designated Representative) as the Proposer’s sole point of contact for the purposes of communications with the Authority during the procurement of this Project.

**“Qualified Costs”** means the direct costs and overhead costs that are allowable and reasonable, and incurred by the Proposer, the Proposer’s team, or third-parties acting at the direction of the Proposer in the production of the Work Product. Examples of qualified costs (subject to limitations of any other contract stipulations such as limits on hourly rates or not to exceed Government travel rates) can include the following:

- Compensation of employees time charges related to preparation of the Proposal;
- Cost of materials acquired, consumed, or expended related to preparation of the Proposal;
- Cost of equipment utilized related to preparation of the Proposal; and
- Travel expenses incurred related to preparation of the Proposal.

**“Quality Assurance”** means the Authority’s process of forming an acceptance decision to ensure the Design-Builder’s design and construction, including the workmanship and materials incorporated into the Project, are in accordance with the Contract requirements. The QA process includes all the planned and systematic Oversight actions that provide the Authority with confidence that the Design-Builder is performing QC in accordance with the Quality Control Plan, that all Work complies with the Contract and that all Materials incorporated in the Work, all Equipment, and all elements of the Work will perform satisfactorily for the purpose intended. Quality Assurance includes, but is not limited to, monitoring and verification of design through auditing, spot-checking and participation in the review of the design, and monitoring and verification of construction, manufacturing/process facilities and equipment, on site equipment and QC documentation through auditing, spot inspections and Verification Sampling and testing at production sites and the Project Site. Quality Assurance also includes Independent Assurance, consultation and provision of written comments by the Authority, documentation of QA activities, final inspection and Final Acceptance.

**“Quality Control”** means the total of all activities performed by the Design-Builder, Designer, Construction Inspection Professional Engineering Firm and the Materials Testing Firm or Laboratory, subcontractors, producers or manufacturers to ensure that the Work performed by the Design-Builder conforms to the Contract requirements. For design, Quality Control activities shall include, but not be limited to, procedures for design quality, checking, and design review including reviews for constructability, and review and acceptance of Working Plans. For construction, Quality Control activities shall include, but not be limited to, procedures for materials handling and construction quality, inspection, sampling and testing of materials both on site and at the plant(s), field testing of materials, obtaining and verifying Materials Certifications, record keeping, and equipment monitoring and calibration, production process control, and monitoring of environmental compliance. Quality Control also includes documentation of all QC design and construction efforts.

**“Quality Control Plan”** means the Design-Builder’s plan for implementing the Design-Builder’s overall quality program and associated activities, including Design-Builder’s QC and procedures, to assure and document quality of design and construction activities through reviews, inspections, testing, internal communications, and necessary interfaces with the Authority and the Authority’s QA activities. The Quality Control Plan requires Authority approval.

**“Quality Manager”** means the Design-Builder’s designated individual who is responsible for the overall QC program of the Design-Builder, including the quality of management, design, and construction.

**“Quality Program”** means the overall quality system and associated activities, including the Authority’s Quality Assurance and independent Assurance program, Design-Builder Quality Control activities and associated Quality Control Plan that will assure materials and workmanship incorporated into the Project are in conformity with the Contract requirements, Design Documents and Project Specifications.

**“Reference Documents”** means the documents provided in advance, or alongside of, or after the RFP is posted. The Reference Documents, including Plans contained therein and/or so designated, are not Contract Documents and are provided to Design-Builder for informational purposes only and are relied upon at the Design-Builder’s own risk.

**“Request for Proposals (RFP)”** means a written solicitation issued by the Authority (and as amended by any Addenda) seeking Proposals (including quality and price) to be used to identify the Proposer offering the best value to the Authority. The RFP will be issued only to Persons who are on the Short-List.

**“Request for Qualifications (RFQ)”** means the written solicitation, including all Addenda thereto, issued by the Authority seeking SOQs in order to identify and Short-List the Proposers to receive the RFP for the Project.

**“Resident Engineer”** means a qualified individual as specified in the RFP, who directs the organization and coordination of the inspectors and the on-site Construction Quality Control inspection of the execution of the construction by the Design-Builder. He ensures that the construction is executed in accordance with the approved designs, drawings and specifications related to the work under construction.

**“Resource Provider”** means the Individual to be specified by the Proposer who has full authority to move resources (personnel and equipment) to advance this Project on schedule, potentially drawing from other ongoing competing work. The Resource Provider should have broad oversight of all construction operations, procurement of equipment and materials, and the assignment of personnel

**“Short-List”** means the list of Persons that the Authority determines are the most highly qualified potential Design-Builders for the Project, based on an evaluation of the SOQs submitted by such Persons.

**“Specialty Subcontractor”** means those consultants or subcontractors identified to perform Work critical to the success of the Project, such as demolition, environmental compliance, landscaping, or other specialty work.

“**State**” means the State of New York.

“**Statement of Qualifications (SOQ)**” means the information prepared and submitted by a Proposer in response to the RFQ.

“**Strength**” means a feature or aspect of the SOQ and/or RFP that exceeds the minimum requirements of the RFQ or RFP and increases the chance of successful Contract performance. A significant Strength in the SOQ or RFP is a feature or aspect that exceeds the minimum requirements of the RFQ or RFP and increases the chance of successful Contract performance.

“**Subcontractor**” means any Person (excluding the Designer, Professional Construction Inspection firm, and Materials Testing or Laboratory Testing identified in the SOQ) with whom the Design-Builder has entered into any Subcontract and any other Person with whom any Subcontractor has further subcontracted any part of the Work, at any tier. Suppliers and materialmen are excluded from the term. The term does not include any employee with an employment contract, or any employee organization with a collective bargaining agreement, who with the written consent of the Authority, sublets any part of the Contract.

“**Supervisor of Resident Engineers**” means a qualified individual as specified in the RFP, who directs the organization and coordination of the Resident Engineers and Inspectors. He ensures that the construction is executed in accordance with the approved designs, drawings and specifications related to the work under construction and ensures the Resident Engineers who are overseen and report to this qualified individual are consistent across the state with their application, reporting, identification of non-conformance issues and interaction with the Authority’s Quality Assurance individuals.

“**Surety**” means the corporate body properly licensed in the State which has issued the Performance and/or Labor and Material Bond.

“**Test**” means methods adopted by the Authority and the Design-Builder to ascertain the quality, character, and acceptability of Materials and processes utilized in performing the Contract.

“**Tolls in Place**” means the implementation or modification of a Thruway based toll collection system that requires traffic lane segregation (Separate lanes) to collect the proper tolls for the type and size and classification of vehicle.

“**Traffic Impact Day**” means any day, or part of a day, on which the number and/or width of travel or turning lanes on a given roadway or structure are reduced from the existing number and/or width, or any day on which traffic is detoured (either off-site or on-site with the introduction of additional traffic signals, stop signs, yield signs, and/or turning movement restrictions) from a given roadway or structure. Shoulder or Parking Lane closure(s) only do not constitute a Traffic Impact Day.

“**Traffic Impact Duration**” means the number of consecutive Calendar Days between the date of the first Traffic Impact Day for a given roadway or structure and the date of the last Traffic Impact Day for that roadway or structure.

“**Unbalanced Price Proposal**” means a Price Proposal may be unbalanced either Materially or Mathematically. A Materially Unbalanced Price Proposal is a Price Proposal that generates a reasonable doubt that awarding the Contract to the Proposer submitting the price Proposal will

result in the lowest ultimate cost to the Authority. A Mathematically Unbalanced Price Proposal is a Price Proposal containing lump sum or Unit Price items that do not reasonably reflect the actual costs plus a reasonable proportionate share of the Proposer's anticipated profit, overhead costs, and other indirect costs.

**“Unit Price”** means the price per unit of measure specified for items of Work in accordance with any unit priced Orders on Contract.

**“Utility”** means a Person, corporation, municipality, or public authority engaged in the distribution of electricity, gases, petroleum products, water, steam, the collection of wastewater, the operation of traffic control systems, or the provision of telecommunication services.

**“Utility Owner”** means the owner or operator of any Utility (including Persons and Governmental Persons).

**“Verification Sampling and Testing”** means Sampling and testing performed by the Authority, or by a firm retained by the Authority, to validate the Design-Builder's QC sampling and test data that was used in the acceptance decision. Verification sampling and testing is conducted whenever the Design-Builder's Quality Control data (Construction Inspection and Sampling and Testing of Construction Materials) is used in the acceptance decision. Verification is performed by the Authority, or its agent, to validate the Design-Builder's data.

**“Warranties”** means the written commitments of the Design-Builder as set forth in the Contract regarding quality and performance over a specified period of time after Final Acceptance of the Project.

**“Weakness”** means a flaw in the SOQ and/or RFP that increases the risk of unsuccessful Contract performance. A significant Weakness in the SOQ or RFP is a flaw that appreciably increases the risk of unsuccessful Contract performance.

**“Women-owned Business Enterprise (WBE)”** means a business enterprise, including a sole proprietorship, partnership, or corporation that has the following attributes:

- A) It is at least 51% owned by one or more US citizens or permanent resident aliens who are women;
- B) It is an enterprise in which the ownership interest of such women is real, substantial, and continuing;
- C) It is an enterprise in which such women ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; and
- D) It is an enterprise authorized to do business in the State and it is independently owned and operated.

**“Work”** means all of the administrative, design, engineering, real property acquisition support services, utility support services, procurement, legal, professional, manufacturing, supply, installation, construction, supervision, management, testing, verification, labor, materials, equipment, maintenance, warranty, documentation, and other duties and services to be furnished and provided by the Design-Builder as required by the Contract Documents, including all efforts necessary or appropriate to achieve final acceptance of the Project and to fulfill the Design-Builder's warranties. In certain cases, the term is also used to mean the products of the Work.



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