DESIGN-BUILD PROCEDURES MANUAL

SEPTEMBER 2005

VOLUME II OF V

EXHIBIT I – REQUEST FOR LETTERS OF INTEREST TEMPLATE

EXHIBIT II – REQUEST FOR QUALIFICATIONS TEMPLATES:

RFQ Text
Appendix A – Project Description & Scope
Appendix B – Format and Organization for SOQ’s
Appendix C – SOQ Forms
Appendix D – Stipend Contract

EXHIBIT III – DIVISION 1 – REQUEST FOR PROPOSAL TEMPLATES:

General Instructions to Proposers
Appendix A – Management & Technical Proposal Instructions
Appendix B – Pricing Instructions – Small & Large Projects
Appendix C – ITP Forms – Small & Large Projects
(Project Name)
DESIGN-BUILD PROJECT

PIN ______________

VOLUME II - EXHIBIT I

REQUEST FOR LETTERS OF INTEREST
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REQUEST FOR LETTERS OF INTEREST
FOR DESIGN-BUILD SERVICES

The New York State Department of Transportation is soliciting Letters of Interest (LOI) from companies interested in providing Design-Build Services for the design and reconstruction of the (Name/Route) in (City/County), New York.

The Project will consist of:

- Removal of the existing interchange bridge and ramps;
- A new interchange west of the existing interchange, including a new bridge over the Interstate and four (4) new ramps;
- Utility relocations;
- Drainage improvements;
- Signing and striping; and
- Environmental mitigation

If the environmental process results in a decision to build the Project, Contract award is currently anticipated for (Date) with expected contract duration of _______________.

One Design-Builder will be selected for the entire Project. The selection process will have two steps. A Request for Qualifications (RFQ) is anticipated to be issued by (Date). Responses to the RFQ will be evaluated to establish a listing of design-build firms that will be invited to submit Proposals in response to the Request for Proposals (RFP), scheduled to be issued by (Date). The “best-value” selection process will evaluate the ability of the Design-Builder to manage, design, construct and control this Project to provide a quality product, on or ahead of schedule, for a reasonable lump sum price within the Department’s project budget. The Department currently anticipates using an industry review process to solicit comments to the RFP prior to its issuance.

The Department is seeking Design-Builders that are committed to quality, have proven experience in the design and construction of interstate interchanges, will bring innovative design-build approaches to ensure timely completion, and are willing to partner with the Department for the mutual success of the Project.

Companies interested in providing design-build services or participating as a member of a design-build organization should send an LOI by mail or fax by (Date) to:

(Name) (Department’s Project Manager)
(Address)
(Fax Number)

The LOI must state the name, address, phone and fax numbers of the person whom the Department may contact at your company to provide further information about the Project.

Those submitting an LOI are invited to send a representative to a Project information workshop at (Time), (Date), (Location).

While submission of an LOI and attendance at the project information workshop are not prerequisites for
participating in the procurement process, interested firms and parties are strongly encouraged to submit and attend.

The Department reserves the sole right, without incurring any liability, to change any aspect of the proposed procurement described above, including the right to not proceed with the procurement and/or the right to proceed in a different manner or on a different timeline than as described above.
VOLUME 2 - EXHIBIT II

REQUEST FOR QUALIFICATION

TEMPLATES
(Project Name)
DESIGN-BUILD PROJECT
PIN __________________________

REQUEST FOR QUALIFICATIONS
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# TABLE OF CONTENTS

1.0 INTRODUCTION AND GENERAL INFORMATION ................................................................. 1

1.1 ABBREVIATIONS AND DEFINITIONS.................................................................................... 1
   1.1.1 Abbreviations .................................................................................................................. 1
   1.1.2 Definitions ....................................................................................................................... 1

1.2 PROJECT GOALS .................................................................................................................. 5

1.3 ROLE OF THE DEPARTMENT ............................................................................................. 6

1.4 PROJECT DESCRIPTION, DESIGN-BUILDER RESPONSIBILITIES AND PROJECT STATUS ................................................................. 6

1.5 PROJECT SCHEDULE .......................................................................................................... 6

1.6 CONTRACT TYPE ................................................................................................................. 6

1.7 PAYMENT AND LIQUIDATED AND/OR GENERAL DAMAGES ........................................... 6

1.8 GOVERNING LAW ............................................................................................................... 6

1.9 QUALITY ASSURANCE/QUALITY CONTROL .................................................................... 7

1.10 INSURANCE, BONDING, LICENSING AND SECURITIES ..................................................... 7

1.11 RULES OF CONTACT ........................................................................................................... 7

1.12 PROPOSER QUESTIONS ..................................................................................................... 8

1.13 RFQ ADDENDA ................................................................................................................... 9

1.14 NOTIFICATION OF FIRMS ON THE SHORT-LIST ............................................................... 9

1.15 COSTS .................................................................................................................................. 9

1.16 INELIGIBLE FIRMS .......................................................................................................... 9

1.17 PRE-SOQ INFORMATIONAL MEETINGS ............................................................................ 9

1.18 ORGANIZATIONAL AND CONFIDENTIALITY REQUIREMENTS ....................................... 9

1.19 PROPOSAL STIPEND ......................................................................................................... 10

2.0 PROCUREMENT PROCESS .................................................................................................. 10

2.1 OVERALL PROCUREMENT PROCESS .............................................................................. 10
   1.2.1 RFQ Step ....................................................................................................................... 11
   1.2.2 RFP Step ...................................................................................................................... 11

2.2 PROCUREMENT SCHEDULE .............................................................................................. 12

3.0 EVALUATION PROCESS FOR THE SOQ .......................................................................... 12

3.1 EVALUATION OBJECTIVES ............................................................................................... 12

3.2 REVIEW AND EVALUATION OF THE SOQ ........................................................................ 12

3.3 EVALUATION FACTORS FOR THE RFQ/SOQ ................................................................. 13
   3.3.1 Pass/Fail Evaluation Factors ......................................................................................... 13
   3.3.2 Quality Evaluation Factors ........................................................................................... 13

3.4 REQUESTS FOR CLARIFICATION .................................................................................. 14

3.5 DETERMINATION OF THE SHORT-LIST ......................................................................... 15

3.6 CHALLENGE ..................................................................................................................... 16

4.0 SOQ SUBMITTAL REQUIREMENTS ................................................................................... 16

4.1 DATE AND TIME OF RECEIPT ............................................................................................ 16

4.2 SUBMITTAL ADDRESS ........................................................................................................ 16

4.3 PAGE LIMIT, FORMAT AND QUANTITIES ......................................................................... 16

4.4 CONTENT OF SOQ ........................................................................................................... 17
   4.4.1 Cover Letter .................................................................................................................. 18
   4.4.2 Evaluation Factor Objectives and Requirements .......................................................... 18

5.0 PROTESTS .......................................................................................................................... 24

---

Project Request for Qualifications
PIN  
(Insert Date)
5.1 WRITTEN PROTESTS ONLY ..................................................................................................... 24
5.2 PROTEST CONTENTS ................................................................................................................24
5.3 PROTEST PRIOR TO SOQ DUE DATE ..................................................................................... 25
5.4 PROTEST PRIOR TO ANNOUNCING THE SHORT-LIST....................................................... 25
5.5 PROTEST REGARDING SHORT-LIST DECISION ............................................................... 25
5.6 RIGHT OF APPEAL ................................................................................................................... 26

6.0 DEPARTMENT RIGHTS AND DISCLAIMERS ........................................................................ 26
6.1 DEPARTMENT RIGHTS ............................................................................................................ 26
6.2 DEPARTMENT DISCLAIMERS ............................................................................................... 28

7.0 MINORITY/WOMEN/DISADVANTAGED BUSINESS ENTERPRISE (M/W/DBE) PROGRAM AND EQUAL EMPLOYMENT OPPORTUNITY .................................................. 28
7.1 POLICY .................................................................................................................................. 28
7.2 M/W/DBE PARTICIPATION GOAL ......................................................................................... 28
7.3 EQUAL EMPLOYMENT OPPORTUNITY ............................................................................... 28

8.0 COMPLIANCE WITH APPLICABLE LAWS ........................................................................ 28

APPENDICES

APPENDIX A - PROJECT DESCRIPTION, DESIGN-BUILDER RESPONSIBILITIES AND PROJECT STATUS

APPENDIX B - FORMAT AND ORGANIZATION FOR STATEMENT OF QUALIFICATIONS

APPENDIX C - FORMS

APPENDIX D - STIPEND CONTRACT
1.0 INTRODUCTION AND GENERAL INFORMATION

This Request for Qualifications (RFQ) seeking a limited number of qualified Proposers covers the design, construction and other identified activities for (Brief project description).

Statements of Qualifications (SOQ) will only be accepted from Design-Build Proposers intending to provide services required under the Contract. Responses from individual engineering, construction or consultant firms not offering to provide all required services will not be accepted.

[For procurements where the RFQ is being issued prior to the completion of the environmental process, the following paragraph should be included:]

This RFQ is being issued concurrently with development and review of the environmental documentation that will determine the final Scope of Work and many Project requirements. Any Work described herein is subject to adjustment as a result of the environmental documentation (Federal and/or State) and by other decisions of the Department. In the event that the NEPA process results in a “no-build” alternative there will be no project.

1.1 ABBREVIATIONS AND DEFINITIONS

This RFQ includes abbreviations and specific defined terms as indicated below.

1.1.1 Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>DB</td>
<td>Design-Build</td>
</tr>
<tr>
<td>DONSI</td>
<td>Determination of No Significant Impact (State)</td>
</tr>
<tr>
<td>EA</td>
<td>Environmental Assessment</td>
</tr>
<tr>
<td>FEIS</td>
<td>Final Environmental Impact Statement</td>
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<tr>
<td>FHWA</td>
<td>Federal Highway Administration</td>
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<tr>
<td>FONSI</td>
<td>Finding of No Significant Impact (Federal)</td>
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<tr>
<td>IA</td>
<td>Independent Assurance</td>
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<tr>
<td>ISA</td>
<td>Initial Site Assessment</td>
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<tr>
<td>JV</td>
<td>Joint Venture</td>
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<tr>
<td>M/W/DBE</td>
<td>Minority/Women/Disadvantaged Business Enterprise</td>
</tr>
<tr>
<td>N/A</td>
<td>Not Applicable</td>
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<tr>
<td>PI</td>
<td>Public Information</td>
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<tr>
<td>PSI</td>
<td>Preliminary Site Investigation</td>
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<tr>
<td>QA</td>
<td>Quality Assurance</td>
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<tr>
<td>QC</td>
<td>Quality Control</td>
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<tr>
<td>QCM</td>
<td>Quality Control Manager</td>
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<tr>
<td>RFP</td>
<td>Request for Proposals</td>
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<tr>
<td>RFQ</td>
<td>Request for Qualifications</td>
</tr>
<tr>
<td>ROD</td>
<td>Record of Decision (State &amp; Federal)</td>
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<tr>
<td>ROW</td>
<td>Right(s)-of-Way</td>
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<tr>
<td>SOQ</td>
<td>Statement of Qualifications</td>
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</table>

1.1.2 Definitions

“Addenda/Addendum” means supplemental additions, deletions, and modifications to the provisions of the RFQ after the Advertisement date of the RFQ.
“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 Department may deem advisable to include therein.

“Affiliate” means:

A) Any Person which directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the following:
   1) The Design-Builder; or
   2) Any other 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.

“Clarifications” means a written or oral exchange of information that takes place between a Proposer and the Department 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.

“Commissioner” means the Commissioner of the New York State Department of Transportation.

“Construction Subcontractor” means a subcontractor retained by the Design-Builder, who is involved in the actual construction of the Project.

“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 Department and the Design-Builder setting forth the obligations of the parties thereunder, including, but not limited to, the performance of the Work, the furnishing of labor and material, and the basis of payment. The Contract includes the Contract Documents identified in the RFP, the Design-Builder’s Proposal Documents, the Price Proposal, the NTP, and any Supplemental Agreements and Orders on Contract 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 to include the Agreement, DB Section 100, Design Criteria, Performance Specifications, Standard DB Special Provisions to the Standard Specifications, DB Utility requirements, RFP Plans, engineering data, New York State Department of Transportation Standard Specifications (Construction and Materials), the Design-Builder’s Proposal Documents, the Design-Builder’s Price Proposal (with the exception of the Proposal Bond), any Addenda to the Specifications, and all provisions required by law to be inserted in the Contract whether actually inserted or not. Whenever
separate publications and the New York State Department of Transportation’s Standard Specifications are referenced in the Contract Documents, it is understood to mean the publication and Specifications, as amended, which are current on the date of Advertisement, unless otherwise noted.

“Deficiency” means a material failure of an SOQ to meet the Department’s requirements or a combination of significant Weaknesses in an SOQ that increases the risk of unsuccessful Contract performance to an unacceptable level.

“Department” means the New York State Department of Transportation, including staff and managers who have been delegated certain contractual and technical authority by the Commissioner. The Department maintains a Web site at www.dot.state.ny.us.

“Department’s Project Manager” means the engineer representing the Department and having direct supervision of the administration and execution of the Contract under the direction of the Regional Director.

“Design-Build (DB)” means the Project’s delivery methodology under which the Department contracts with a single entity that has responsibility for the design and construction of the Project under a single contract with the Department.

“Design-Build” means the Person selected pursuant to the RFP, that enters into the Contract with the Department to design and construct the (Project Title) Project (also referred to as the “Design-Build Team”).

“Designer” means a Principal Participant, specialized Subcontractor or in-house designer that leads the team furnishing or performing the design of the Project.


“Independent Assurance” means activities that are an unbiased and independent evaluation of all the sampling and testing procedures, equipment calibration, and qualifications of personnel (Design-Build’s or Department’s) used in the Acceptance Program, including the Design-Build’s QC. The Independent Assurance (IA) agent for the Project will be the Departments Geotechnical Engineering or Materials Bureau.

“Lead Principal Participant” means the Principal Participant that is designated by the Proposer as having the lead responsibility for managing the Design-Build’s organization.

“Person” means any individual, firm, corporation, company, limited liability company (LLC), joint venture, voluntary association, partnership, trust, or unincorporated organization, or combination thereof.

“Principal Participant” means any of the following entities:

A) The Design-Build (or Proposer);

B) An individual firm, all general partners or joint venture members of the Design-Build (or Proposer); and/or

C) All Persons and legal entities holding (directly or indirectly) a 15% or greater interest in the Design-Build (or Proposer).
“Project” means the improvements to be designed and constructed by the Design-Builder and all other Work product to be provided by the Design-Builder in accordance with the Contract Documents.

“Proposal” means the offer of the Proposer for the Work, when executed and submitted in response to an RFP in the prescribed format and on the prescribed forms. The Proposal includes the Quality Proposal and the Price Proposal.

“Proposer” means a Person submitting a Statement of Qualifications for the Project in response to this RFQ, and if selected for the Short-List, an entity submitting a Proposal.

“Quality Assurance (QA)” means all planned and systematic Oversight actions by the Department necessary to provide confidence that the Design-Builder is performing QC in accordance with the Quality 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. Oversight actions include, but are 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 through auditing, spot inspections and Verification Sampling and Testing at production sites and the Project Site. Quality Assurance also includes Independent Assurance, the Department’s Consultation and Written Comment, documentation of QA activities, final inspection and Final Acceptance.

“Quality Assurance Program” means the overall quality program and associated activities including Department Quality Assurance, Design-Builder Quality Control, the Contract quality requirements and the Design-Builder’s quality plan.

“Quality Control (QC)” means the total of all activities performed by the Design-Builder, Designer, Subcontractor, producer or manufacturer to ensure that the Work meets Contract requirements. For design this includes, but is not limited to, procedures for design quality, checking, design review including reviews for constructability, and review and approval of Working Plans. For construction this includes, but is not limited to, procedures for Materials handling and construction quality. Inspection, sampling and testing of Materials, plants, production and construction; Material certifications, calibration and maintenance of Equipment; production process control; and monitoring of environmental compliance. Quality Control also includes documentation for all QC design and construction efforts.

“Quality Control Engineering Firm (QC Engineer)” means an independent engineering/testing firm employed by the Design-Builder responsible for administering and managing the Construction QC inspection, sampling and testing specified in the Contract Documents. The QC Engineer shall not be owned in any part or controlled by any Principal Participant, or by any Construction Subcontractor. The Designer or a firm associated with or subsidiary to the Designer, may serve as the QC Engineer, except any Designer who is a Principal Participant or any Designer (or subsidiary of a Designer) that is an Affiliate of any Principal Participant or Construction Subcontractor shall not serve in the capacity of QC Engineer.

“Quality Control Manager” means the individual employed by the Design-Builder who is responsible for the overall Quality Control program of the Design-Builder, including the quality of management, design and construction.

“Reference Documents” means the documents provided with and so designated in the RFP. The Reference Documents, including Plans contained therein and/or so designated, are not Contract Documents and were provided to the Design-Builder for informational purposes only and are relied upon at the Design-Builder’s own risk.
“Region” means one of 11 geographical subdivisions of the State used to designate or identify the location of the proposed Work.

“Regional Director” means the director, acting through the Commissioner, who is delegated the authority and responsibility to execute the total Department prescribed Work Plans for his/her respective Region.

“Request For Proposals (RFP)” means a document identifying the Project and its Work to be performed and Materials to be furnished in response to which a Proposal may be submitted by a Proposer/Design-Builder the RFP includes the Instructions to Proposers (ITP), Contract Documents and Reference Documents. The RFP is issued only to Persons who are on the Short-List.

“Request For Qualifications (RFQ)” means the written solicitation issued by the Department seeking SOQs to be used to identify and Short-List the Proposers to receive the RFP for the Project.

“Short-List” means the list of those Proposers that have submitted SOQs that the Department determines, through evaluation of the SOQ, are eligible to receive an RFP and invited to submit Proposals.

“Specialty Subcontractor” means those consultants or subcontractors identified by Proposer/Design-Builder to perform Work critical to the success of the Project such as the Designer, QC Engineer, or subcontractor for bridges, retaining structures, pavement, landscaping, or other specialty work.

“Statement of Qualifications (SOQ)” means the information prepared and submitted by a Proposer in response to this RFQ.

“Verification Sampling and Testing” means sampling and testing performed to validate the quality of the product. The Department, or a firm retained by the Department, will perform Verification Sampling and Testing.

“Weakness” means a flaw in the SOQ that increases the risk of unsuccessful Contract performance. A significant Weakness in the SOQ is a flaw that appreciably increases the risk of unsuccessful Contract performance.

“Work” means the furnishing of all labor, material, equipment, and other incidentals necessary or convenient to the successful completion of the Project and the carrying out of all the duties and obligations imposed by the Contract.

1.2 PROJECT GOALS

The Department’s goals for the Project are:

A) ________;
B) ________;
C) ________;
D) ________; and
E) ________. 
1.3 ROLE OF THE DEPARTMENT
In the context of the Project, the Department is responsible for:

A) The appropriate environmental clearances except those specifically assigned to the Design-Builder;
B) Overall program administration;
C) Preparation of the RFQ and RFP, evaluation of SOQs and Proposals, determination of Short-List and selection of Design-Builder;
D) Contract procurement and administration;
E) QA Oversight and audit of Design-Builder design and construction, including QA and Verification Sampling and Testing;
F) Independent Assurance;
G) Providing due diligence information and data included in the RFP;
H) Land acquisition for rights-of-way and permanent easements identified in the RFP; and
I) Approval and acceptance of Work and payment for Work.

At the Department’s sole discretion, it may use its consultants in fulfilling the responsibilities noted in this Section 0.

1.4 PROJECT DESCRIPTION, DESIGN-BUILDER RESPONSIBILITIES AND PROJECT STATUS
See Appendix A.

1.5 PROJECT SCHEDULE
The anticipated time of Contract award is (Date) with substantial completion on (Date).

See Section 2.2 for procurement schedule.

1.6 CONTRACT TYPE
The Contract for will be a fixed price, lump sum Design-Build Contract.

1.7 PAYMENT AND LIQUIDATED AND/OR GENERAL DAMAGES
The Contract will provide for periodic payments with a 5% retention percentage. The final 5% of the Contract Amount will be paid upon Final Acceptance of the Project. The form of retention will be specified in the RFP.

The Contract will provide for liquidated damages relating to failure to meet the specified completion dates.

1.8 GOVERNING LAW
The laws of the State of New York will govern the RFQ, RFP and the Contract.
1.9 QUALITY ASSURANCE/QUALITY CONTROL

The Design-Builder will be required to plan, implement and provide a Quality Control (QC) Program for the Work. This program shall be developed by the Design-Builder using ISO 9001 standards.

The Design-Builder's QC Program must follow the requirements of 23 CFR Part 637 and the Contract Documents. The Department will review the Design-Builder’s program to assure that it meets guidelines and minimum requirements established by the Department. Department approval of the program will constitute Department agreement that it meets these criteria, but the Design-Builder shall maintain ownership of the program shall be fully responsible for its execution and shall maintain sole responsibility for the quality and workmanship of the Work.

The Department may establish and maintain its own quality assurance and/or an independent quality assurance organization to oversee and/or perform quality audits of the Design-Builder’s management, design, construction and maintenance activities, the Design-Builder’s Quality Control procedures, Verification Sampling and Testing and the quality of the final product.

1.10 INSURANCE, BONDING, LICENSING AND SECURITIES

The Design-Builder shall provide specified insurance, including professional liability insurance covering design. Details of the insurance requirements will be provided in the RFP.

Proposers on the Short-List submitting a Proposal shall provide Proposal Bonds or other form of security acceptable to the Department in the amount shown in Section 4.5.2.2. The Design-Builder will be required to provide Performance and Payment Bonds and/or other security acceptable to the Department as provided in the RFP.

Prior to Contract execution, all Persons participating in this procurement and/or the Contract must obtain all licenses and permits and take all necessary steps to conduct business in the State of New York and perform the Work required under the Contract, including proposing and carrying out contracts consistent with the laws of the State of New York.

The Design-Builder may be required to provide a number of other commitments including, where applicable:

A) Parent company and other guaranties;
B) Statements of joint and several liability by Principal Participants;
C) Parent company securities; and
D) Warranties.

1.11 RULES OF CONTACT

The following rules of contact shall apply during Contract procurement for the (Project Title) Project. The rules are designed to promote a fair, unbiased, legally defensible procurement process. The Department is the single source of information regarding the Contract procurement. The selection process began upon the date of issuance of this RFQ, and is anticipated to be completed with the award of the Contract on (Date). These rules of contact are now in effect. The specific rules are as follows:

A) After submittal of SOQs, no Proposer or any of its team members may communicate with another Proposer or members of another Proposer’s team with regard to the Project or the SOQs, except that a Proposer may communicate with a Subcontractor that is on both its
team and another Proposer’s team, so long as those Proposers establish a protocol to ensure that the Subcontractor will not act as a conduit of information between the teams (communications among Proposers and team members is allowed during Department sponsored workshops and meetings);

B) Contact between the Proposers and the Department (questions and responses to questions) shall only be through the Department’s and Proposer’s designated representatives;

C) The Proposers shall not contact Department employees, including department heads, members of the evaluation committee(s) and any official who will evaluate SOQs, regarding the (Project Title) Project, except through the process identified above;

D) The Proposers shall not contact stakeholder staff regarding the (Project Title) Project. Stakeholder staff include employees of the (List of stakeholders);

E) Any contact determined to be improper, at the sole discretion of the Department, may result in disqualification;

F) Any official contact regarding the (Project Title) Project will be disseminated from the Department office on Department letterhead. Any official contact will be in writing and signed by the Department designated representative; and

G) The Department will not be responsible for any oral communication or any other information or contact that occurs outside the official communication process specified herein.

1.12 PROPOSER QUESTIONS

The Department will consider questions submitted in writing by Proposers regarding the RFQ, including requests for clarification and requests to correct errors. All such requests must be submitted in writing in the format shown on Form RFQ-C (Appendix C) to:

Attn: ________
New York State Department of Transportation

Include an electronic copy of the questions on Form RFQ-C (Appendix C) on floppy disk, CD or by E-mail with the written request. Only written requests to the above addressee will be considered. No E-mail or oral requests will be considered. No requests for additional information or clarification to any other Department office, consultant, employee or the FHWA will be considered. All responses shall be in writing and shall be delivered without attribution to all Proposers.

Only requests received by [Time] (Eastern [Standard] [Daylight] Time) on the date specified in Section 2.2 will be addressed. Questions will not be accepted by phone or E-mail except that the electronic copy may be delivered by E-mail. Only mailed or faxed inquiries (confirmed by mail by the requester) will be accepted.

Questions must include the requestor’s name, address, telephone and fax numbers, and the Proposer he/she represents.

A response to questions will be issued without attribution and sent to all recipients of this RFQ not later than 10 days prior to the SOQ Due Date specified in Section 2.2.
1.13 RFQ ADDENDA
[The Department should decide on an appropriate timeframe to insert in the following blanks based on the circumstances of the project. 3 to 10 days is normally an adequate timeframe.]

If necessary, the Department will issue addenda to modify conditions or requirements of this RFQ to recipients of this RFQ not later than __ days prior to the SOQ Due Date (or if within __ days prior to the SOQ Due Date, the SOQ Due Date shall be revised to accommodate such minimum __ day period).

1.14 NOTIFICATION OF FIRMS ON THE SHORT-LIST
Each Proposer will be notified in writing whether or not it has been selected for the Short-List. Notifications may be expected not later than the date specified in Section 2.2.

1.15 COSTS
Proposers are solely responsible for all costs and expenses of any nature associated with responding to this RFQ, attending briefing(s), providing supplemental information and all subsequent costs and expenses (if selected for the Short-List).

1.16 INELIGIBLE FIRMS
The Proposer is responsible to be aware of the requirements of 23 CFR 636.116 and include a full disclosure of all potential organizational conflicts of interest in their SOQ. In addition, any firm that is rendered ineligible through any State or federal action is ineligible to participate on any Design-Build team.

1.17 PRE-SOQ INFORMATIONAL MEETINGS
A Pre-SOQ Informational Meeting for this Project will be held at (Time & Date), at (Location). Attendance by at least one member of a Proposer team at the Pre-SOQ Informational Meeting is [optional] [mandatory].

1.18 ORGANIZATIONAL AND CONFIDENTIALITY REQUIREMENTS
A) Only prospective Proposers who are capable of completing this Project in its entirety will be eligible for the Short-list;

B) Each of the following circumstances shall be deemed an organizational conflict of interest disqualifying the affected Proposers:

1) Participation by any of the following Persons on more than one Proposer’s team: a Principal Participant, Designer, subconsultant responsible for performing more than 15% of the design or subcontractor responsible for performing more than 20% of the construction; or

2) Participation of an Affiliate of any Person identified in clause 1 above on another Proposer’s team;

C) All Proposers affected by the conflict of interest will be disqualified, even if the Person or Affiliate causing the conflict is intended to have a different or lesser role than that described above. Firms serving solely as a QC Engineer, environmental coordinator or public involvement/community relations coordinator may be on multiple teams;

D) It is a requirement of the Department that Proposer organizations, including Principal Participants and Specialized Subcontractors, and key management personnel identified in
the SOQ remain intact for the duration of the procurement process including the subsequent Contract. A Proposer may propose substitutions for participants after the SOQ submittal; however, such changes will require written approval by the Department, which approval may be granted or withheld in the Department’s sole discretion. Requests for changes must be made in writing no later than thirty (30) calendar days prior to the due date for submittal of Proposals. Requests for changes in any of the Principal Participants, Designer, QC Engineer, other firms meeting criteria listed in Section 1.18 B1), or Specialty Subcontractors will be particularly scrutinized;

E) Confidentiality: The Proposer may be given access to records, which are confidential under state laws, solely for the purpose of performing the required services under the Contract. The Proposer shall be required to sign a nondisclosure statement prior to its receipt of such documents obligating each employee, agent, or subcontractor of the Proposer not to make inappropriate use of or improperly disclose any of the contents of such documents; and

F) Minimum Requirements: The Proposer must meet all legal, financial and SOQ responsiveness pass/fail requirements in Section 3.3.1 and not fall within any of the limiting categories specified in Section 1.1.1.1M).

1.19 PROPOSAL STIPEND

The Department will provide a stipend to Proposers on the Short-List. The stipend amount is $______, and shall be paid to each Proposer not chosen as the successful Proposer and that meets the following terms and conditions:

A) A rating of Pass on all “Pass/Fail” evaluation factors and an overall qualitative rating of at least “Acceptable-” for all quality evaluation factors;

B) Submittal of a responsive Price Proposal; and

C) Fulfillment of the M/W/DBE requirements.

No Proposer will be required by the Department to accept a stipend. Any Proposer that declines to accept a stipend will be required to sign a waiver stating that it is waiving its right to a stipend payment.

2.0 PROCUREMENT PROCESS

2.1 OVERALL PROCUREMENT PROCESS

The process for procurement of the Contract will be in accordance with (identify enabling legislation), using “best value” as a basis of selection. The intent of the Department is to award the Contract to the Proposer who provides the Proposal with the best combination of price and quality.

The procurement process will include two steps:

A) RFQ (Determination of Short-List); and

B) RFP (selection of Design-Builder from Proposers on Short-List who submit Proposals).

Evaluation of the SOQs and Proposals will be based on information submitted in the SOQs and Proposals or otherwise available to the Department.

Pass/fail and quality evaluation factors will be present in both the RFQ and RFP phases.
The selection of the Design-Builder for the Contract will be based on both pass/fail factors and a combined evaluation of quality and price factors.

1.2.1 RFQ Step

SOQs submitted in response to this RFQ must include a response to each pass/fail and quality evaluation factor. The Short-List of Proposers that will be invited to submit Proposals will be determined based on evaluation of pass/fail and quality factors set forth herein. This RFQ sets out what is required during the RFQ step of the procurement (see Section 4.0 for SOQ submittal requirements).

At the end of the SOQ evaluations, the Department will determine the Short-List. Proposers on the Short-List will then be invited to provide Proposals.

1.2.2 RFP Step

The RFP will provide further specific instructions on what to submit, the evaluation factors, the objectives and requirements for evaluation and the evaluation rating guidelines for the RFP step of the procurement.

A) Evaluation factors for the RFP will include, but not be limited to:

1) Pass/Fail:
   a) Legal (including compliance with state licensing requirements);
   b) Financial; and
   c) Responsiveness of Proposal;

2) Quality (these factors may also include subfactors):
   a) Experience and Qualifications;
   b) Management Approach;
   c) Technical Solutions; and
   d) Project Support;

3) Price.

B) Information to be submitted in the Proposals will include, but not be limited to:

1) Legal documents demonstrating ability to enter into a Contract with the Department;

2) Proposal Bond;

3) Specified certificates and representations;

4) Letter of commitment from surety(ies) for payment and performance bonds;

5) Description of management approach, including schedule and organization;

6) Technical approach including concepts for (List of tentative Technical Subfactors);

7) Qualifications of nominated key personnel;

8) A letter of commitment for nominated key personnel;

9) Specified design documents and conceptual diagrams and sketches; and

10) Price Proposal.
New York State Department of Transportation

While price is an important factor in the RFP step of the procurement, quality (including time) is also a significant factor in determining the success of the Project. The RFP requirements and evaluation and selection procedures are being designed to provide a comprehensive evaluation of quality (including time) that, when combined with price, will result in the selection of the appropriate Design-Builder. The Department will perform an assessment of the price and the quality factors and select the Design-Builder representing the “best value” to the Department as will be specified in the RFP.

The weighting of price versus quality in the selection will be set forth in the RFP.

2.2 PROCUREMENT SCHEDULE

The following represents the current schedule for the Project. The schedule is subject to change at the discretion of the Department.

<table>
<thead>
<tr>
<th>Activity</th>
<th>Due Date</th>
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<tbody>
<tr>
<td>Issue RFQ</td>
<td></td>
</tr>
<tr>
<td>Pre-SOQ Informational Meeting</td>
<td></td>
</tr>
<tr>
<td>Final Date for receipt of Proposer’s questions</td>
<td></td>
</tr>
<tr>
<td>Issue Date for Final Addendum and/or answers to Proposer’s questions</td>
<td></td>
</tr>
<tr>
<td>SOQ Due Date</td>
<td></td>
</tr>
<tr>
<td>Short-List announced</td>
<td></td>
</tr>
<tr>
<td>Issue Draft RFP</td>
<td></td>
</tr>
<tr>
<td>Issue RFP</td>
<td></td>
</tr>
<tr>
<td>Proposal Due Date</td>
<td></td>
</tr>
<tr>
<td>Selection/Award</td>
<td></td>
</tr>
<tr>
<td>Contract Execution</td>
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<tr>
<td>Notice to Proceed</td>
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3.0 EVALUATION PROCESS FOR THE SOQ

3.1 EVALUATION OBJECTIVES

The objective of the RFQ step of the procurement is to create a Short-List of the most highly qualified Proposers with the general capability (technical, financial and management), capacity and experience necessary to successfully undertake and complete the Work. The Design-Builder will have primary responsibility to plan, design, manage and control the Project and to complete the Project on or ahead of schedule. The Department has set high responsibility standards for the Design-Builder that are reflected in the quality evaluation factors of this RFQ and will be reflected in the RFP and the Contract. Specific objectives relating to each of the quality evaluation factors listed in Section 3.3 are included in Sections 4.2.4.1 through 4.2.4.6 of this RFQ.

3.2 REVIEW AND EVALUATION OF THE SOQ

The information submitted in accordance with Section 4.0 will be evaluated in accordance with both the pass/fail factors listed in Section 3.3.1 and the factors for quality rating for the RFQ provided in Section 3.3.2.
3.3 EVALUATION FACTORS FOR THE RFQ/SOQ

This Section 3.3 outlines the evaluation factors for the RFQ phase of the procurement. The tentative evaluation factors for the RFP phase of the procurement are listed in Section 1.2.2.

The Department has identified for this project the following tentative factors and/or subfactors that are of particular importance to the Department. This information is provided here to assist Proposers in organizing their teams and preparing their SOQs.

[Financial information is optional under NYS law. The Department will have to decide on a project-by-project basis if this factor is to be included.]

3.3.1 Pass/Fail Evaluation Factors

A) The pass/fail evaluation factors are:

1) Legal: The Proposer has presented evidence showing its organization has the legal ability to enter into and perform the Contract to design and build the Project and comply with state licensing requirements.

2) Financial: Demonstrated ability to provide required bonds, acceptable guaranties (if required) and meet other financial requirements of undertaking and completing the Work.

3) Proposal responsiveness: All information requested in this RFQ provided in the format specified in Appendix B.

B) Pass/Fail ratings will be based on the following criteria:

1) Proper identification of all Principal Participants;

2) Demonstrated capability to enter into a contractual relationship with the Department and a declaration of willingness to do so;

3) Demonstrated capability to provide required bonds and guaranties and meet other financial requirements of undertaking and completing the Work; and

4) Proper submittal of the required information per the requirements of the RFQ.

If a Proposer passes all pass/fail evaluations, its SOQ will be further evaluated using the factors for quality rating in Section 3.3.2. If a Proposal fails any single pass/fail requirement resulting in a Deficiency, the SOQ shall be rated as UNACCEPTABLE, the quality factors will not be rated and the Proposer will not be included on the Short-List.

3.3.2 Quality Evaluation Factors

The quality evaluation factors are of equal weight.

The quality evaluation factors are:

A) Experience: Demonstrated experience relevant to the size, complexity and composition of the anticipated Project and the experience of Principal Participants, Designer, QC Engineer, and other subcontractors. Identification of each Principal Participant, the Designer, the QC Engineer, and other consultants and subcontractors; the proposed organization for the Project, including the split among Principal Participants; and disclosure of major subcontractors.
B) Past Performance: Demonstrated record performance; including completion schedule; quality of work product; completion within budget; claims history (including number of claims submitted that were ultimately disallowed or significantly reduced, number of disputes submitted to formal dispute resolution and disposition of such actions, claims brought against the firm under the false claims act); record of terminations for cause and defaults; disciplinary action, including suspension; safety record; client references; awards, citations and commendations; and record of M/W/DBE participation.

C) Backlog/Capacity: Current workload and/or future commitments of Principal Participants, the Designer, QC Engineer, and other subcontractors, including projects presently being proposed that may impact the team during the life of this Project.

D) Project Understanding: Knowledge and understanding of specific Project issues and risks and the issues, benefits and responsibilities associated with design-build contracts; and an explanation of how the Proposer will ensure success of the Work and this Project.

During this evaluation, ratings will be assigned for various sub-factors (see Section 4.4.2) within each quality evaluation factor. The ratings assigned to each sub-factor will be compiled to determine an overall quality evaluation factor rating. The ratings assigned to the quality evaluation factors will be compiled to determine an overall quality rating for the SOQ. Numerical scores will not be assigned.

Quality ratings for each quality evaluation factor, sub-factor and the overall quality rating for the SOQ will be based on the following quality rating criteria:

**EXCEPTIONAL:** The Proposer has provided information relative to its qualifications which is considered to significantly exceed stated objectives/requirements in a beneficial way and indicates a consistently outstanding level of quality. There are essentially no Weaknesses.

**GOOD:** The Proposer has presented information relative to its qualifications which is considered to exceed stated objectives/requirements and offers a generally better than acceptable quality. Weaknesses, if any, are very minor.

**ACCEPTABLE:** The Proposer has presented information relative to its qualifications, which is considered to meet the stated objectives/requirements, and has an acceptable level of quality. Weaknesses are minor and can be corrected.

**UNACCEPTABLE:** The Proposer has presented information relative to its qualifications that contains Significant Weaknesses and/or Deficiencies and/or unacceptable quality. The SOQ fails to meet the stated objectives and/or requirements and/or lacks essential information and is conflicting and/or unproductive. Weaknesses/Deficiencies are so major and/or extensive that a major revision to the SOQ would be necessary and/or are not correctable.

The evaluators may also use a plus (+) or minus (-) suffix to further differentiate the strengths or limitations within a quality rating.

Any SOQ that receives a rating of UNACCEPTABLE in one or more quality evaluation factors shall receive an overall SOQ rating of UNACCEPTABLE.

**3.4 REQUESTS FOR CLARIFICATION**

The Proposer shall provide accurate and complete information to the Department. If information is not complete, the Department shall either declare the SOQ non-responsive or notify the Proposer, who will
not be allowed to participate further in the procurement of this Project until all information required is
provided. Any insufficient statements or incomplete affidavits will be returned directly to the Proposer by
the Department with notations of the insufficiencies or omissions and with a request for Clarifications
and/or submittal of corrected, supplemental or missing documents. If a response is not provided, the SOQ
may be declared non-responsive.

The Department may waive technical irregularities in the form of the SOQ of the Proposer that do not
alter the quality or quantity of the information provided.

The Department may, at its sole discretion, request Clarifications and/or supplemental information from
Proposers during the SOQ evaluation and Short-List process.

All requests and responses shall be in writing by certified mail, courier or fax and, if by fax, confirmed by
priority mail/express delivery service. Responses shall be limited to answering the specific information
requested by the Department.

The Department does not anticipate conducting interviews during the RFQ phase, but reserves the right to
do so. If the Department elects to conduct interviews, the Proposers shall be notified in writing.

Proposers must submit mailed follow-up responses to inquiries by the Department shall be submitted to
the address indicated below within three (3) days of receipt of the request from the Department except as
otherwise specified in writing by the Department. Responses shall be submitted to:

If mailed, they shall be sent by certified mail, return receipt requested, to the following address:

Attn: ________
New York State Department of Transportation

If hand delivered or delivered by any other special method (i.e., express mail, overnight, etc.), they shall
be delivered to:

New York State Department of Transportation

The fax number will be provided with the Department’s request.

In the event a material error is discovered in the RFQ during the SOQ evaluation process, the Department
will issue an addendum to all Prosers that have submitted SOQs requesting revised SOQs based upon
the corrected RFQ.

3.5 DETERMINATION OF THE SHORT-LIST

The Department will establish a Short-List of an appropriate number (as determined by the Department)
of the most highly qualified Proposers in order to ensure adequate competition (typically a minimum of
three; maximum of five). The Short-List will be created by eliminating the lowest rated Proposers until
an appropriate number of acceptable Proposers remain. Neither the overall ratings nor the ranking of the
Proposers on the Short-List will be disclosed to Proposers during the procurement process.
3.6 CHALLENGE

The decision of the Department on the Short-List and the subsequent award of the Contract shall be final and shall not be appealable, reviewable or reopened in any way, except as provided in Section 5.0. Parties participating in the RFQ phase of this procurement shall be deemed to have accepted this condition and the other requirements of this RFQ.

Subject to applicable New York law, contents of SOQs, less proprietary information, to the extent protected under applicable New York State law, will become public information upon execution of the Contract.

4.0 SOQ SUBMITTAL REQUIREMENTS

4.1 DATE AND TIME OF RECEIPT

All SOQs must be received no later than (Time) (Eastern [Standard] [Daylight] Time) on the SOQ Due Date specified in Section 2.2. The SOQs must be clearly identified and marked “Confidential” and be enclosed in sealed containers. Late submittals will not be considered and will be returned unopened to the address indicated on the cover of the package.

4.2 SUBMITTAL ADDRESS

If the SOQs are mailed, they shall be sent by certified mail, return receipt requested, to the following address:

New York State Department of Transportation

If SOQs are hand delivered or delivered by any other special method (i.e., express mail, overnight, etc.), they shall be delivered to:

New York State Department of Transportation

Each Proposer shall be responsible for obtaining a written receipt appropriate to the means of delivery from the Department office specified in this Section 4.2 at time of delivery of its SOQ. It is the Proposer’s sole responsibility to ensure delivery of its SOQ to the Department at the time and place specified herein, and the Department shall have no liability or responsibility therefore.

4.3 PAGE LIMIT, FORMAT AND QUANTITIES

The SOQ shall be limited to no more than # pages in Sections 2 through 5 of the SOQ (See Appendix B), including required forms, but exclusive of dividers and appendices. One (1) original and nine (9) copies of the SOQs and appendices shall be provided. The signed original copy shall be identified as the original on the cover(s) and marked as “Copy 1 of 10 Copies”. All copies shall be provided in loose-leaf binders. Bound copies will not be accepted. Each copy shall be identified on the cover(s) as “Copy #of 10 Copies”. The document must be organized to correspond with the outline presented in Appendix B.
4.4 CONTENT OF SOQ

This section describes the specific information that must be included in the SOQ. An outline of the required format for the SOQ is provided in Appendix B. Required forms for the SOQ are contained in Appendix C. Any material modification to the forms may result in the SOQ being declared non-responsive.

Proposers should provide brief, concise information that addresses the objectives and the requirements of the Project consistent with the evaluation factors described in Section 4.4.2. Lengthy narratives containing extraneous information are discouraged.

The Department 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 any records created during the evaluation and selection process, will remain deniable records until the Contract has been executed by all necessary officials of the Design-Builder and the State.

If the Proposer submits information in its SOQ 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 customarily regarded as confidential business information as such in its SOQ at the time the SOQ is submitted and include a cover sheet identifying each section and page which has been so marked;

B) Include a statement with its SOQ justifying the Proposer’s determination that certain records are confidential business information for each record so defined; and

C) Defend any action seeking release of the records it believes to be confidential business information and indemnify, defend, and hold harmless the State, its agents, and its employees from any judgments awarded against the State in favor of the party requesting the records, including any and all costs connected with that defense. This indemnification survives the State’s cancellation or termination of this procurement or award and subsequent execution of a Contract. In submitting an SOQ, the Proposer agrees that this indemnification survives as long as the confidential business information is in possession of the State.

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

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. Any records marked as confidential business information by a Proposer in its SOQ and, if short-listed, in its Proposal will be returned to the unsuccessful Proposers after the execution of the Contract with the Design-Builder. The records marked confidential business information by the successful Proposer in its SOQ and Proposal will remain confidential and will be returned to the Design-Builder upon completion and Final Acceptance of its Work under the Contract.
4.4.1 Cover Letter

The Proposer shall provide a one-page letter indicating its desire to be considered for the Project and stating the official names and roles of all Principal Participants and the Designer, QC Engineer, subconsultants and subcontractors meeting the criteria in Section 1.18 B)1) and Specialty Subcontractors. The Proposer shall identify a single point of contact for the Proposer and the address and telephone and fax numbers where questions should be directed. Authorized representatives of the Proposer's organization shall sign the letter. If the Proposer is not yet a legal entity or is a joint venture or general partnership, authorized representatives of all Principal Participants shall sign the letter.

Proposer shall attach the Acknowledgment of Receipt (Appendix C) acknowledging receipt of the RFQ and any addenda and/or responses to questions issued by the Department.

4.4.2 Evaluation Factor Objectives and Requirements

In providing the SOQ, Proposers should be guided by the Project goals in Section 1.2 and the objectives listed in Sections 4.2.4.1 through 4.2.4.6. An objective is stated for each evaluation factor to provide Proposers the expectations of the Department. The requirements for each evaluation factor and the information to be submitted are listed and described in detail. The SOQ evaluation ratings of Section 3.3 will be based on how well the SOQ responds to the requirements and meets or exceeds the Project goals and the objectives for each of the evaluation factors.

4.2.4.1 Legal

A) Objective:

1) To identify legally constituted Proposers able to submit Proposals and enter into the Contract and complete the Work who either have or commit to obtain all required Licenses.

B) Requirements and information to be provided in Section 1 of the SOQ:

1) Form L-1 (Appendix C), Proposer’s Organization Information, for the Proposer’s organization; and

2) Form L-2 (Appendix C), Principal Participant and Designer Certification, for each Principal Participant and the Designer covering the last five (5) years.

C) If a joint venture, limited liability company or partnership:

1) Identity of the Lead Principal Participant of the entity, if any (Form L-1, Appendix C);

2) Percent equity share held by each member (Lead Participant column of Form L-1, Appendix C); and

3) An express statement from each of the equity members of the entity as to their joint and several liabilities in accordance with Section 1.10.

D) Requirements and information to be provided in Appendix A to the SOQ:

1) Submit notarized Power of Attorney for each Principal Participant indicating the authority of the Principal Participant’s representative to sign for that Principal Participant;

2) Submit notarized Power of Attorney from each Principal Participant indicating the authority of the Proposer’s designated point of contact to sign documents for and on behalf of the Proposer’s organization; and
3) Submit a copy of the Certificate of Authorization to provide Engineering Services issued by the New York State Education Department for the Design Builders, or submit documentation on Form L-3 (Appendix C) demonstrating the ability to obtain said Certificate in accordance with the New York State Education Law, Title VIII, Articles 130, 145, and 147-148.

E) If a joint venture, limited liability company or partnership:
   1) If the Proposer has already been legally constituted, provide full details of the organizational structure and supporting organization/formation documents including a copy, as applicable, of the joint venture agreement, limited liability company operating agreement or partnership agreement;
   2) If the Proposer has not yet been legally formed, provide a brief description of the proposed legal structure and draft copies of the underlying documents, including:
      a) All significant terms of the joint venture, limited liability company or partnership, including the rules relative to the administration of the joint venture, limited liability company or partnership, including dealing with deadlock situations;
      b) Description of how the joint venture, limited liability company or partnership will operate administratively and technically; and
      c) A memorandum of agreement or teaming agreement.

4.2.4.2 Financial

A) Objective:
   1) To identify Proposers with demonstrated capability to undertake the financial responsibilities associated with the Project, including bonding and guaranties.

B) 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 Proposal, Performance and Payment Bonds covering the design-build Contract;
   2) The bonding/security capacity levels in Table 4.5 represent minimum levels necessary to pass the Pass/Fail criteria of Section 3.3.1;
   3) The surety or insurance company submitting such letter must be rated AA-/Aa3 by two nationally recognized rating agencies or at least A-VII by A.M. Best and Company, be listed on Treasury Department 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.

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<tr>
<th>Table 4.5</th>
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<tbody>
<tr>
<td>Proposal Bond/Security</td>
</tr>
<tr>
<td>5% of Proposal Amount</td>
</tr>
</tbody>
</table>

C) The Contract amount is not anticipated to exceed $________ million.

[D) Requirements and information to be submitted – Financial Information:

1) Provide financial statements for the team and team members that are equity owners, as described below, for the three most recent fiscal years, audited by a certified public accountant in accordance with generally accepted accounting principles (GAAP). Financial statements must be provided in U.S. dollars. If audited financials are not available for an equity owner, the SOQ shall include unaudited financials for such member, certified as true, correct and accurate by the chief financial officer or treasurer of the entity. The Proposers are advised that if any equity member of the selected Design-Builder’s team does not have audited financials, or if it fails to meet the minimum financial requirements stated in the RFP, the Department will require a guaranty of the Contract to be provided by a separate entity acceptable to the Department. The SOQ shall identify the proposed guarantor for each equity member that does not have audited financials and shall include audited financials for each proposed guarantor.

2) If the team or any other entity for which financial information is submitted as required hereby files reports with the Securities and Exchange Commission, then such financial statements should be provided through a copy of their annual report on Form 10K. For all subsequent quarters, provide a copy of any report filed on Form 10Q or Form 8-K which has been filed since the latest filed 10K.

E) Required financial statements:

1) Opinion Letter (Auditor’s Report);

2) Balance Sheet;

3) Income Statement;

4) Statement of Changes in Cash Flow;

5) Footnotes;

6) Provide information on any proposed or anticipated changes in the financial condition of the team members and any other entity for which financial information is submitted as required hereby for the next reporting period.

7) If financial statements are prepared in accordance with principles other than U.S. GAAP, provide a letter from the certified public accountant of the applicable entity, discussing the areas of the financial statements that would be affected by a conversion to U.S. GAAP.
8) Provide a letter from the certified public accountant for each entity for which financial information is submitted, identifying all off balance sheet liabilities.

9) Package the information separately for each separate entity with a cover sheet identifying the name of the organization, its role in the Proposer’s organization and Standard Industry Classification (SIC) Code.

10) [Other requirements may be added.]

4.2.4.3 Experience of the Firms

A) Objective:

1) To identify the best design and construction firms available with demonstrated experience, expertise, capacity in, and record of producing quality Work on projects similar in nature to the Project with a record of producing quality Work.

2) To identify Proposers that have:
   a) The experience in successfully managing, designing and constructing projects of the size and complexity of this Project;
   b) Superior records of completing contracts on time and within budget;
   c) Experience in successfully managing the maintenance of traffic and [community interaction] aspects of this Project;
   d) Records of managing contracts to minimize delays, claims, dispute proceedings, litigation and arbitration; and
   e) Good safety records;

3) To identify Proposers who will effectively manage all aspects of the Contract in a quality, timely and effective manner and will integrate the different parts of its organization collectively and with the Department in a cohesive and seamless manner; and

4) To identify Proposers that have the technical and management experience and expertise to plan, organize, execute the design and construction and assure the quality and safety of the Project.

B) Requirements and information to be submitted:

1) Firm Experience: Using Form E-1 (Appendix C), past Project Description, provide no more than (Number) (#) past project descriptions, with a minimum of 2 past projects per each Principal Participant and the Designer and additional project descriptions from the QC Engineer, other team members meeting the criteria listed in Section 1.18 B)1) and Specialized Subcontractors highlighting experience in the last # years relevant to the Project. Describe those projects having a scope comparable to that anticipated for the Project; and

2) Using Form E-2 (Appendix C), Subcontractor Information, except for designated Designer and QC Engineer (who have already been included in Forms L-1 and E-1, Appendix C), identify subcontractors (including consultants) the Proposer plans to use, to the extent they are known, indicating what portion of the Work such subcontractor is anticipated to undertake. Submit maximum one (1) page summary of experience for each listed subcontractor, including consultants.
3) Company brochures may be included in Appendix B and will not count towards the page limit.

4.2.4.4 Past Performance

A) Objective:

1) To avoid Proposers with firms or personnel with a history of legal and financial problems that could adversely impact the Project generally;

2) To obtain the commitment of the Proposer, Principal Participants and Designer regarding representations made in the SOQ; and

3) To identify Proposers with a record of meeting M/W/DBE participation requirements.

B) Requirements and information to be submitted:

1) Using Form PP (Appendix C), Past Performance, provide the information requested in bulleted subparagraphs below. If a Proposer has no record of relevant past performance or if the information relative to a category is not available enter a declarative statement to that effect on Form PP. If the record of relevant past performance does not exist and/or is not available, the Proposer shall receive a rating of “Acceptable minus” for this factor. Attach additional sheets to Form PP as necessary. For each instance of litigation, claim, dispute proceeding, arbitration, assessment of liquidated damages or termination for cause or default, provide the owner’s name and the name of its current representative (and current phone and fax numbers) who can be contacted for additional information. With respect to the information solicited in this Section 4.2.4.4, failure to provide this information, conditional or qualified submissions to requests or questions posed (i.e., “to our knowledge”, “to the extent of available information”, “such information is not readily available”, “such information is not maintained in the manner requested”, etc.), incomplete or inaccurate submissions or non-responsive submissions may, in the sole discretion of the Department, lead to a lower evaluation rating for this quality factor or result in a Deficiency that would cause the Department to declare the SOQ non-responsive.

2) Awards, Citations and/or Commendations: List awards, citations and/or commendations for performance relevant to this Project received by any Principal Participant, Designer, other firms meeting criteria of Section 1.18 B)1) and/or Specialized Subcontractors within the last _#_ years. Describe the work for which award(s), citation(s) and/or commendation(s) were received. Copies of award(s), citation(s) and/or commendation(s) may be included in Appendix C of the SOQ;

3) Claims, Dispute Proceedings, Litigation and Arbitration Proceedings: Provide a list of all claims, dispute proceedings, litigation and arbitration proceedings involving amounts in excess of $________ and related to performance in which any Principal Participant, Designer or other firms meeting criteria in Section 1.18 B)1) has been involved during the past # years. Include all claims, dispute proceedings, litigation and arbitration proceedings initiated by or against owners and federal, State and local regulatory agencies. Indicate whether the claim, dispute proceeding, litigation or arbitration proceeding was resolved against the participant(s) or its insurers/sureties or resulted in reduction in compensation to
the participant. Indicate any unresolved, outstanding claims, dispute proceedings, litigation and arbitration proceedings;

4) Liquidated Damages: Describe any contract, which resulted in assessment of liquidated damages against any Principal Participant over the past # years. Describe the causes of the delays and the amounts assessed. Describe any outstanding damage claims by or damages due and owing to any owner/agency;

5) Termination for Cause or Default: Describe the conditions surrounding any contract (or portion thereof) entered into by any Principal Participant, Designer or other firm meeting criteria listed in Section 1.18 B)1) over the past # years that has been terminated for cause or default, or which required completion by another party. Describe the reasons for termination and the amounts involved; and

6) Disciplinary Action: Indicate any disciplinary action taken against any Principal Participant, Designer or other firm meeting the criteria in Section 1.18 B)1) within the past # years by any governmental agency or licensing board, including suspension from the right to propose or removal from any Proposer list;

7) Safety: Submit Form S (Appendix C), Safety Questionnaire, for each Principal Participant and Construction Subcontractor meeting criteria listed in Section 1.18 B)1); and

8) M/W/DBE Participation: Submit Form M/W/DBE (Appendix C), Record of M/W/DBE Participation, for each Principal Participant and the Designer reflecting record of M/W/DBE participation in their contracts for the past three (3) years.

4.2.4.5 Backlog/Capacity

A) Objective:

1) To identify Proposers with sufficient capacity, considering current, committed and potential workload and past level of contract activity, to successfully complete the design and construction of the Project.

B) Requirements and information to be submitted:

1) Submit Form B (Appendix C), Backlog Information, for each Principal Participant, Designer, QC Engineer and other firm meeting criteria in Section 1.18 B)1). Limit backlog information to the office(s)/division(s) of the firms that will be performing Work on the Project; and

2) Submit Form R (Appendix C), Past Revenue, for each Principal Participant, Designer, QC Engineer and other firm meeting criteria in Section 1.18 B)1). Limit revenue information to the office(s)/division(s) of the firms that will be performing Work on the Project.

4.2.4.6 Project Understanding

A) Objective:

1) To identify those Proposers demonstrating an understanding of the management, technical and maintenance of traffic issues and risks associated with the Project; and
New York State Department of Transportation

2) 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 meeting the Department’s Project goals and understanding of the risk sharing and the teaming relationship between the Design-Builder and the Department.

B) Requirements and Information to be Submitted:
1) List and briefly describe the significant issues and risks facing the selected Proposer and/or the Department; and
2) Briefly describe how the Proposer will use its organization and the design-build process to ensure a successful Project, considering the Department’s Project goals listed in Section 1.2.

5.0 PROTESTS

This Section 5.0 sets forth the exclusive protest remedies available with respect to this RFQ. Each Proposer, by submitting its SOQ, expressly recognizes the limitation on its rights to protest contained herein, expressly waives all other rights and remedies and agrees that the decision on any protest, as provided herein, shall be final and conclusive unless wholly arbitrary. These provisions are included in this RFQ 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 RFQ, it shall indemnify, defend and hold the Department, 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 Proposer’s actions. The submission of an SOQ by a Proposer shall be deemed the Proposer’s irrevocable and unconditional agreement with such indemnification obligation.

5.1 WRITTEN PROTESTS ONLY

All protests must be in writing, including pre-award, award, and post-award phases of the procurement process. Protests shall be submitted to (Name and address of Protest Official) (Protest Official). 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 RFQ shall be filed only after the Proposer has informally discussed the nature and basis of the protest with the Department in an effort to remove the grounds for protest.

The Protest Office 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 to each Proposer.

5.2 PROTEST CONTENTS

A) All Protests must include:
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; and
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.

B) The protestor must demonstrate or establish a clear violation of a specific law or regulation.

C) The Protest Official will not be obligated to postpone the SOQ Due Date or Short-List announcement in order to allow a protestor an opportunity to correct a deficient protest or appeal, unless otherwise required by law or regulation.

D) If the protest is denied, the protestor shall be liable for the Department’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 Department as a consequence of the protest. If the protest is granted, the Department shall not be liable for payment of the protestor’s costs.

5.3 PROTEST PRIOR TO SOQ DUE DATE

A) Prior to the SOQ Due Date, all protests, including protests based upon alleged restrictive specifications or alleged improprieties in any type of solicitation shall be filed with the Protest Official, not less than seven (7) calendar days prior to the SOQ Due Date;

B) The Protest Official will promptly make a determination in writing regarding the validity of the protest and whether or not the RFQ process should be delayed beyond the scheduled SOQ Due Date;

C) If the Protest Official determines that the scheduled SOQ Due Date should be delayed, all Proposers will be notified by written addendum of the delay and the reason thereof; and

D) If the protest is determined to be valid, the Protest Official will respond in writing to each material issue raised in the protest in a timely manner prior to the Department proceeding further with the RFQ.

E) The failure of a Proposer to file a basis for a protest regarding this RFQ shall preclude consideration of that ground in any protest of a selection unless such ground was not and could not have been known to the Proposer in time to protest prior to the final date for such protests.

5.4 PROTEST PRIOR TO ANNOUNCING THE SHORT-LIST

When a protest or appeal has been timely filed with the Protest Official prior to announcing the Short-List, the Department will not announce the Short-List except in the case of emergency, until after the resolution of the protest or appeal.

5.5 PROTEST REGARDING SHORT-LIST DECISION

A) If the Short-List decision is being protested, a protestor shall protest in writing to the Protest Official as soon as practical, but not later than seven (7) calendar days after the protestor knew or should have known it was not included on the Short-List. If the protest has been timely filed, the Protest Official will promptly make a determination in writing regarding the validity of the protest and whether or not the procurement should be delayed, or the Short-List considered for revision;

B) If the procurement is delayed, all Proposers will be notified of the delay. The Protest Official will respond in writing to each material issue raised in the protest in a timely manner prior to proceeding further with the procurement;
C) The Department will not proceed with the procurement for seven (7) calendar days after the decision is rendered by the Protest Official unless the protestor waives in writing its right to appeal to the Protest Official; and

D) Should a protestor wish to appeal the decision of the Protest Official concerning any Short-List decision, a protestor shall follow the procedures as outlined in Section 5.6.

5.6 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 Commissioner or designee within seven (7) calendar days after receipt of the decision of the Protest Official. The Protest Official, or designee, 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 protester in writing in a prompt manner of its decision regarding the protest and the appeal. If the protest and appeal were filed prior to the released of the Short-List the Department will not announce the Short-List for seven (7) calendar days after the decision of the Committee, unless the conditions in Section 5.4 are determined to exist; and

C) If the matter is not resolved after the appeal, the protestor may continue the protest only by appeal to judicial authority.

6.0 DEPARTMENT RIGHTS AND DISCLAIMERS

6.1 DEPARTMENT RIGHTS

The Department 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 RFQ. The Department reserves the right, in its sole and absolute discretion, to:

A) Reject any or all SOQs;
B) Issue a new RFQ;
C) Cancel, modify or withdraw the RFQ;
D) Issue addenda, supplements and modifications to this RFQ;
E) Modify the RFQ process (with appropriate notice to Proposers);
F) Appoint a Selection Committee and evaluation teams to review SOQs, and seek the assistance of outside technical experts in the SOQ evaluation;
G) Approve or disapprove the use of particular subcontractors and/or substitutions and/or changes in SOQs;
H) Revise and modify, at any time before the SOQ Due Date, the factors it will consider in evaluating SOQs and to otherwise revise or expand its evaluation methodology. If such revisions or modifications are made, the Department shall circulate an addendum to all registered Proposers setting forth the changes to the evaluation criteria or methodology. The Department may extend the SOQ Due Date if such changes are deemed by the Department, in its sole discretion, to be material and substantive;
I) Hold meetings and exchange correspondence with the Proposers responding to this SOQ to seek an improved understanding and evaluation of the SOQs. If individual Proposer Informational Meetings are held, all Proposers submitting a responsive SOQ shall be afforded an opportunity to participate in an individual Proposer Informational Meeting;

J) Seek or obtain data from any source that has the potential to improve the understanding and evaluation of the SOQs;

K) Waive Weaknesses, informalities and minor irregularities in SOQs;

L) Disqualify any team that changes its SOQ without Department written approval; and/or

M) Refuse to issue an RFQ to a prospective Proposer and to refuse to receive or open an SOQ, once submitted, or reject an SOQ 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 Department (or State);

2) Default on the part of a Principal Participant or Designer under previous contracts with the Department (or State);

3) Unsatisfactory performance by the Proposer, a Principal Participant and/or Designer under previous contracts with the Department (or State);

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 SOQ for the same work under the Proposer’s own name or under a different name;

6) Existence of an organizational conflict of interest under Section 1.18 C), or evidence of collusion between a prospective Proposer (or any Principal Participant or Designer) and other Proposer(s) (or Principal Participants or Designer) in the preparation of an SOQ, Proposal for any Department construction project; and/or

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 Department might reasonably be expected to hinder or prevent the prompt completion of additional work if awarded.

The RFQ does not commit the Department to enter into a Contract, nor does it obligate the Department to pay for any costs incurred in preparation and submission of the SOQs or in anticipation of a Contract. By submitting an SOQ, a Proposer disclaims any right to be paid for such costs.

The execution and performance of a Contract pursuant to this RFQ and any subsequent 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 Department.

In no event shall the Department 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 Department, has been executed and authorized by the Department and approved by all required parties and, then, only to the extent set forth therein.
6.2 DEPARTMENT DISCLAIMERS

In issuing this RFQ and undertaking the procurement process contemplated hereby, the Department specifically disclaims the following:

A) Any obligation to award or execute a Contract pursuant to this RFQ; and

B) Any obligation to reimburse a Proposer for any costs it incurs under this procurement.

In submitting an SOQ in response to this RFQ, the Proposer is specifically acknowledging these disclaimers.

7.0 MINORITY/WOMEN/DISADVANTAGED BUSINESS ENTERPRISE (M/W/DBE) PROGRAM AND EQUAL EMPLOYMENT OPPORTUNITY

7.1 POLICY

The Department shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any U.S. Department of Transportation (DOT) assisted contract or in the administration of 49 CFR Part 26. The Proposers shall take necessary and reasonable steps to ensure that businesses owned and controlled by socially and economically disadvantaged individuals are provided with a fair opportunity to participate in this Project.

7.2 M/W/DBE PARTICIPATION GOAL

M/W/DBE goals of #% for design and #% for construction have been established for this Project.

7.3 EQUAL EMPLOYMENT OPPORTUNITY

In connection with this RFQ and the Contract, Proposers shall not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, age, disability, or marital status. Proposers shall take affirmative action to insure that all applicants are treated during employment without regard to their race, creed, color, sex, national origin, age, disability, or marital status. Such action shall include, but not be limited to, the following: layoff or termination; rates of pay or other forms of compensation; employment, job assignment, upgrading, demotion, transfer recruitment/recruitment advertising and selection for training, including apprenticeship, pre-apprenticeship and/or on-the-job training.

8.0 COMPLIANCE WITH APPLICABLE LAWS

In connection with this RFQ and the Contract, Proposers shall comply with all applicable laws in all aspects in connection with the procurement process of this Project and the performance of the Contract.
(Project Name)
DESIGN-BUILD PROJECT
PIN ____________

REQUEST FOR QUALIFICATIONS

APPENDIX A
PROJECT DESCRIPTION,
DESIGN-BUILDER RESPONSIBILITIES
AND PROJECT STATUS
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TABLE OF CONTENTS

1.0 PROJECT DESCRIPTION ............................................................................................................ 1
2.0 DESIGN-BUILDER RESPONSIBILITIES .................................................................................... 1
3.0 PROJECT STATUS ................................................................................................................. 2
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1.0  PROJECT DESCRIPTION

The proposed (Project Title) Project begins at ________. The Project terminates at ________. Also included in the Project are ________.

A) The Project will consist of the design and construction of:
   1) ________;
   2) ________;
   3) ________;
   4) ________;
   5) ________;
   6) ________;
   7) ________;
   8) ________;
   9) ________;
   10) ________;
   11) ________; and
   12) ________.

The environmental process is ongoing and is expected to be completed by (Date). The final Project scope will include any mitigation that is required by the environmental process. In the event the environmental process results in the selection of the “no-build” alternative, there will be no Project.

B) Alternatives being considered are:
   1) No-Build;
   2) ________;
   3) ________; and
   4) ________.

2.0  DESIGN-BUILDER RESPONSIBILITIES

The successful Design-Builder [shall/may] be responsible for furnishing all labor, material, plant, equipment, services and support facilities for the following (this list is not intended to be all-inclusive):

A) Design and construction of all Project components;
B) Project, design and construction management;
C) Project-related public information activities;
D) Coordination with Project stakeholders, other contractors and utility owners;
E) Design Quality Control;
F) Construction Quality Control;

[insert Date]
G) Environmental mitigation and compliance monitoring;

H) Additional environmental investigations, monitoring and investigation associated with or resulting from Design-Builder’s actions;

I) Maintenance and protection of traffic and access to properties (both temporary and permanent access);

J) Project safety and security;

K) Preliminary engineering, such as surveys and geotechnical investigations not provided by Department;

L) Harmful and hazardous materials remediation (design and construction);

M) Drainage and erosion control;

N) Construction waste disposal and handling;

O) Required clearances, licenses, construction easements and permits for Design-Builder Work, Work sites, storage areas, etc., on or off site;

P) Ancillary works, such as access roads, driveways, temporary fencing, relocation of drainage, Work sites, and temporary works;

Q) Location, acquisition, permits and transportation for material;

R) Coordination and relocation of utilities and municipal drainage facilities (when required);

S) Site clearance; and

T) Maintenance of the Project during the Contract period.

3.0 PROJECT STATUS

The following is a summary of the status of the Work being completed for the Project (this list is not intended to be all-inclusive):

A) Survey: Control surveys and design level photogrammetry will be provided in electronic format in the RFP;

B) Preliminary Engineering: The preliminary horizontal alignments and vertical profiles are being established. Electronic files of the preliminary design alignment and profile will be provided in the RFP;

C) Utilities: Utilities are present on the Project. Study is being done to identify existing utilities, the results of which will be provided in the RFP;

D) Right-of-Way (ROW): Property titles are being ordered for all parcels. The Department will undertake ROW acquisition. The schedule of the ROW acquisition will be provided in the RFP;

E) Environmental: The appropriate environmental clearances will be obtained prior to issuing the Final RFP. The ________ is anticipated in ________; and

F) Aesthetic Design Guidelines: Guidelines will be provided in the RFP.
(Project Name)
DESIGN-BUILD PROJECT

PIN __________

REQUEST FOR QUALIFICATIONS

APPENDIX B

FORMAT AND ORGANIZATION FOR STATEMENT OF QUALIFICATIONS
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APPENDIX B TO REQUEST FOR QUALIFICATIONS
(Project Title) PROJECT

FORMAT AND ORGANIZATION FOR STATEMENT OF QUALIFICATIONS

The outline presented in this Appendix B shall be followed for preparing the Statement of Qualifications (SOQ). Specific content requirements for each section of the SOQ are described in the RFQ, as referenced in the outline. This format has been created to facilitate responses to the RFQ and to facilitate the evaluation and Short-List process.

The SOQ shall be packaged into a cover letter, six (6) separate sections and three (3) Appendices:

A) Section 1 - Legal;
B) Section 2 - Financial;
C) Section 3 - Experience of the Firms;
D) Section 4 - Past Performance;
E) Section 5 - Backlog/Capacity;
F) Section 6 - Project Understanding;
G) Appendix A - Legal Documents;
H) Appendix B - Company Brochures; and
I) Appendix C - Awards, Citations and Commendations.

The sections and appendices shall consist of loose-leaf pages. The six (6) sections shall be placed together in one 3-ring binder and the three (3) Appendices shall be placed together in a separate 3-ring binder.

Text shall be in a standard font, a minimum of ten points in height, single-spaced. Pages shall be 8-1/2 by 11 inch white paper with simple lettered/numbered dividers for each section/subsection. Single sided pages shall be used. Number each page in each section consecutively (i.e., 1-1, 1-2; 2-1, 2-2; 3-1, 3-2, etc.). Center page numbers at the bottom of each page.

Proposers should make every effort to present information clearly and concisely. Documentation that is difficult to read may be rejected and may lead to disqualification.

The information shall be easily reproducible by normal black and white photocopying machines. Color photographs, renderings and brochures shall be adequately bound and suitably protected for handling and circulation during review and evaluation.

SOQs will become the property of the Department. Copies of each SOQ will be retained after the SOQ evaluation process for the Project files.
<table>
<thead>
<tr>
<th>SOQ Section No.</th>
<th>Section Title &amp; Required Information</th>
<th>RFQ Reference</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>Cover Letter and Acknowledgement Form (attached)</td>
<td>4.4.1</td>
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<tr>
<td>Section 1</td>
<td>Legal:</td>
<td>4.4.2.1</td>
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<td>• Form L-1;</td>
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<td>• Form L-2;</td>
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<td></td>
<td>• Identity of Lead Principal Participant;</td>
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<td>• Percent share of each Principal Participant, if known (if JV); and</td>
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<td>• Express statement of joint and severable liability (if JV).</td>
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<tr>
<td>Section 2</td>
<td>Financial:</td>
<td>4.4.2.2</td>
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<td>Surety Letters</td>
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<td>Section 3</td>
<td>Experience of the Firms:</td>
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<td>• Form E-1 (maximum of #); and</td>
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<td>• Form E-2.</td>
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<td>Section 4</td>
<td>Past Performance:</td>
<td>4.4.2.4</td>
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<td>• Form PP for:</td>
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<td>− Award, citation and/or commendation information;</td>
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<td>− Litigation, claims, dispute proceedings and arbitration information;</td>
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<td>− Liquidated damages information;</td>
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<td>− Termination for Cause information;</td>
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<td>− Disciplinary action information; and</td>
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<td>− Contact information for the above Form PP.</td>
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<td>• Form S; and</td>
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<td>• Form M/W/DBE.</td>
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<td>Section 5</td>
<td>• Backlog/Capacity;</td>
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<td>Section Title &amp; Required Information</td>
<td>RFQ Reference</td>
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| Section 6   | Project Understanding:  
- Discussion of significant issues and risks facing selected Proposer and Department; and  
- Description of how Proposer will use its organization and the DB process to ensure a successful Project. | 4.4.2.5       |
| Appendix A  | Legal Documents:  
- Legal structure and supporting documents or description of Proposed legal structure;  
- Memorandum of agreement, if required;  
- Powers of Attorney; and  
- Certificate of Authorization or Form L-3 | 4.4.2.1(C)    |
| Appendix B  | Company Brochures                                                                                     | 4.4.2.3       |
| Appendix C  | Awards, Citations and Commendations                                                                    | 4.4.2.4(1)    |
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(Project Name)
DESIGN-BUILD PROJECT

PIN ____________

REQUEST FOR QUALIFICATIONS

APPENDIX C

SOQ FORMS
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APPENDIX C

FORMS

Acknowledgement of Receipt

Form B  Backlog Information

Form E-1  Project Description

Form E-2  Subcontractor Information

Form L-1  Proposer’s Organization Information

Form L-2  Principal Participant and Designer Certification

Form M/W/DBE  Record of M/W/DBE Performance

Form PP  Past Performance

Form R  Past Revenue

Form RFQ-C  Proposer’s Question Request

Form S  Safety Questionnaire
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ACKNOWLEDGMENT OF RECEIPT
ACKNOWLEDGMENT OF RECEIPT
OF
RFQ, ADDENDA AND RESPONSES TO QUESTIONS
(To be attached to SOQ Cover Letter)

(Name of Proposer)

We hereby acknowledge receipt of the (Project Title) Project RFQ dated (Date), and subsequent addenda and responses to questions issued by the New York State Department of Transportation.

<table>
<thead>
<tr>
<th>ADDENDUM No.</th>
<th>Date Issued</th>
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(Signed)   (Date)

(Printed or Typed Name)

(Title)
FORM B
BACKLOG INFORMATION

Name of Proposer: _________________________________________________

<table>
<thead>
<tr>
<th>Company Name Proposer Entities</th>
<th>No. of Contracts in Force</th>
<th>Total Contract Value (US$ Millions)</th>
<th>Value of Work Remaining by Year (US$ Millions)</th>
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<td>Principal Participant(s)</td>
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<td>Designer</td>
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<td>QC Engineer</td>
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<td>Other Firms</td>
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FORM B
BACKLOG INFORMATION

Name of Proposer: _______________________________________________

OUTSTANDING PROPOSAL/BID INFORMATION

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<tr>
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<th>No. of Proposals / Bids Outstanding</th>
<th>Total Potential Value (US$)</th>
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<td>Other Firms</td>
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## FORM E-1
### PROJECT DESCRIPTION

| Name of Proposer: _________________________________________________ |
| Project Role: ____________________________________________________ |
| Principal Participant:  ____ Designer:  ____ QC Engineer:  ____ |
| Other (Describe):  ______________________________________ |
| Years of Experience:  ___________________________________________ |
| Roads/Streets:  _______ Bridges/Structures:  _______ Utility Relocations:  _______ |
| Project Name, Location, Description and Nature of Work for which Company was responsible:  |
| Describe Site Conditions:  |
| (Use additional sheets as necessary to describe project and site conditions) |
| List any awards, citations and/or commendations received for the project:  |

| Name of Client (Owner/Agency, Contractor, etc.):  |
| Address:  ___________________________________________ |
| Contact Name:  _________________________________ Telephone:  _____________ |
| Owner’s Project or Contract No.:  ___________________ Fax No:  _____________ |
| Contract Value (US$):  __________________________ Final Value (US$):  __________ |
| Percent of Total Work Performed by Company:  __________________________________________ |
| Commencement Date:  __________________________ Planned Completion Date:  __________ |
| Actual Completion Date:  ___________________ |
| Amount of Claims:  __________________________ Any Litigation?  Yes ____ No _____ |
Name of Proposer: ___________________________________________________

<table>
<thead>
<tr>
<th>SUBCONTRACTOR NAME</th>
<th>ADDRESS AND PHONE NUMBER</th>
<th>WORK PLANNED FOR THE PROJECT</th>
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<tbody>
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Notes:
(1) As a minimum, list Specialized Subcontractors, except Designer and QC Engineer.
(2) Attach maximum of one (1) page summary of Subcontractor experience for each Subcontractor listed, including consultants.
# FORM L-1
PROPOSER’S ORGANIZATION INFORMATION

<table>
<thead>
<tr>
<th>Name of Entity:</th>
<th>Address:</th>
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<table>
<thead>
<tr>
<th>Contact Name:</th>
<th>Title:</th>
</tr>
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<tbody>
<tr>
<td>Telephone No.:</td>
<td>Fax No.:</td>
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</table>

## LOCAL / REGIONAL CONTACT

<table>
<thead>
<tr>
<th>Name:</th>
<th>Address:</th>
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</thead>
</table>

| Telephone No.: | Fax No.: | E-mail: |

## NAME(S) OF PROPOSER ENTITY(IES)

<table>
<thead>
<tr>
<th>Company Name</th>
<th>Address/Phone &amp; Fax No.</th>
<th>State of Incorporation:</th>
<th>Lead Participant:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Principal Participant(s)</td>
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<tr>
<td>Designer</td>
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<tr>
<td>QC Engineer</td>
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<tr>
<td>Other Firm(s)</td>
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</tbody>
</table>
FORM L-2
PRINCIPAL PARTICIPANT AND DESIGNER CERTIFICATION

Complete for each Principal Participant and the Designer.

1. Has the firm* ever failed to complete any work it agreed to perform, or had a contract terminated because it was in default? If yes, describe.

2. Has the firm* or any other officer thereof been indicted or convicted of bid or other contract related crimes or violations or any felony or misdemeanor related to performance under a contract within the past five years? If yes, describe.

3. Has the firm* ever sought protection under any provision of any bankruptcy act? If yes, describe.

4. Has the firm* ever been debarred or suspended from performing work for the federal government or any state or local government? If yes, describe.

5. List on a separate page, up to five financial institutions with which the firm* has done the most business during the past five years and identify the individual at each institution who was in charge of the firm’s accounts. Indicate the address, telephone and fax numbers of each individual.

(Must be signed by an officer of the firm)

Firm: ___________________________________
By: _____________________________________
Title: ___________________________________
Name of Proposer: _______________________

* (Note: “firm” includes any Affiliate, including parent company or subsidiary companies.)
New York State Department of Transportation

FORM M/W/DBE
RECORD OF M/W/DBE PERFORMANCE

Name of Proposer: ________________________________________

Firm Name: ________________________________________

Role (check as applicable): Principal Participant ___ Designer ___

Provide the information requested below for projects completed within the years 2000, 2001 and 2002 where the firm was the prime contractor or prime consultant. For any project where the M/W/DBE goal, if applicable, was not achieved, attach a maximum ½ page explanation.

<table>
<thead>
<tr>
<th>Project Name</th>
<th>M/W/DBE Participation Goal (%)</th>
<th>M/W/DBE Participation Achieved (%)</th>
<th>Current Owner Contact (Name, Phone and Fax No.)</th>
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<tbody>
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</tbody>
</table>

Add additional sheets if necessary.
# FORM PP
## PAST PERFORMANCE

### Name of Proposer:

### Firm Name:

### Awards, Citations and/or Commendations

<table>
<thead>
<tr>
<th>Name of Award, etc.</th>
<th>Year Received</th>
<th>Project &amp; Location</th>
<th>Work for Which Award, etc. Received</th>
</tr>
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<tbody>
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</table>

### Litigation, Claims, Dispute Proceedings and Arbitration

<table>
<thead>
<tr>
<th>Project/Issue</th>
<th>Owner/Agency Initiated Action</th>
<th>Resolution/Outcome</th>
<th>Indicate if Unresolved or Outstanding Action</th>
<th>Current Owner Contact Name, Phone &amp; Fax Nos.</th>
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</tbody>
</table>
### FORM PP
PAST PERFORMANCE

#### Liquidated Damages

<table>
<thead>
<tr>
<th>Project Name</th>
<th>Cause of Delay(s)</th>
<th>Amount Assessed</th>
<th>Describe Outstanding Damage Claims by Any Owner</th>
<th>Current Owner Contact Name, Phone &amp; Fax Nos.</th>
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</table>

#### Termination for Cause

<table>
<thead>
<tr>
<th>Project</th>
<th>Describe Reason for Termination</th>
<th>$ Amount Involved</th>
<th>Current Owner Contact Name, Phone &amp; Fax Nos.</th>
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</table>

#### Disciplinary Action

<table>
<thead>
<tr>
<th>Project</th>
<th>Describe Action Taken</th>
<th>Current Owner Contact Name, Phone &amp; Fax Nos.</th>
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</table>
New York State Department of Transportation

**FORM R**
**PAST REVENUE**

Proposer’s Name: _________________________________________________

<table>
<thead>
<tr>
<th>Proposer Entities/Firm Name</th>
<th>Total Revenue by Year ($US in Millions)</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>2000</td>
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<tr>
<td>Principal Participant(s):</td>
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<td>Designer:</td>
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<tr>
<td>QC Engineer:</td>
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<tr>
<td>Other Firm(s):</td>
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</tbody>
</table>
**FORM RFQ-C**  
**Proposer’s Question Request**

**Proposer’s/Firm’s Name:**  
_____________________________

<table>
<thead>
<tr>
<th>RFQ Section No. or Appendix</th>
<th>Question</th>
<th>Reserved for Department Response</th>
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Use additional sheets as necessary.
FORM S
SAFETY QUESTIONNAIRE

Proposer’s Name: _________________________________________________

Firm Name: _____________________________________________________

1. Provide the following information for the last three years:

<table>
<thead>
<tr>
<th>Item</th>
<th>2000</th>
<th>2001</th>
<th>2002</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employee hours worked (Do not include non-work time, even though paid)</td>
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<tr>
<td>Number of lost workday cases</td>
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<tr>
<td>Number of restricted workday cases</td>
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<tr>
<td>Number of cases with medical attention only</td>
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<tr>
<td>Number of fatalities</td>
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</tbody>
</table>

2. Are internal accident reports and report summaries sent to management? To what levels and how often?

<table>
<thead>
<tr>
<th>Position</th>
<th>No</th>
<th>Yes</th>
<th>Monthly</th>
<th>Quarterly</th>
<th>Annually</th>
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3. Do you hold site meetings for supervisors? Yes ______ No ______

How Often?

Weekly _____ Bi-Weekly _____ Monthly _____ Less often, as needed ______

4. Do you conduct Project Safety Inspections? Yes ______ No ______

By Whom? _______________________________________________________

How Often?

Weekly _____ Bi-Weekly _____ Monthly _____
New York State Department of Transportation

FORM S
SAFETY QUESTIONNAIRE

5. Does the firm have a written Safety Program?  Yes _______   No _______

6. Does the firm have an Orientation Program for new hires?
   Yes _______   No _________   If yes, what safety items are included?

7. Does the firm have a program for newly hired or promoted foremen?
   Yes _______   No ________   If yes, does it include instruction of the following?

<table>
<thead>
<tr>
<th>Topic</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Safety Work Practices</td>
<td></td>
<td></td>
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<tr>
<td>Safety Supervision</td>
<td></td>
<td></td>
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<tr>
<td>On-site Meetings</td>
<td></td>
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<tr>
<td>Emergency Procedures</td>
<td></td>
<td></td>
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<tr>
<td>Accident Investigation</td>
<td></td>
<td></td>
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<tr>
<td>Fire Protection and Prevention</td>
<td></td>
<td></td>
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<tr>
<td>New Worker Orientation</td>
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</tbody>
</table>

8. Does the firm hold safety meetings which extend to the laborer level?
   Yes _______   No _______

   How often?  Daily ____ Weekly ____ Bi-Weekly ____ Less often, as needed ____

9. For Proposer only, indicate the safety record on the last Project to which the indicated key personnel were assigned:

<table>
<thead>
<tr>
<th>Key Person</th>
<th>Total hours worked by all employees on Project</th>
<th>Number of lost workday cases on Project</th>
<th>Number of restricted workday cases on Project</th>
<th>No. of cases with medical attention only on Project</th>
<th>No. of fatalities on Project</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Principal</td>
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<tr>
<td>Project Manager</td>
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<tr>
<td>Construction Manager</td>
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</table>
(Project Name)
DESIGN-BUILD PROJECT

PIN __________

REQUEST FOR QUALIFICATIONS

APPENDIX D

SAMPLE
STIPEND CONTRACT
This page is intentionally left blank.
This Agreement made this ___ day of ____, 2___, pursuant to Section 38-a of the New York State Highway Law, by and between THE PEOPLE OF THE STATE OF NEW YORK, acting by and through the Department of Transportation (hereinafter referred to as "STATE") whose office is in the Administration and Engineering Building, 1220 Washington Avenue, State Campus in the City and County of Albany, State of New York 12232, and __________ (hereinafter referred to as "PROPOSER").

WITNESSETH:

WHEREAS, the STATE is currently procuring a Design-Build (DB) Contract for the _______ Project ("Project"); and

WHEREAS, the PROPOSER is a member of the short-list for the Project; and

WHEREAS, it is anticipated that the PROPOSER will submit a proposal in response to the Request for Proposals (RFP) released by the STATE on ________________, 2____.

NOW, THEREFORE, the parties hereto, for the consideration hereinafter named, do agree as follows:

ARTICLE 1. PERFORMANCE OF WORK. The PROPOSER shall perform all of the work described in ARTICLE 2, SCOPE OF WORK, and cause such work to be performed in an efficient and expeditious manner and in accordance with all of the terms and provisions of this Agreement. The PROPOSER shall perform the work in accordance with professional standards and with the diligence and skill expected of a company with extensive experience in the performance of work of the type described in ARTICLE 2. The PROPOSER shall furnish such personnel and shall procure such materials, supplies, tools, equipment, and other items as may reasonably be necessary or appropriate to perform the work in accordance with this Agreement.

ARTICLE 2. SCOPE OF WORK. This Agreement addresses the STATE’s right to engage in technical transfer of the technical concepts contained in the PROPOSER’s proposal for the _______ Project.

The Project will consist of the design and construction of ____________________________

Technical transfer, for purposes of this Agreement, means the STATE’s disclosure and use of technical information pertaining to a proposal that results in improvement of the DB contract or other STATE
Technical concepts, for purposes of this Agreement, is the technical information contained in the PROPOSER’s proposal, such as, unique technology, innovation, unique uses of commercial items, design concepts and solutions, construction means and methods, project execution approach, and information that constitutes intellectual property in the proposal.

Under the terms of this Agreement, the STATE may use the technical concepts found in the PROPOSER’s proposal for the purposes of improvement of this Project or any other project which the STATE may progress at any later date. Under the terms of this Agreement, the STATE owns all technical concepts contained in the PROPOSER’s proposal.

ARTICLE 3. DELIVERABLES. The deliverable under this Agreement is the PROPOSER’s proposal for the Project. The full details and requirements of the deliverable are contained in the RFP for the Project, which is hereby incorporated be reference. The STATE reserves the right to modify the deliverable requirements at any time without adjustment in the completion date of this Agreement, as found in ARTICLE 4, TERM OF THE AGREEMENT, and without adjustment in the lump sum price of this Agreement, as found in ARTICLE 5(A), PROVISION FOR PAYMENT.

ARTICLE 4. TERM OF THE AGREEMENT. The PROPOSER agrees to complete all the work set forth in ARTICLE 2 as required by this Agreement by the date defined as the Proposal Due Date in the Instructions to Proposers (ITP) of the RFP for the Project, or as amended by any addenda thereto, and for the lump sum as shown in ARTICLE 5(F).

ARTICLE 5. PROVISION FOR PAYMENT.

A) Consideration for the technical concepts supplied by the PROPOSER in its proposal made in response to the RFP for the Project will be paid by the STATE on a lump sum basis and only if PROPOSER is not awarded the DB contract for the Project. The PROPOSER will not be entitled to payment of the lump sum, as defined in (F), below, unless it meets the following requirements:

1) A rating of “pass” on all “pass/fail” evaluation factors found in the ITP for the Project.

2) An overall rating of “Acceptable –“or greater on the quality proposal; and

3) Submission of a competitive and responsible price proposal for the Project, in the sole determination of the STATE.

B) If the PROPOSER is awarded the DB contract for the Project, it will not receive the lump sum payment, as defined in (F), below. If the STATE awards the DB contract to the PROPOSER, but subsequently does not issue Notice to Proceed (NTP) to the PROPOSER, the PROPOSER will be paid the lump sum.

C) If the STATE cancels the procurement after the Proposal Due Date, as defined in the ITP for the Project, as amended, or does not award the DB Contract, the STATE will make a payment to the PROPOSER. Such payment in the event of a cancellation of the procurement after the Proposal Due Date or failure to award the DB contract will be the lump sum amount, as defined in (F), below.

D) If the STATE cancels the procurement prior to the Proposal Due Date, as defined in the ITP for the Project, as amended, the STATE may make a payment to the PROPOSER if the PROPOSER submits
all technical concepts prepared as of the date of the cancellation to the STATE and if the PROPOSER attends a meeting with the STATE to discuss its completed technical concepts. Such payment in the event of a cancellation of the procurement prior to the Proposal Due Date will be the lump sum amount, as defined in (F), below, or any portion thereof, to be determined at the sole discretion of the STATE.

E) The PROPOSER shall submit a single invoice for payment of the lump sum, as defined in (F), below, not later than 30 days from the date of award of the DB contract.

F) The STATE shall pay to the PROPOSER, and the PROPOSER agrees to accept as full compensation for its services under this Agreement, a lump sum price of $0.00.

G) The PROPOSER specifically agrees that the Agreement shall be deemed executory only to the extent of the monies available, and no liability shall be incurred by the STATE beyond the monies available for the purpose.

ARTICLE 6. FINAL PAYMENT.

A) Section 179 of the New York State Finance Law requires the STATE to make final payment within thirty calendar days after receipt of an invoice which is properly prepared and submitted. The STATE, in accordance with the provisions of the New York State Finance Law, has determined that the STATE will require a 60 calendar day review and audit period for final payments at which time the 30 calendar day interest-free period will commence. The PROPOSER is required to make final payment to all subcontractors and within ten calendar days of receipt of final payment from the STATE.

B) 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 the STATE to enable the processing of the final payment. It should be noted that any time taken to satisfy or furnish this tax clearance certificate shall extend the required payment date by an equal period of time.

ARTICLE 7. STATE’S PROJECT MANAGER. The following person, or his/her successor, is the STATE’s Project Manager:

Name: __________________________
Title: __________________________
Address: ________________________
Phone: __________________________
Fax: _____________________________

The STATE’s Project Manager has final authority to accept or reject the PROPOSER’s deliverable under this Agreement. If the deliverable is acceptable and satisfactory, the STATE’s Project Manager will certify the invoice as submitted by the PROPOSER.

ARTICLE 8. PROPOSER’S PERSONNEL.

A) The following person, or his/her successor, is the PROPOSER’s Authorized Representative:

Name: __________________________
Address: ________________________
Phone: __________________________
If the PROPOSER’s Authorized Representative changes at any time during this Agreement, the PROPOSER must immediately notify the STATE.

B) The PROPOSER’s team consists of the following entities:

1) Principal Participants: 

2) Designer: 

ARTICLE 9. PROPOSER LIABILITY. The PROPOSER shall be responsible for all damage to life and property due to acts, errors, or omissions of the PROPOSER or its subcontractors, agents, or employees in the performance of its service under this Agreement. Further, it is expressly understood that the PROPOSER shall indemnify and save harmless the STATE from claims, suits, actions, damages, and costs of every name and description resulting from the performance of the services of the PROPOSER under this Agreement, and such indemnity shall not be limited by reasons of enumeration of any insurance coverage herein provided. Performance of service, within the meaning of this ARTICLE, shall include claims founded upon tort; claims based upon the PROPOSER's failure to meet professional standards; or claims based upon breach of copyright, trade secrets, or other protected material. Nothing in this ARTICLE or in this Agreement shall create or give to third parties any claim or right of action against the PROPOSER or the STATE beyond such as may legally exist irrespective of this Article or this Agreement.

ARTICLE 10. WORKER'S COMPENSATION AND LIABILITY INSURANCE. The PROPOSER agrees to procure and maintain, without direct cost to the STATE except as noted, until final acceptance by the STATE of the services covered by this Agreement, insurance of the kinds and in amounts hereinafter provided from insurance companies authorized to do business in the State of New York, covering all operations under this Agreement whether performed by the PROPOSER or subcontractors. Before commencing the work, the PROPOSER shall furnish to the STATE a certificate or certificates, in forms satisfactory to the STATE, showing that it has complied with this ARTICLE, which certificate or certificates shall provide that the policies shall not be changed or canceled until thirty days written notice has been given to the STATE. The kinds and amounts of insurance required are as follows:

A) A policy covering the obligations of the PROPOSER in accordance with the provisions of Chapter 41, Laws of 1914, as amended, known as the Worker's Compensation Law, and also by the provisions of Article 9 of the Worker's Compensation Law known as the Disability Benefits Law. This Agreement shall be void and of no effect unless the PROPOSER procures such policy and maintains it until acceptance of the work; and

B) The following policies of bodily injury liability insurance of the types hereinafter specified, each with limits of liability of not less than $100,000.00 for all damages arising out of bodily injury, including death at any time resulting therefrom, sustained by one person in any one accident and, subject to that limit for each person, not less than $300,000.00 for all damage arising out of bodily injury, including death at any time resulting therefrom, sustained by two or more persons in any one accident, and not less than $100,000.00 damages arising out of injury to or destruction of property in any one accident and, subject to that limit per accident, not less than $300,000.00 for all damages arising out of injury to or destruction of property during the policy period:

1) Professional liability insurance issued to and covering the liability of the PROPOSER with respect to all work performed by it under this Agreement;
2) Professional liability insurance issued to and covering the liability of each of the PROPOSER’s subcontractors with respect to all work performed by said subcontractors under this Agreement;

3) Protective liability insurance issued to and covering the liability of the PROPOSER with respect to all work under this Agreement performed for the PROPOSER by its subcontractors; and

4) Protective liability insurance for the benefit of the people of the State of New York and all employees of the New York State Department of Transportation, both officially and personally, with respect to all operations under this Agreement by the PROPOSER or by its subcontractors, including in such coverage any omissions and supervisory acts of the STATE, the New York State Department of Transportation, and its employees.

ARTICLE 11. CODE OF ETHICS AND COMMUNICATIONS.

A) The PROPOSER specifically agrees that this Agreement may be canceled or terminated if any work under this Agreement is in conflict with the provisions of Section 74 of the New York State Public Officer's Law, as amended, establishing a Code of Ethics for STATE officers and employees.

The PROPOSER shall not engage, on a full-time, part-time, or other basis any professional or technical personnel who are or have been at any time during the period of this Agreement in the employ of the Federal Highway Administration or the highway organizations of any public employer, except regularly retired employees, without the consent of the public employer of such person.

B) No communications with the STATE or with any of the Project’s stakeholders or their representatives will be permitted, except such communications as may occur at STATE initiated workshops and/or meetings; written communications by mail to the STATE’s Project Manager, as identified in ARTICLE 7; or, as specifically permitted in the ITP for the Project. Failure to comply with this requirement may result in the PROPOSER’s disqualification from further participation in the procurement of the DB contract.

For purposes of this Agreement, the Project stakeholders include the following:

1) The New York State Department of Transportation;

2) The Federal Highway Administration;

3) ____________________________

ARTICLE 12. INDEPENDENT CONTRACTOR. The PROPOSER, in accordance with its status as an independent contractor, covenants and agrees that it will conduct itself consistently with such status, that it will neither hold itself out as, nor claim to be, an officer or employee of the STATE by reason hereof, and that it will not make any claim, demand, or application to or for any right or privilege applicable to an officer or employee of the STATE, including, but not limited to, worker’s compensation coverage, unemployment insurance benefits, Social Security coverage, or retirement membership or credit.

ARTICLE 13. COVENANT AGAINST CONTINGENT FEES. The PROPOSER warrants that it has not employed or retained any company or person, other than a bona fide employee working for the PROPOSER, to solicit or secure this Agreement or the DB contract and that it has not paid or agreed to pay
any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement or the DB contract. For breach or violation of this warranty, the STATE shall have the right to annul this Agreement without liability, or, in its discretion, to deduct from the lump sum payment or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

ARTICLE 14. TRANSFER OF AGREEMENT. The PROPOSER specifically agrees, as required by the New York State Finance Law, Section 138, that it is prohibited by law from assigning, transferring, conveying, subletting, or otherwise disposing of the Agreement or of its right, title, or interest therein, or its power to execute such Agreement, to any other person, company, or corporation, without the previous consent in writing of the STATE.

If this provision of the law is violated, the STATE shall revoke and annul this Agreement and the PROPOSER shall be disqualified from the DB contract procurement and the STATE shall be relieved from any and all liability and obligations to the person, company, or corporation to whom the PROPOSER shall assign, transfer, convey, sublet, or otherwise dispose of this Agreement, and such transferee shall forfeit and lose all moneys therefore assigned under this Agreement.

ARTICLE 15. PROPRIETARY RIGHTS. The PROPOSER agrees that if patentable discoveries or inventions should result from work described herein, all rights accruing from such discoveries or inventions shall be the sole property of the PROPOSER. However, the PROPOSER agrees to and does hereby grant to the State of New York a nonexclusive, nontransferable, paid-up license to make, use, and sell each subject invention throughout the world by and on behalf of the government of the United States, states, and domestic municipal governments, all in accordance with the provisions of 48 CFR 1-27.

ARTICLE 16. SUBCONTRACTORS. All subcontractors performing work on this project shall be bound by the same required contract provisions as the PROPOSER. All agreements between the PROPOSER and a subcontractor shall include all standard required contract provisions, and such agreements shall be subject to review by the STATE.

ARTICLE 17. CERTIFICATION REQUIRED BY 49CFR 29. The signatory to this Agreement, being duly sworn, certifies to the following that, except as noted below, PROPOSER and any person associated therewith in the capacity of owner, partner, director, officer, or major stockholder (five percent or more ownership):

A) Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;

B) Has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three years;

C) Does not have a proposed debarment pending; and

D) Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three years.

ARTICLE 18. CERTIFICATION FOR FEDERAL-AID CONTRACTS. The PROPOSER certifies the following, by signing this Agreement, that to the best of his or her knowledge and belief:

A) 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 federal 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 grant; the making of any federal loan; the entering into of any cooperative agreement; and extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement; and

B) 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 Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering this Agreement imposed by 31 United States Code 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000.00 and not more than $100,000.00 for each such failure.

The PROPOSER also agrees by submitting its proposal that it shall require that the language of this certification be included in all lower tier subcontracts which exceed $100,000.00 and that all such subcontractors shall certify and disclose accordingly.

ARTICLE 19. RESPONSIBILITY OF THE PROPOSER.

A) The PROPOSER shall be responsible for the professional quality, technical accuracy, and the coordination of all services furnished by the PROPOSER under this Agreement.

B) Neither the STATE’S review, approval, or acceptance of, or payment for, the services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and the PROPOSER shall be and remain liable to the STATE in accordance with applicable law for all damages to the STATE caused by the PROPOSER’s negligent performance or breach of contract of any of the services furnished under this Agreement.

C) The rights and remedies of the STATE provided for under this Agreement are in addition to any other rights and remedies provided by law.

D) If the PROPOSER is comprised of more than one legal entity, each such entity shall be jointly and severally liable hereunder.
IN WITNESS WHEREOF, this Contract No. ________ has been executed by the STATE, acting by and through the Commissioner of Transportation, 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 STATE also certifies that original copies of this signature page will be attached to all other exact copies of this Agreement.

RECOMMENDED BY THE PEOPLE OF THE STATE OF NEW YORK

___________________________________         By ________________________________

Contract Management Bureau
Department of Transportation

By ________________________________

[PROPOSER]

APPROVALS

Office of the Attorney General                     For the State Comptroller
_____________________________________________ Under the New York State Finance
Date                                               Law Section 112

(Acknowledgment)

STATE OF ________ )                   SS:
COUNTY OF ________ )

On this ______ day of ______, 2____, before me personally came __________________________ to me known, who being duly sworn, did depose and say that s/he resides in _______________________; that s/he is the ____________________________ of ________________, the corporation described in and which executed the foregoing instrument; and that s/he signed his/her name thereto by order of the Board of Directors of said corporation.

__________________________
NOTARY PUBLIC

My Commission Expires:

__________________________

Project
PIN ________
D-8

RFQ, App D – Stipend Contract
[Insert Date]
REQUEST FOR PROPOSAL

TEMPLATES

- General Instructions to Proposers
- Appendix A – Management & Technical Proposal Instructions
- Appendix B – Pricing Instructions – Small & Large Projects
- Appendix C – ITP Forms – Small & Large Projects
This page is intentionally left blank.
(Project Name)

DESIGN-BUILD PROJECT

PIN ___________

INSTRUCTIONS TO PROPOSERS
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# TABLE OF CONTENTS

1.0 INTRODUCTION........................................................................................................................................... 1

1.1 PROJECT GOALS ........................................................................................................................................... 1

1.2 THE PROPOSAL ........................................................................................................................................... 1

1.2.1 Documents in the RFP .................................................................................................................. 1

1.2.2 Quality Proposal .......................................................................................................................... 1

1.2.3 Price Proposal .................................................................................................................................. 1

1.2.4 Inclusion in Contract .................................................................................................................. 1

1.2.5 Required Forms .......................................................................................................................... 1

1.2.6 Property of the Department ..................................................................................................... 2

1.2.7 Errors .............................................................................................................................................. 2

1.3 DEFINITIONS ........................................................................................................................................... 2

1.4 IMPROPER CONDUCT .......................................................................................................................... 3

1.4.1 Prohibited Activities .................................................................................................................. 3

1.4.2 Non-Collusion Affidavit/Affirmation (Form NC) ........................................................................ 3

1.5 LANGUAGE REQUIREMENT .................................................................................................................. 3

1.6 PROPOSAL SCHEDULE .......................................................................................................................... 3

1.6.1 Anticipated Schedule .................................................................................................................. 3

1.6.2 Proposal Due Date ..................................................................................................................... 4

1.7 INSURANCE ............................................................................................................................................ 4

1.8 CHANGES TO THE PROPOSER’S ORGANIZATION ........................................................................... 4

1.9 INELIGIBLE FIRMS .................................................................................................................................. 4

1.10 SCOPE OF WORK .................................................................................................................................... 4

2.0 PROCUREMENT PROCESS ..................................................................................................................... 4

2.1 METHOD OF PROCUREMENT .............................................................................................................. 4

2.2 RECEIPT OF THE REQUEST FOR PROPOSAL DOCUMENTS AND OTHER INFORMATION ........................................................................................................................................... 5

2.2.1 Department Designated Point of Contact ..................................................................................... 5

2.2.2 Rules of Contact .......................................................................................................................... 5

2.3 PROPOSER QUESTIONS .......................................................................................................................... 6

2.4 ADDENDA AND RESPONSES TO QUESTIONS ...................................................................................... 6

2.4.1 Addenda ......................................................................................................................................... 6

2.4.2 Correspondence and Information .................................................................................................. 6

2.4.3 Responses to Questions ............................................................................................................. 6

2.4.4 Date for Issuance of Final Addendum and Responses to Questions ...................................... 6

2.5 COMPLIANT PROPOSAL ....................................................................................................................... 6

2.6 NON-PUBLIC PROCESS ....................................................................................................................... 7

2.7 PROPOSAL STIPEND ............................................................................................................................ 8

2.8 ALTERNATE PROPOSALS .................................................................................................................... 8

2.9 SUBMISSION OF PROPOSALS ............................................................................................................... 9

2.9.1 Submission of a Proposal ............................................................................................................ 9

2.9.2 Modifications to a Proposal ........................................................................................................ 9

2.9.3 Withdrawal of a Proposal .......................................................................................................... 9

2.9.4 Public Opening of Proposals ..................................................................................................... 10

2.9.5 Late Proposals .......................................................................................................................... 10

2.10 EXAMINATION OF RFP PACKAGE, AND WORK SITE ...................................................................... 10

3.0 PROPOSAL REQUIREMENTS .................................................................................................................. 10
3.1 LEGAL AUTHORITY .................................................................................................................. 10
  3.1.1 Opinion of Counsel .................................................................................................................. 10
  3.1.2 Contract Execution .................................................................................................................. 10
  3.1.3 Licensing Requirements ......................................................................................................... 10
  3.1.4 M/W/DBE Requirements ....................................................................................................... 11
3.2 CURRENCY ................................................................................................................................. 11
3.3 PROPOSAL BOND ...................................................................................................................... 11
  3.3.1 Bonding Requirements .......................................................................................................... 11
  3.3.2 Return of Proposal Bond ....................................................................................................... 11
  3.3.3 Rights Reserved .................................................................................................................... 11
3.4 ESCROWED PROPOSAL DOCUMENTATION ......................................................................... 11
3.5 SIGNATURES REQUIRED ......................................................................................................... 12
3.6 NUMBERS OF DOCUMENTS ..................................................................................................... 12
  3.6.1 Executive Summary .............................................................................................................. 12
  3.6.2 Proposal Bond ...................................................................................................................... 12
  3.6.3 Quality Proposal .................................................................................................................. 12
  3.6.4 Price Proposal ...................................................................................................................... 12
  3.6.5 Cost of Preparing Proposal ................................................................................................. 12
  3.6.6 Obligation to Award ............................................................................................................ 12
  3.6.7 Additional Submittals Prior to Contract Execution ................................................................. 12
3.7 RESOURCE AVAILABILITY ....................................................................................................... 12
4.0 PRE-PROPOSAL MEETINGS ..................................................................................................... 13
  4.1 INFORMATIONAL MEETINGS ............................................................................................... 13
  4.2 ATTENDEES ........................................................................................................................... 13
  4.3 QUESTIONS AND RESPONSES ............................................................................................... 13
5.0 CONTRACT AWARD AND EXECUTION ............................................................................... 13
  5.1 CONTRACT AWARD ................................................................................................................. 13
  5.2 EXECUTION OF CONTRACT .................................................................................................... 14
6.0 PROPOSAL EVALUATIONS ....................................................................................................... 14
  6.1 EVALUATION FACTORS AND CRITERIA .............................................................................. 15
    6.1.1 “Pass/Fail” Factors and Subfactors ..................................................................................... 15
    6.1.2 Quality Factors and Subfactors ........................................................................................... 16
    6.1.3 Price .................................................................................................................................... 18
  6.2 EVALUATION GUIDELINES ..................................................................................................... 19
    6.2.1 Experience and Qualifications, Management Approach, Technical Solutions and
          Project Staff .............................................................................................................................. 19
    6.2.2 Project Engineer’s Estimate ............................................................................................... 19
    6.2.3 Communications .................................................................................................................. 19
  6.3 INTERVIEWS/PRESENTATIONS ............................................................................................... 20
  6.4 COMPETITIVE RANGE ............................................................................................................. 20
  6.5 DISCUSSIONS .......................................................................................................................... 20
    6.5.1 Purpose ................................................................................................................................ 20
    6.5.2 Procedures ........................................................................................................................... 20
  6.6 PROPOSAL REVISIONS ............................................................................................................. 21
  6.7 BEST VALUE DETERMINATION ............................................................................................. 21
  6.8 BUY AMERICA ADJUSTMENT ................................................................................................. 22
  6.9 M/W/DBE REQUIREMENTS .................................................................................................... 22
  6.10 POST-AWARD MEETINGS ..................................................................................................... 22
APPENDICES

APPENDIX A  QUALITY PROPOSAL INSTRUCTIONS

APPENDIX B  PRICE PROPOSAL INSTRUCTIONS

APPENDIX C  FORMS TO BE USED WITH APPENDICES A AND B
1.0 INTRODUCTION

This Request for Proposals (“RFP”) is issued by the New York State Department of Transportation (the “Department”) to seek competitive Proposals for the (Project Title), (the “Contract”). Proposals are only invited from and will only be considered from those parties (“Proposers”) who have been notified of their inclusion on the Short-List.

In the preparation of the Proposals, Proposers should address and/or consider the Project goals identified in Instructions to Proposers (“ITP”) Section 1.1.

1.1 PROJECT GOALS

The Department’s goals for the Project are:

A) _______;  
B) _______;  
C) _______;  
D) _______; and  
E) _______.

1.2 THE PROPOSAL

1.2.1 Documents in the RFP

The Documents issued as part of this RFP consist of the following:

A) Instructions to Proposers;  
B) Contract Documents Parts 1 through 9, inclusive;  
C) Reference Documents; and  
D) Additional documents issued by Addenda to this RFP.

1.2.2 Quality Proposal

1.2.2.1 Contract Documents Part 10 – Proposal Information

These documents shall consist of the information and completed forms designated as Contract Documents Part 10 - Proposal Information Documents in Appendix A. See Section 3.0.

1.2.2.2 Supplemental Selection Information

The Executive Summary, the Summary Statement and the information submitted in Attachment 1 of the Proposal, as specified in Appendix A, are for evaluation purposes only and will not be included as part of the Contract Documents.

1.2.3 Price Proposal

The Price Proposal, consisting of the Contract Documents Part 10 - Pricing Information requested in Appendix B shall be submitted as specified therein.

1.2.4 Inclusion in Contract

Only the Contract Documents Part 10 – Proposal Information, consisting of the documents (information and forms) in Appendix A not specified and identified in Section 1.2.2.2, and the Contract Documents Part 10 - Pricing Information in Appendix B will be included with and bound into the Contract at...
Reference Documents will not form a part of the Contract. The Department 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 therefrom. They are made available to the Contractor for the purpose of providing such information as is in the possession of the Department, where or not such information may be accurate, complete or pertinent, or of any value.

1.2.5 Required Forms

Any failure to provide all the information and all completed forms (see Appendix C) in the format specified in Appendices A and B may result in the Department’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.

1.2.6 Property of the Department

All documents submitted by the Proposer in response to this RFP shall become the property of the Department and will not be returned to the Proposer except for the deniable records. (See Section 2.6). The concepts and ideas in the information contained in the Proposal submitted by the Proposer shall also become the property of the Department.

1.2.7 Errors

If any mistake, error or ambiguity is identified by the Proposer at any time during the Proposal process in any of the documents supplied by the Department, the Proposer shall have a duty to notify the Department of the recommended correction in writing in accordance with Section 2.3.

1.3 DEFINITIONS

The following definitions are applicable to the ITP:

“Communications” means exchanges between the Department and Proposers, after receipt of Proposals, leading to the establishment of the Competitive Range.

“Competitive Range” means list of the most highly rated Proposals based on initial Proposal ratings that have a reasonable chance of being selected. The Competitive Range is based on the rating of each Proposal against all evaluation criteria.

“Deficiency” means a material failure of a Proposal to meet the Department’s requirements or a combination of significant Weaknesses in a Proposal that increases the risk of unsuccessful Contract performance to an unacceptable level.

“Price Realism” means that the costs in a Proposer’s Pricing Information:

A) Are realistic for the Work to be performed;
B) Reflect a clear understanding of the requirements; and
C) Are consistent with the various elements of the Proposer’s Technical Solutions.

“Price Reasonableness” means a price, in its nature and amount, does not exceed that which would be incurred by a prudent person in the conduct of competitive business. What is reasonable depends upon a variety of consideration and circumstances, including:

A) Whether it is the type of cost generally recognized as ordinary and necessary for the conduct of the Proposer’s business or the Contract performance;
B) Generally accepted sound business practices and Federal and State laws and regulations;
C) The Proposer’s responsibilities to the Department, other customers, the owners of the business, employees and the public at large;
D) Any significant deviations from the Proposer’s established practices;
E) Comparisons of price information to the Engineer’s Estimate and to the Department’s historic costs for similar Work; and
F) Comparisons of price information submitted by other Proposers.

“Tradeoff” means an analysis technique used by the Department involving a comparison of price and non-price factors to determine the best value when considering the selection of other than the lowest priced Proposal.

“Weakness” means a flaw in the Proposal that increases the risk of unsuccessful Contract performance. A significant Weakness in the Proposal is a flaw that appreciably increases the risk of unsuccessful Contract performance.

For definition of other initially capitalized terms, see Contract Documents, Part 2, DB Section 101.

1.4 IMPROPER CONDUCT

1.4.1 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 the Department, including agents or anyone representing the Department at any time during this procurement process, the Department shall immediately disqualify the Proposer, the Proposer shall forfeit its Proposal Bond, the Proposer shall not be entitled to any payment and the Department may sue the Proposer for damages.

1.4.2 Non-Collusion Affidavit/Affirmation (Form NC)

The Proposer shall provide as part of the supporting information the Non-Collusion Affidavit/Affirmation (Form NC, Appendix C). See Appendix A.

1.5 LANGUAGE REQUIREMENT

All correspondence regarding the RFP, Proposal and the 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.

1.6 PROPOSAL SCHEDULE

1.6.1 Anticipated Schedule

The following schedule is anticipated. The Department reserves the right to alter these dates.

<table>
<thead>
<tr>
<th>Event</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Final date for submitting Requests for Technical Concept Review</td>
<td></td>
</tr>
<tr>
<td>Final date for responses to Requests for Technical Concept Review</td>
<td></td>
</tr>
<tr>
<td>Final date for receipt of Proposer questions</td>
<td></td>
</tr>
</tbody>
</table>
1.6.2 Proposal Due Date

The completed Proposal shall be delivered to the addressee at the address specified in Section 2.9.1, no later than ___ (Eastern Standard/Daylight Time), on the date specified in Section 1.6.1 (the “Proposal Due Date”).

1.7 INSURANCE

Refer to Contract Documents Part 5, Special Provision 107. Insurance certificates shall be submitted prior to Contract execution.

1.8 CHANGES TO THE PROPOSER’S ORGANIZATION

If the Proposer wishes to change the organization represented in its SOQ by adding, deleting or substituting a Principal Participant, Designer and/or the QC Engineer, it must receive written permission to do so from the Department at least 3 days prior to submitting its Proposal. If a request is made to add to the organization, the Proposer shall submit with its request that information specified for Principal Participant, Designer and/or the QC Engineer in the RFQ, including legal and financial data as well as the information for quality evaluation. If a Principal Participant is being deleted, the Proposer shall submit such information as may be required by the Department to show that the changed team still meets the RFQ criteria (pass/fail and quality). Any request to change its organization must be received by the Department not later than 45 days prior to the Proposal Due Date.

1.9 INELIGIBLE FIRMS

The Proposer is responsible to be aware of the requirements of 23 CFR 636.116 and include a full disclosure of all potential organizational conflicts of interest in their Proposal. In addition, any firm that is tendered ineligible due to any state or federal action is ineligible to participate on any Design-Build team.

1.10 SCOPE OF WORK

Refer to Contract Documents Part 5, Special Provision 104A for the Scope of Work and the Basic Project Configuration.

2.0 PROCUREMENT PROCESS

2.1 METHOD OF PROCUREMENT

The Contract will be procured through a single DB Contract per (Cite reference to NYS Law), using “best value” (price and other factors as identified in this RFP) as a basis of selection. The intent of the Department is to Award the Contract to the qualified Design-Builder who provides the best combination
of price and quality.

The procurement process includes two steps:

A) RFQ (determination of Short-List); and
B) RFP (selection of Design-Builder from Proposers on Short-List who submit Proposals).

The Design-Builder will be selected based on both pass/fail factors and a combined evaluation of quality and price factors. Price will only be submitted in response to this RFP. Pass/fail evaluation factors will be present in both the RFQ and RFP steps.

2.2 RECEIPT OF THE REQUEST FOR PROPOSAL DOCUMENTS AND OTHER INFORMATION

The RFP and other information may be obtained by Proposers who have been notified of their inclusion on the Short-List from the person designated as the Department point of contact in Section 2.2.1. The Department will provide two sets of CD-ROMs, and one hardcopy set of the RFP, except the ________ in the Reference Documents will be hard copy only.

2.2.1 Department Designated Point of Contact

All correspondence with the Department must be in writing, and submitted by registered mail, return receipt requested, in a sealed envelope marked “(Project Title)” and “Procurement Sensitive” and addressed as follows:

New York State Department of Transportation

In general, the Department will not consider any correspondence delivered in any other way except as specified above, except the Department may call informational meetings with Proposers, as it deems necessary. (See Section 4.1.) Advance copies of such correspondence may be delivered to the Department’s point of contact by fax or E-mail, but will not be considered official until delivered as stated above.

2.2.2 Rules of Contact

The following rules of contact shall apply during Contract procurement for the (Project Title):

A) After submittal of SOQs, no Proposer or any of its team members may communicate with another Proposer or its team members with regard to this RFP or either team’s Proposal, except that Subcontractors that are shared between two or more Proposer teams may communicate with their respective team members so long as those Proposers establish a protocol to ensure that the Subcontractor will not act as a conduit of information between the teams (contact among Proposer organizations is allowed during Department sponsored informational meetings);

B) The Proposers shall correspond with the Department regarding this RFP only through the Department’s and Proposer’s designated representatives;

C) The Proposers cannot contact Department employees, including department heads, members of the evaluation committee(s) and any official who will participate in the
decision to Award the Contract, regarding the (Project Title) Project, except through the process identified above;

D) The Proposers shall not contact Stakeholder staff regarding the (Project Title) Project. Stakeholder staff include employees of the entities listed in Contract Documents Part 5, Special Provision 101

E) Any communications determined to be improper, at the sole discretion of the Department, may result in disqualification;

F) Any official information regarding the (Project Title) Project will be disseminated from the Department office on Department letterhead. Any official correspondence will be in writing and signed by the Department designated representative; and

G) The Department will not be responsible for any oral exchange or any other information or exchange that occurs outside the official process specified herein.

2.3 PROPOSER QUESTIONS
The Department will consider questions submitted in writing by Proposers regarding the RFP, including requests for clarification and requests to correct errors. All questions must be received by the Department at the address specified in Section 2.2.1, no later than the date specified in Section 1.6.1, except that questions relating to the last Addendum (if issued later than 21 days prior to Proposal Due Date), may be submitted no later than 7 days after the date of the Addendum. All requests shall be submitted in the format of Form CF (Appendix C) in hardcopy and electronic format using MS Word.

2.4 ADDENDA AND RESPONSES TO QUESTIONS

2.4.1 Addenda
The Department reserves the right to issue Addenda at any time during the period of the procurement. Any such Addenda will be bound into and included as part of the Contract only if expressly stated in the Addenda. The Department is responsible for providing Addenda only to the Short-Listed Firms. Persons or firms that obtain the RFP from sources other than the Department bear the sole responsibility for obtaining any Addenda issued by the Department for the Project.

2.4.2 Correspondence and Information
The Proposer shall note that no correspondence or information from the Department or anyone representing the Department regarding the RFP, or the Proposal process generally shall have any effect unless it is dealt with in accordance with Section 2.2.2.

2.4.3 Responses to Questions
The Department will provide written responses to questions received from Proposers as specified above. Summaries of the questions and responses will be sent to all Proposers without attribution. The responses will not be considered part of the Contract but may be relevant in interpreting the Contract.

2.4.4 Date for Issuance of Final Addendum and Responses to Questions
The Department does not anticipate issuing any Addenda and/or responses to questions later than the date specified in Section 1.6.1.

2.5 COMPLIANT PROPOSAL
The Proposer shall submit a Proposal that provides all the information required by the ITP. If the Proposal does not fully comply with the instructions and rules contained in the ITP, including the appendices, it may be disqualified.
New York State Department of Transportation

Each Proposal must be submitted in the official format which is specified by the Department. The Proposer shall sign each copy of the Proposal submitted to the Department.

Proposals may be considered non-compliant and may be rejected for any of the following reasons:

A) If the Proposal is submitted on a paper form or disk other than that furnished or specified by the Department; if it is not properly signed; if the Form of Proposal (Appendix C) is altered except as contemplated 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 Department 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 (Appendix C) is not provided, and/or requested information deemed material by the Department is not provided; and

E) Any other reason the Department determines the Proposal to be non-compliant.

2.6 NON-PUBLIC PROCESS

The Department 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, the SOQs, Evaluation and Short-List Procedures, the Proposals, Evaluation and Selection Procedures, and any records created during the evaluation and selection process, will remain deniable records until the Contract has been executed by all necessary officials of the Design-Builder and the State.

If the 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 customarily regarded as confidential business information as such 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) Include a statement with its response justifying the Proposer’s determination that certain records are confidential business information for each record so defined; and

C) Defend any action seeking release of the records it believes to be confidential business information and indemnify, defend, and hold harmless the State, its agents, and its employees from any judgments awarded against the State in favor of the party requesting the records, including any and all costs connected with that defense. This indemnification survives the State’s cancellation or termination of this procurement or award and subsequent execution of a Contract. In submitting a Proposal, the Proposer agrees that this indemnification survives as long as the confidential business information is in the possession of the State.

Unless otherwise provided by law, confidential business information provided to the Department is not subject to inspection at any time by third persons under Article Six of the New York State Public Officers
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. Any records marked as confidential business information by a Proposer in its SOQ or Proposal will be returned to the unsuccessful Proposers after execution of the Contract with the Design-Builder. The records marked confidential business information by the successful Proposer in its SOQ and Proposal will remain confidential and will be returned to the Design-Builder upon completion and Final Acceptance of its work under the Contract.

[Include the following section only if the Department receives authorization from the Attorney General’s Office and the Comptroller’s Office.]

2.7 PROPOSAL STIPEND

By submitting a Proposal in response to the RFP, the Proposer acknowledges that the Department reserves the right to use any ideas or information contained in the Proposal in connection with any Contract awarded for the Project, or in connection with a subsequent procurement.

The Department will provide a stipend for Proposers on the Short-List. The stipend amount is $______, and shall be paid to each Proposer not chosen as the successful Proposer and that meets the following terms and conditions:

A) Its Proposal has achieved a rating of Pass on all “Pass/Fail” evaluation factors and an overall qualitative rating of at least “Acceptable-” for all quality evaluation factors;

B) It has submitted a responsive Price Proposal; and

C) Fulfillment of the M/W/DBE requirements.

No Proposer will be required by the Department to accept a stipend. Any Proposer that declines to accept a stipend shall sign a waiver stating that it is waiving it right to a stipend payment.

In the event that the procurement is cancelled prior to the Proposal Due Date, Proposers will be provided the opportunity, at their option, of attending an interview and delivering to the Department the work product of their Proposal preparations to date. There is no specific format required for such work product.

Those Proposers that choose to attend the interview and deliver their work product may be paid a portion of the stipend amount, at the Department’s discretion, for the work product. No portion of the stipend amount will be paid in the event a Proposer chooses not to attend the interview or chooses not to deliver its work product.

2.8 ALTERNATE PROPOSALS

Alternate Proposals will be considered as specifically allowed in Appendices A and/or B, but will not be automatically accepted. Alternate Proposals may or may not change the Basic Project Configuration, however, any material change in the Basic Project Configuration, as defined in Contract Documents Part 2, DB Section 104-4.2, shall be considered to be an Alternate Proposal. The baseline Proposal must meet all the requirements of the RFP. Any Alternate Proposals submitted shall be in addition to the baseline Proposal and shall be keyed to the same format as the baseline Proposal. The Proposer is only required to submit the changed (or alternate) portions in the Alternate Proposal. Unchanged portions of both the baseline Quality Proposal and the baseline Price Proposal should be noted as “No Change from Baseline Proposal”. Alternate Proposals shall include a complete description and rationale behind the proposed changes to the RFP requirements, the benefits of the proposed alternative, the effect on the quality aspects of the Project.
of the Project, a discussion of any changes in the price (included only in the Pricing Information), and any effects that it will have on other aspects of the Project.

2.9 SUBMISSION OF PROPOSALS

2.9.1 Submission of a Proposal

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

A) The Quality Proposal, which includes the Contract Documents Part 10 – Proposal Information and the Supplemental Selection Information, shall be in a sealed container clearly marked as “Quality Proposal – (Project Title)”. (See Appendix A). The Price Proposal shall be sealed within a separate container and clearly marked as “Price Proposal – (Project Title).” The Proposal, consisting of the Quality Proposal and Price Proposal shall be delivered to:

New York State Department of Transportation

B) The Department Project Number, Contract ID, and the fact that this is a Proposal for the (Project Title) 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.

C) When sent by United States Mail or private carrier (i.e. Federal Express, United Postal Service, etc.), the sealed containers shall be sent in accordance with these Instructions to Proposers to the Department at the address of and in care of the official specified in this Section 2.9 in whose office the containers are to be received, and shall be received by such official no later than the time specified in Section 1.6.2. In the alternative, a Proposal may be hand-delivered by the Proposer prior to the specified time on the Proposal Due Date to the official designated by the Department to receive the Proposals.

D) Where certified copies are required, the Proposer shall stamp the document or cover with the words “Certified True Copy” and have the stamp oversigned by the Proposer’s designated point of contact.

2.9.2 Modifications to a Proposal

A Proposer may modify its Proposal in writing prior to the specified time on the Proposal Due Date. The modification shall conform in all respects to the requirements for submission of a Proposal. Modifications shall be clearly delineated as such on the face of the document to prevent confusion with the original Proposal and shall specifically state that the modification supercedes the previous Proposal and all previous modifications, if any. If multiple modifications are submitted, they shall be sequentially numbered so the Department can accurately identify the final Proposal. The modification must contain complete Proposal sections, complete pages or complete forms as described in Appendices A and B. Line item changes will not be accepted. No telegraphic, facsimile, or other electronically transmitted modifications will be permitted.

2.9.3 Withdrawal of a Proposal

A Proposer may withdraw its Proposal only by a written and signed request that is received by the Department 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 designated time on the Proposal Due Date. The Proposer agrees that itsProposal will remain valid for 180 days following the Proposal Due Date (see also Section 3.5.2). In the event a Proposer withdraws all or any part of its Proposal within 180 days after the Proposal Due Date, the Proposer shall return any Proposal materials or equipment in its possession to the Department.

——— Project

PIN ——— ———
days following the Proposal Due Date without written consent of the Department, the Proposer shall forfeit its Proposal Bond.

2.9.4 Public Opening of Proposals

There will be no public opening of Proposals. All Proposals will be opened in the presence of two or more Department designated individuals and reviewed for responsiveness to the requirements of the RFP.

2.9.5 Late Proposals

The Department will not consider any late Proposals. Proposals received after the time for submittal of Proposals will be returned to the Proposer unopened.

2.10 EXAMINATION OF RFP PACKAGE, AND WORK SITE

The Proposer is expected to examine carefully the Site of the proposed Work, including Material pits and haul roads, and the complete Request for Proposals package, including Reference Documents before submitting a Proposal.

[If the Department has information relative to the Project that is not provided in the RFP, but is available for inspection only, detail here.]

The Department-furnished information does not abrogate the Proposer’s responsibility for further verifications and inquiries as are necessary to properly address permanent and temporary Utility appurtenances in the preparation of the Proposal.

The submission of a Proposal shall be considered prima facie evidence that the Proposer has made such examination and is satisfied as to the conditions to be encountered in performing the Work and as to the requirements of the Contract. The Proposer must so certify in the Form of Proposal (Appendix C) in order for the Proposal to be considered valid.

3.0 PROPOSAL REQUIREMENTS

3.1 LEGAL AUTHORITY

[Sections 3.1.1 and 3.1.2 are optional at the Department’s discretion in conjunction with legal advice from the Office of Legal Affairs.]

3.1.1 Opinion of Counsel

The Proposal shall include an opinion of counsel on Form OC (Appendix C), for the purpose of providing assurance to the Department regarding the formation of the Proposer and its joint venture members and partners and its ability to execute and deliver the Contract if Awarded. The opinion may be provided by in-house counsel or by an outside law firm. See Appendix A.

3.1.2 Contract Execution

Concurrently with execution of the Contract, an updated opinion shall be provided on Form OC (Appendix C), stating that the Contract has been validly executed and delivered.

3.1.3 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 required to be provided prior to execution of the Contract by the selected Proposer.
3.1.4 M/W/DBE Requirements
Proposers shall provide information regarding their goal attainment efforts for M/W/DBE goals on Forms AAPHC-89, AAP-10, AAP-11 and AAP-19 (Appendix C).

3.2 CURRENCY
The Pricing Information shall be priced in US$ currency only.

3.3 PROPOSAL BOND

3.3.1 Bonding Requirements
A Proposal Bond (Appendix C) 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 A, Section A3.3.2 and listed as possessing a Certificate of Authority under US Department of the Treasury Circular 570.

3.3.2 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 unsuccessful Proposers after execution of the Contract.

3.3.3 Rights Reserved
Each Proposer understands and agrees, by submitting its Proposal, that the Department reserves the right to reject any and all Proposals, or part of any Proposal, and that the Proposal may not be withdrawn for a period of 180 days subsequent to the Proposal Due Date, without written consent of the Department.

Each Proposer further understands and agrees that if it should withdraw any part or all of its Proposal within 180 days after the Proposal Due Date without the consent of the Department, should refuse or be unable to enter into the Contract, as provided under Section 3.3, 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 (Appendix A), all Pricing Information specified (Appendix B) or BAFO documents (in the event of a BAFO), it shall forfeit its Proposal Bond.

The Proposer understands that any material alteration of documents specified in this Section 3.5 or any of the material contained on the Proposal Bond (Appendix C), other than that requested, will render the Proposal non-responsive and non-compliant.

3.4 ESCROWED PROPOSAL DOCUMENTATION
Requirements regarding the contents of the Escrowed Proposal Documentation are set forth in Contract Documents Part 2, DB Section 110.

Each Proposer shall deliver the Escrowed Proposal Documentation, together with the signed Escrow Instructions, into escrow not later than 72 hours after delivery of the Price Proposal. A copy of the signed
Escrow Instructions (Form EPD, Appendix C) shall be delivered within the same time period to:

New York State Department of Transportation

Attn: _______

3.5 SIGNATURES REQUIRED

The Form of Proposal (Appendix C) and the Pricing Information Cover Sheet (Form PP, Appendix C) shall be signed by all parties making up the Proposer, (i.e., all joint venture members or general partners, 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.

3.6 NUMBERS OF DOCUMENTS

3.6.1 Executive Summary

Eleven copies of the Executive Summary shall be provided.

3.6.2 Proposal Bond

One original of the Proposal Bond (Appendix C) shall be provided, with 3 certified copies.

3.6.3 Quality Proposal

One original and 10 certified copies of the Quality Proposal, including the Contract Documents Part 10 - Proposal Information and the Supplemental Selection Information, (see Appendix A) shall be provided.

3.6.4 Price Proposal

One original and 3 certified copies of the Contract Documents Part 10 - Pricing Information (see Appendix B) shall be provided.

3.6.5 Cost of Preparing Proposal

The cost of preparing the Proposal and any costs incurred at any time before or during the Proposal process, including costs incurred for any interviews, shall be borne by the Proposer, except for any costs paid in accordance with Section 2.7.

3.6.6 Obligation to Award

The Department shall be under no obligation to Award the Contract to the Proposer submitting the lowest priced Proposal or to any Proposer, which has been included on the Short-List, or to award the Contract at all.

3.6.7 Additional Submittals Prior to Contract Execution

In addition to the copies submitted pursuant to Sections 3.6.3 and 3.6.4, the selected Proposer shall submit an original and three certified copies of the Proposal Information (see Appendix A), all Pricing Information (see Appendix B) and all BAFO documents to the Department prior to Execution for inclusion in the Contract.

3.7 RESOURCE AVAILABILITY

The Department is concerned that the resources in terms of people, equipment, Material and supplies planned to be used on the Contract (if Awarded to the Proposer) be available and not also be committed to other projects.
The Proposer shall affirmatively state that, if the Proposer is awarded the Contract, the resources shown or indicated in the Proposal will be available, to the extent within Proposer’s control. The Proposer shall affirmatively commit to 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. Proposer’s statement regarding availability of personnel shall also cover design personnel. See Form CR (Appendix C).

4.0 PRE-PROPOSAL MEETINGS

4.1 INFORMATIONAL MEETINGS

A) The Department may hold joint informational meetings with all Proposers at any time prior to the Proposal Due Date; and

B) The Department 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.

4.2 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 Department, senior representatives of the proposed Designer and proposed QC Engineer.

4.3 QUESTIONS AND RESPONSES

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

5.0 CONTRACT AWARD AND EXECUTION

5.1 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 State of New York as determined by the Commissioner in accordance herewith. (See Section 6.6.)

Within 10 days after the Department notifies the selected Proposer of its selection (Notice of Award), the selected Proposer shall notify the Department in writing of the name and address of its agent for service of legal process in New York. The Proposer shall not change that authorized agent without prior written notice to the Department.

The selected Proposer shall, within 10 days following Notice of Award, provide the Department, in writing, Proposer’s Federal Internal Revenue Service Employer Identification Number, or, if Proposer is an individual with no employer identification number, Proposer’s Social Security Number.

Within 15 days after the Department notifies the selected Proposer that the Department will Award the Contract to the Proposer, the selected Proposer shall deliver to the Department the following:

A) Volumes 1 through 6 of the Proposal Information in format specified in Appendix A, Table A;

B) All Pricing Information (including the Supplemental Price Information, if any) in the
format specified in Appendix B. (See Section 3.6.7);

C) BAFO documents;

D) Required Payment and Performance Bonds - See Part 1 of Appendix to Form of Proposal (Appendix C);

E) Insurance certificates;

F) Full details of who will sign the Contract, if executed, and evidence as to the authority, power and capacity of said individuals to bind the Proposer to a Contract;

G) Updated opinion of counsel on Form OC (with regard to Contract); and

H) Evidence that the Designer is properly licensed, if not previously provided.

Failure to comply with the above may result in cancellation of the Notice of Award and forfeiture of the Proposal Bond.

The Contract with the selected Proposer shall not be effective until both the Design-Builder, the Department, and the Comptroller have signed it.

Refer to Contract Documents Part 1 for a sample of the Agreement that the selected Proposer will be required to sign. The selected Proposer shall not make any additions to, deletions from, or changes in the required Agreement, but shall submit a letter providing the information necessary to complete the appropriate blanks in the form. After receiving the completed Agreement from the Department, the selected Proposer shall sign the form and attach exhibits.

At the time of the return of the executed Contract, the successful Proposer shall furnish a payment bond and a performance bond, each in a sum equal to the amount specified in the Appendix to Form of Proposal (Appendix C). The surety and form of the bonds must be acceptable to the Department.

5.2 EXECUTION OF CONTRACT

The successful Proposer will be required to execute the Contract and to comply in all respects with the statutory provisions relating to the Contract within ten days of the date of the delivery of the Contract Documents by the Commissioner. In case of failure or refusal on the part of the successful Proposer to deliver the duly executed Contract to the Commissioner within the ten day period herein mentioned, the amount of the Proposal Bond may be forfeited and paid to the New York State Department of Transportation.

If the Contract is not executed by the Department within forty-five days following receipt from the successful Proposer of the signed Contract and appropriate and satisfactory payment and performance bonds, the Proposer shall have the right to withdraw the Proposal without penalty.

If the Department and the successful Proposer fail at executing the Contract within the time periods identified above, Award of the Contract may be made to the next apparent best value Proposer, or the Work may be re-advertised and completed under a different contract or otherwise, as the Department may decide.

The Contract will not be effective until it has been fully executed by all of the parties thereto.

6.0 PROPOSAL EVALUATIONS

The Proposals shall be submitted in two separate parts per the ITP, the written Proposal Information
(including the Supplemental Selection Information) and the Pricing Information. The information contained in the Proposal will not be disclosed to the public or any Proposer until after Contract Execution.

The written Proposal Information will be evaluated on the pass/fail and quality factors identified in the ITP. The Selection Committee will determine the pass/fail status and overall quality rating of each Proposal before information contained in the Pricing Information is revealed to the Selection Committee. The Selection Committee will evaluate the quality ratings and Pricing Information and prepare a recommendation to the Selection Official indicating which Proposal represents the “best value” to the Department. The Selection Official will make a Determination as to which Proposer proposed the “best value”.

When determining the “best value”, the Proposal Price shall be [significantly more important than]/[approximately equal to]/[significantly less important than] the combined overall quality ratings for Experience and Qualifications, Management Approach, Technical Solutions and Project Support.

The right is reserved to reject any or all Proposals, to waive technicalities, or to advertise for new Proposals, if in the judgment of the Department the best interests of the public will be promoted thereby.

In putting together their Proposals, Proposers should keep in mind and address the Project goals identified in Section 1.1.

6.1 EVALUATION FACTORS AND CRITERIA
Legal, Financial and “Responsiveness to ITP Requirements” evaluation factors and subfactors will be evaluated on a “Pass/Fail” basis.

Experience and Qualifications, Management Approach, Technical Solutions and Project Support factors, subfactors and elements will be rated on a quality basis.

A Proposal must receive a “Pass” on all “Pass/Fail” factors listed in Section 6.1.1 for the Proposal to be further evaluated and rated based on the quality factors identified in Section 6.1.2.

6.1.1 “Pass/Fail” Factors and Subfactors
Each Proposal must achieve a rating of “Pass” on any “Pass/Fail” factor or subfactor listed in Sections 6.1.1.1 through 6.1.3 to receive further consideration. Failure to achieve a “Pass” rating on any “Pass/Fail” factor or subfactor after any communications (See Section 6.2.4) will result in the Proposal being declared non-responsive and the Proposer being disqualified.

[The information in Sections 6.1.1.1 through 6.1.3 are indicative of potential factors and criteria that may be appropriate for any given project. They should be revised, added to, or deleted based on the circumstances of each project.]

6.1.1.1 Legal
The Legal subfactors are:

A) Legal opinion provided on Form OC (Appendix C);
B) Properly executed Form of Proposal (including Appendix to Form of Proposal, Appendix C);
C) Licensed to carry out engineering, architecture, landscape architecture and surveying within the State of New York or commitment to obtain license prior to Contract
Execution;
D) Completion and submittal of specified forms and documents; and
E) Compliance with ITP legal requirements.

The specific information to be submitted is identified in ITP, Appendix A, Sections A2.0, and A3.0.

6.1.1.2 Financial

Financial evidence must show continued capability to meet the financial responsibilities of the Contract and updated evidence or reaffirmation of the Proposer’s continuing capability to secure performance and payment bonds covering the specific terms of the Design-Build Contract.

6.1.1.3 Responsiveness to ITP Requirements

All forms shown in Appendix C shall be completed and all forms and information specified in Appendices A and B shall be provided in the manner, format and detail specified, without alteration of the forms, for the Proposal to be eligible to receive further consideration. Failure to comply with this requirement may result in the Proposal receiving a “Fail” rating for responsiveness to ITP requirements and may result in the Proposal being declared non-responsive.

6.1.2 Quality Factors and Subfactors

The quality factors are:

A) Experience and Qualifications;
B) Management Approach;
C) Technical Solutions; and
D) Project Support.

Management Approach and Technical Solutions are of equal importance. Experience and Qualifications and Project Support are of equal importance and shall each have one half the importance of either Management Approach or Technical Solutions. [The actual relative weighting of factors may be adjusted to meet specific project needs. The foregoing paragraph is an example.]

Within the above listed factors, the following are the subfactors the Department views as the most important and will receive the greatest consideration during the evaluation process:

The factors listed in this Section 6.1.2 and subfactors listed in Sections 6.1.2.1 through 6.1.2.4 will be evaluated and rated using the rating guidelines specified in Section 6.2 with special attention given to the desired quality expressed in the statement of each factor and/or subfactor.

6.1.2.1 Experience and Qualifications

The Experience and Qualifications quality subfactors are listed in the following categories:

[Modify or replace the following list with those items of most interest to the Department based on the specific project. Also modify the importance accordingly.]

A) Key Personnel; and
B) Resumes.

6.1.2.2 Management Approach

The Management Approach quality subfactors are listed in the following categories:
[Modify or replace the following list with those items of most interest to the Department based on the specific project. Also modify the importance accordingly]

A) MPT Plan;
B) Proposed Baseline Progress Schedule;
C) Proposer’s Price Center Descriptions;
D) Organization and communication structure; and
E) Project Management Plans, including:
   1) Approach to Quality Plan and commitment to quality;
   2) Management philosophy and approach for disputes avoidance and/or resolution; and
   3) Design and construction management.

Subfactors a), b) and c) are of equal important.

Subfactors d) and e) are each half the importance of either a), b) or c).

Specific information to be submitted is identified in Appendix A.

6.1.2.3 Technical Solutions

The Technical Solutions quality subfactors are listed in the following categories:

[Modify or replace the following list with those items of most interest to the Department based on the specific project. Also modify the importance accordingly.]

A) Drainage design and construction approach;
B) Structures design and construction approach; and
C) Roadway design and construction approach.

Subfactors a), b) and c) are of equal importance.

Specific information to be submitted is identified in Appendix A.

6.1.2.4 Project Support

The Project Support quality subfactors are listed in the following categories:

[Modify or replace the following list with those items of most interest to the Department based on the specific project. Also modify the weighting accordingly.]

A) Preliminary Public Interaction Plan; and
B) Aesthetic design and construction approach.

Subfactors a) and b) are of equal importance.

Specific information to be submitted is identified in Appendix A.
6.1.3 Price

The Proposer shall submit its Pricing Information in accordance with Appendix B for the Project identified in Contract Documents Part 5, Special Provision 104A. The total price shown in the Pricing Information for the Project shall be the Contract Price if the Contract is Awarded.

Specific information to be submitted is identified in Appendix B. The following factors will be considered in the price evaluations:

A) Proposal Price;
B) Consistency of the [Proposal Periodic Payment Schedule][time/price curve] with the Proposed Baseline Progress Schedule;
C) Price Realism;
D) Price Reasonableness (Form SP, Appendix C); and
E) Reasonableness of prices shown on the Schedule of Values (Form SOV, Appendix C).

Each Proposal shall specify the sum for which the Work will be performed according to the RFP. The best value shall be determined by the Department, by evaluating both quality factors and price. The Department reserves the right to reject any Proposal in which any of the prices are significantly unbalanced to the potential detriment of the Department.

An unbalanced Proposal is considered to be one containing lump sum or unit price items which 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.

The price shall be indicated in words and figures. In case the amount shown in words and its equivalent in figures do not agree the written words may, in the discretion of the Department, be considered binding.

The Proposer’s attention is directed to the fact that it cannot exceed two decimal positions in the cents column.

Any Proposal shall be deemed nonresponsive which in any manner fails to conform to the conditions of the RFP.

The Department may determine that the Price Proposal is non-responsive if the Department determines, in its sole discretion, that the Price Proposal:

1) Is significantly unbalanced relative to the Scope of Work;
2) Does not provide all information in conformance with the ITP;
3) Contains a [Proposal Periodic Payment Schedule][time/price curve] that is significantly inconsistent with the Proposed Baseline Progress Schedule; and/or
4) Contains unrealistic and/or unreasonable prices on Form SP (Appendix C), and/or the prices shown on the Schedule of Values (Form SOV, Appendix C).
6.2 EVALUATION GUIDELINES

6.2.1 Experience and Qualifications, Management Approach, Technical Solutions and Project Staff

Using the evaluation criteria of Section 6.1, the quality evaluation factors, subfactors and elements (not the “Pass-Fail” factors) will be evaluated in accordance with the guidelines provided in this Section 6.2.1.

The quality evaluation factors and the overall Proposal will be rated by a qualitative/descriptive (adjectival) method. The following qualitative/descriptive ratings shall be used in evaluation of each quality evaluation factor and the quality rating of the overall Proposal:

EXCEPTIONAL ~ The Proposer has demonstrated an approach that is considered to significantly exceed stated criteria in a way that is beneficial to the Department. This rating indicates a consistently outstanding level of quality, with very little or no risk that this Proposer would fail to meet the requirements of the solicitation. There are essentially no Weaknesses.

GOOD ~ The Proposer has demonstrated an approach that is considered to exceed stated criteria. This rating indicates a generally better than acceptable quality, with little risk that this Proposer would fail to meet the requirements of the solicitation. Weaknesses, if any, are very minor.

ACCEPTABLE ~ The Proposer has demonstrated an approach that is considered to meet the stated criteria. This rating indicates an acceptable level of quality. The Proposal demonstrates a reasonable probability of success. Weaknesses are minor and can be readily corrected.

POTENTIAL TO BECOME ACCEPTABLE ~ The Proposer has demonstrated an approach that fails to meet stated criteria as there are Weaknesses and/or Deficiencies, but they are susceptible to correction through Discussions. The response is considered marginal in terms of the basic content and/or amount of information provided for evaluation but overall the Proposer is capable of providing an acceptable or better Proposal.

UNACCEPTABLE ~ The Proposer has demonstrated an approach that indicates significant Weaknesses/Deficiencies and/or unacceptable quality. The Proposal fails to meet the stated criteria and/or lacks essential information and is conflicting and/or unproductive. There is no reasonable likelihood of success; Weaknesses/Deficiencies are so major and/or extensive that a major revision to the Proposal would be necessary.

In assigning ratings the Department may assign “+” or “-” (such as “Exceptional -“, “Good +”, “Acceptable +”) to the ratings to better differentiate within a rating in order to more clearly differentiate between the Proposals.

6.2.2 Project Engineer’s Estimate

The Department has prepared in advance of the Proposal Evaluation, an Engineer’s Estimate for the Project that contains the Department’s cost estimate. This Engineer’s Estimate is confidential and will not be disclosed to or be subject to inspection by members of the public prior to the Award. When all responsive Proposals for the Project have been received and evaluated and a Contract is Executed, the Engineer’s Estimate for the Project will be publicly disclosed.

6.2.3 Communications

Communications may be required as part of the Proposal evaluation and selection process. The purpose of Communications is to address minor or clerical revisions in a Proposal. During the process of
evaluations there may be instances where meaningful evaluation cannot take place or proceed or where an erroneous evaluation might occur without seeking clarification of a quality issue. In such cases, the Department will submit a request for Communications in writing to the Proposer stating 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 Communications are not timely received, the Proposer’s ratings may be adversely affected and/or the Proposal may be declared non-responsive.

6.3 INTERVIEWS/PRESENTATIONS

The Department may meet with and receive presentations and conduct interviews with Proposers prior to determining the Competitive Range.

6.4 COMPETITIVE RANGE

The Department will determine the Competitive Range after a careful analysis of the quality evaluations and the Pricing Information. The Competitive Range will include all Proposers that have a reasonable chance of being selected. Borderline Proposals will not be excluded from further consideration if the Proposers have a reasonable chance of being listed if meaningful Discussions are conducted and appropriate improvement is achieved. Examples of Proposals that would be excluded from further consideration include:

A) A Proposal that, even after requests for Communications or supplemental information, cannot pass the pass/fail factors;

B) A Proposal that, after the initial evaluation, is rated lower than “POTENTIAL TO BECOME ACCEPTABLE -” for any evaluation factor (Section 6.1.2) or subfactor (Sections 6.1.2.1, 6.1.2.2 and 6.1.2.3); and/or

C) A Price Proposal that is considered “non-responsive” or is so high as to be effectively non-competitive, especially when compared to the Proposer’s quality ratings.

6.5 DISCUSSIONS

The Department may, at its sole discretion, conduct written and/or oral Discussions with any of the Proposers regarding the content of the Proposal. These Discussions are conducted during a competitive acquisition, and take place after establishment of the Competitive Range, but prior to the selection of the Design-Builder.

6.5.1 Purpose

If the Department determines that Discussions are required, they will be conducted for the purpose of:

A) Advising the Proposers of Weaknesses, significant Weaknesses and/or Deficiencies in their Proposals (relative to the RFP);

B) Attempting to resolve any uncertainties, obtaining any significant additional understanding concerning the Proposal;

C) Resolving any suspected mistakes by calling them to the attention of the Proposers as specifically as possible without disclosing information concerning other competing Proposals or the evaluation process; and

D) Providing the Proposers a reasonable opportunity to submit any further technical or other supplemental information to their Proposals.

6.5.2 Procedures

The following specific procedures will apply:
A) Discussions will only be conducted with Proposers in the Competitive Range. If Discussions are held, they will be held with all Proposers in the Competitive Range;

B) Information disclosed by Proposers in the Competitive Range during Discussions will not be made public until after Contract Execution;

C) Discussions may be written and/or oral; and

D) No indication will be made to any Proposer of the evaluation status of any other Proposer or Proposal.

During Discussions, Department personnel involved in the acquisition shall not engage in conduct that:

5) Reveals a Proposer’s technical solution, including unique technology, innovative and unique uses of commercial items, or any information that would compromise a Proposer’s intellectual property to another Proposer;

6) Reveals a Proposer’s price without that Proposer’s permission. However, the Department may inform a Proposer that its price is considered by the Department to be too high, or too low, and reveal the results of the analysis supporting that conclusion;

7) Reveals the names of individuals providing reference information about a Proposer’s past performance; or

8) Knowingly furnishes selection information in violation of the Department’s procurement policies and the laws of the State of New York.

6.6 PROPOSAL REVISIONS

Although the Department reserves the right to issue a request for Proposal Revisions (otherwise known as Best and Final Offers or BAFOs), the Department is under no obligation to do so. The Department may make its selection and Award based on the initial Proposals submitted.

If the Department requests BAFOs, Proposers in the Competitive Range may be informed of and requested and/or allowed to revise their Proposals, including correction of any Weaknesses, minor irregularities, errors, and/or Deficiencies identified to the Proposers by the Department following initial evaluation of the Proposals. The request for BAFOs will allow adequate time for the Proposers to revise their Proposals. Upon receipt of the Proposal Revisions, the process of evaluation will be repeated. The process will consider the revised information and re-evaluate and revise ratings as appropriate. Although the ITP allows for BAFOs, all efforts will be made to make a selection based on initial Proposals. If Discussions are held, the Department will attempt to limit the selection process to a single BAFO following Discussions.

6.7 BEST VALUE DETERMINATION

The Department has determined that Award of the (Project Title) based on a best value determination provides the best opportunity to obtain the right Design-Builder to assure a successful Project. The limited 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 Department’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 Department will rate the Proposals for pass/fail and quality, and if Proposal Revisions are requested,
will rate the BAFO Proposals for pass/fail and quality. The Department will perform an integrated assessment including Tradeoffs, of evaluation factors (including subfactors) and price with the overall quality rating and price having the relative importance specified in Section 6.0. Based on the professional judgment of the Selection Official, the Department will select the responsive Proposer providing a fully compliant Proposal that represents the best value to the Department.

In determining the best value, the Department will evaluate the factors and subfactors and assign an overall quality rating for each Proposer using the guidelines in Section 6.2.1. The Department will also determine whether the Price Proposals are responsive.

The Department will not Award the Contract to any Proposer that receives a “fail” rating on any pass/fail factor or subfactor (Section 6.1.1) or receives a quality rating of less than “Acceptable -” for any quality evaluation factor (Section 6.1.2). The Department will not Award the Contract to any Proposer that the Department determines has submitted a non-responsive Price Proposal or who has not complied with DBE requirements (see Section 6.8).

6.8 BUY AMERICA ADJUSTMENT

Form BAC (Appendix C) is the required FHWA certification for “Buy America” requirements. If the Proposer indicates on Form BAC that foreign made steel, iron products, or manufactured products will be used on the Project, the Department will add an amount equal to 25 percent of the total construction costs for evaluation purposes only. If the Department finds that the inclusion of a domestic item or domestic Material will increase the cost of the Contract by more than 25 percent for the total construction costs, and if the amount of the lowest responsive and responsible Price offering the item or Material not produced in the United States multiplied by 1.25 is less than the amount of the lowest responsive and responsible Price offering the item or Material produced in the United States, then the Department may apply for a price differential waiver for these items.

6.9 M/W/DBE REQUIREMENTS

The Department will disqualify a Proposer who has:

A) Failed to comply with the requirements for identification of M/W/DBE firms, provision of evidence of good faith efforts or provision of a M/W/DBE and Subcontracting Plan as required by M/W/DBE Program; or

B) Failed to comply with the Department’s M/W/DBE or EEO programs on a prior contract.

The approved Project M/W/DBE goal is established at ___% for design and ___% for construction.

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

6.10 POST-AWARD MEETINGS

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

7.0 PROTESTS

This Section 7.0 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 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 Department, 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 Proposer actions. The submission of a Proposal shall be deemed the Proposer’s irrevocable and unconditional agreement with such indemnification obligation.

7.1 WRITTEN PROTESTS ONLY

All protests must be in writing, including pre-award, award, and post-award phases of the procurement process. Protests shall be submitted to (Name and address of Protest Official) (Protest Official). 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 Department in an effort to remove the grounds for protest.

The Protest Official may, in its sole discretion, discuss the protest with the protestor. 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 designee, whose decision shall be final and conclusive. The ________ (Protest Official) or designee shall issue a written decision regarding any protest to each Proposer.

7.2 PROTEST CONTENTS

All Protests must include the following:

A) The name and address of the Proposer;
B) The Contract number;
C) A detailed statement of the nature of the protest and the grounds on which the protest is made; and
D) All factual and legal documentation in sufficient detail to establish the merits of the protest. Evidentiary statements must be provided under penalty of perjury.

The protestor must demonstrate or establish a clear violation of a specific law or regulation, e.g., a violation of the prohibition against unduly exclusionary and restrictive specifications, or a violation of the Buy America requirements.

The Protest Official will not be obligated to postpone the Proposal Due Date or Contract Award announcement in order to allow a protestor an opportunity to correct a deficient protest or appeal, unless otherwise required by law or regulation.

If the protest is denied, the Proposer filing the protest shall be liable for the Department’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 Department as a consequence of the protest. If the protest is granted, the Department shall not be liable for payment of the protestor’s costs. All costs of a protest related to quality or testing shall be the responsibility of the protestor and undertaken at the protestor’s expense.

7.3 PROTEST PRIOR TO PROPOSAL DUE DATE

A) Prior to the Proposal Due Date, all protests, including protests based upon alleged restrictive specifications or alleged improprieties in any type of solicitation shall be filed
with the Department, not less than seven (7) calendar days prior to the Proposal Due Date;

B) The Protest Official will promptly make a determination in writing regarding the validity of the protest and whether or not the proposal process should be delayed beyond the scheduled Proposal Due Date;

C) If the Protest Official determines that the scheduled Proposal Due Date should be delayed, all Proposers will be notified by written amendment of the delay and the reason thereof; and

D) If the protest is determined to be valid, the Protest Official will respond in writing to each material issue raised in the protest in a timely manner prior to proceeding further with the RFP.

7.4 PROTEST PRIOR TO AWARD

When a protest or appeal has been timely filed with the Protest Official prior to Award, the Department will not Award the Contract except in the case of emergency, until after the resolution of the protest or appeal.

7.5 PROTEST REGARDING AWARD

A) If the Award is being protested, a protestor shall protest in writing to the Protest Official as soon as practical, but not later than seven (7) calendar days after the Award of the Contract. If the protest has been timely filed, the Protest Official will promptly make a determination in writing regarding the validity of the protest and whether or not the procurement should be delayed, or the Award considered for revision;

B) If the procurement is delayed, all Proposers will be notified of the delay. The Protest Official will respond in writing to each material issue raised in the protest in a timely manner prior to proceeding further with the procurement;

C) The Department will not proceed with the procurement for seven (7) calendar days after the decision is rendered by the Protest Official unless the protestor waives in writing its right to appeal to the Protest Official; and

D) Should a protestor wish to appeal the decision of the Protest Official concerning any Award, a protestor shall follow the procedures as outlined in Section 7.6.

7.6 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 Commissioner or designee within seven (7) calendar days after receipt of the decision of the Protest Official. The Commissioner, or designee, 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 protester in writing in a prompt manner of its decision regarding the protest and the appeal. The Department will not make an Award for seven (7) calendar days after the decision of the Committee, unless the conditions in Section 7.4 are determined to exist; and

C) If the matter is not resolved after the appeal, the protestor may continue the protest only
by appeal to judicial authority.

8.0 THE DEPARTMENT’S RIGHTS AND DISCLAIMERS

8.1 THE DEPARTMENT’S RIGHTS

The Department 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. The Department reserves the right, in its sole and absolute discretion, to:

A) Reject any or all Proposals;
B) Issue a new Request for Proposals;
C) Cancel, modify or withdraw the entire Request for Proposals;
D) Issue addenda, supplements and modifications to this Request for Proposals;
E) Modify the RFP process (with appropriate notice to Proposers);
F) Solicit subsequent Proposal Revisions from the Proposers;
G) Appoint a Selection Committee and evaluation teams to review Proposals, and seek the assistance of outside technical experts in Proposal evaluation;
H) Approve or disapprove the use of particular subcontractors and/or substitutions and/or changes in SOQs;
I) 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. If such revisions or modifications are made, the Department shall circulate an addendum to all Proposers on the Short-List setting forth the changes to the evaluation criteria or methodology. The Department may extend the Proposal Due Date if such changes are deemed by the Department, in its sole discretion, to be material and substantive;
J) Hold meetings and communications with the Proposers responding to this RFP to seek an improved understanding and evaluation of the Proposals. If meetings are held, all Proposers submitting a responsive Proposal shall be afforded an opportunity to participate in a meeting;
K) Seek or obtain data from any source that has the potential to improve the understanding and evaluation of the Proposals;
L) Waive Weaknesses, informalities and minor irregularities in Proposals;
M) Disqualify any Proposer that changes its organization (as represented in its SOQ) without Department written Approval;
N) Hold the Proposals under consideration for a maximum of 180 days after the specified Proposal Due Date until the final Award is made; and/or
O) Refuse to issue an RFP to a prospective Proposer and to 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;
2) Default on the part of a Principal Participant or Designer under previous contracts;

3) Unsatisfactory performance of previous work by the Proposer, a Principal Participant and/or Designer;

4) Issuance of a notice of debarment or suspension under Department or federal regulations to the Proposer, a Principal Participant and/or Designer;

5) Submittal by the Proposer of more than one Proposal for the same Work under the Proposer’s own name or under a different name;

6) Evidence of collusion between a prospective Proposer (or any Principal Participant or Designer) and other Proposer(s) (or Principal Participants or Designer) in the preparation of an SOQ, proposal or bid for any Department construction project; and/or

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 Department might reasonably be expected to hinder or prevent the prompt completion of additional work if awarded.

This RFP does not commit the Department to enter into a Contract, nor does it obligate the Department 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, except for any costs paid in accordance with Section 2.7.

8.2 THE DEPARTMENT DISCLAIMERS

In issuing this RFP and undertaking the procurement process contemplated hereby, the Department specifically disclaims the following:

A) Any liability or commitment to provide sales tax or other revenues to assist in carrying out any and all phases of the Project; and

B) Any obligation to reimburse a Proposer for any costs it incurs under this procurement, except for any costs paid in accordance with Section 2.7.

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

DESIGN-BUILD PROJECT

PIN _____________

INSTRUCTIONS TO PROPOSERS

APPENDIX A

MANAGEMENT AND TECHNICAL PROPOSAL INSTRUCTIONS
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# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>A1.0</td>
<td>GENERAL INSTRUCTIONS</td>
<td>1</td>
</tr>
<tr>
<td>A2.0</td>
<td>EXECUTIVE SUMMARY AND SUMMARY STATEMENT</td>
<td>2</td>
</tr>
<tr>
<td>A2.1</td>
<td>EXECUTIVE SUMMARY</td>
<td>2</td>
</tr>
<tr>
<td>A2.2</td>
<td>SUMMARY STATEMENT</td>
<td>3</td>
</tr>
<tr>
<td>A3.0</td>
<td>LEGAL AND FINANCIAL INFORMATION</td>
<td>3</td>
</tr>
<tr>
<td>A3.1</td>
<td>LEGAL INFORMATION FOR VOLUME 1 OF THE PROPOSAL</td>
<td>3</td>
</tr>
<tr>
<td>A3.2</td>
<td>LEGAL INFORMATION FOR APPENDIX A TO THE PROPOSAL</td>
<td>3</td>
</tr>
<tr>
<td>A3.2.1</td>
<td>Notarized Power(s) of Attorney</td>
<td>3</td>
</tr>
<tr>
<td>A3.2.2</td>
<td>Non-Collusion Affidavit/Affirmation</td>
<td>4</td>
</tr>
<tr>
<td>A3.2.3</td>
<td>Legal Opinion</td>
<td>4</td>
</tr>
<tr>
<td>A3.2.4</td>
<td>Organizational Documents</td>
<td>4</td>
</tr>
<tr>
<td>A3.2.5</td>
<td>Certificate Regarding Ineligible Contractors (Form IC)</td>
<td>4</td>
</tr>
<tr>
<td>A3.3</td>
<td>FINANCIAL INFORMATION FOR APPENDIX A TO THE PROPOSAL</td>
<td>4</td>
</tr>
<tr>
<td>A3.3.1</td>
<td>Letter of Commitment of Surety</td>
<td>4</td>
</tr>
<tr>
<td>A3.3.2</td>
<td>Surety Financial Requirements</td>
<td>4</td>
</tr>
<tr>
<td>A4.0</td>
<td>EXPERIENCE AND QUALIFICATIONS INFORMATION</td>
<td>4</td>
</tr>
<tr>
<td>A4.1</td>
<td>EXPERIENCE AND QUALIFICATIONS INFORMATION FOR VOLUME 2 OF THE PROPOSAL</td>
<td>4</td>
</tr>
<tr>
<td>A4.2</td>
<td>EXPERIENCE AND QUALIFICATIONS INFORMATION FOR APPENDIX A TO THE PROPOSAL</td>
<td>5</td>
</tr>
<tr>
<td>A5.0</td>
<td>MANAGEMENT APPROACH INFORMATION</td>
<td>5</td>
</tr>
<tr>
<td>A5.1</td>
<td>MANAGEMENT APPROACH INFORMATION FOR VOLUME 3 OF THE PROPOSAL</td>
<td>5</td>
</tr>
<tr>
<td>A5.1.1</td>
<td>MPT Plan</td>
<td>5</td>
</tr>
<tr>
<td>A5.1.2</td>
<td>Project Controls</td>
<td>5</td>
</tr>
<tr>
<td>A5.1.3</td>
<td>Organization</td>
<td>6</td>
</tr>
<tr>
<td>A5.1.4</td>
<td>Project Management Plan</td>
<td>7</td>
</tr>
<tr>
<td>A5.2</td>
<td>MANAGEMENT APPROACH INFORMATION FOR APPENDIX A TO THE PROPOSAL</td>
<td>9</td>
</tr>
<tr>
<td>A6.0</td>
<td>TECHNICAL SOLUTIONS INFORMATION</td>
<td>9</td>
</tr>
<tr>
<td>A6.1</td>
<td>TECHNICAL SOLUTIONS INFORMATION FOR VOLUME 4 OF THE PROPOSAL</td>
<td>10</td>
</tr>
<tr>
<td>A6.1.1</td>
<td>Drainage</td>
<td>10</td>
</tr>
<tr>
<td>A6.1.2</td>
<td>Roadway</td>
<td>10</td>
</tr>
<tr>
<td>A6.1.3</td>
<td>Structures</td>
<td>10</td>
</tr>
<tr>
<td>A6.2</td>
<td>TECHNICAL SOLUTIONS INFORMATION FOR APPENDIX A TO THE PROPOSAL</td>
<td>11</td>
</tr>
<tr>
<td>A7.0</td>
<td>PROJECT SUPPORT INFORMATION</td>
<td>11</td>
</tr>
<tr>
<td>A7.1</td>
<td>PROJECT SUPPORT INFORMATION FOR VOLUME 5 OF THE PROPOSAL</td>
<td>11</td>
</tr>
<tr>
<td>A7.1.1</td>
<td>Public Interaction</td>
<td>11</td>
</tr>
<tr>
<td>A7.1.2</td>
<td>Aesthetics</td>
<td>11</td>
</tr>
<tr>
<td>A7.2</td>
<td>PROJECT SUPPORT INFORMATION FOR APPENDIX A TO THE PROPOSAL</td>
<td>11</td>
</tr>
<tr>
<td>A8.0</td>
<td>ALTERNATE PROPOSALS</td>
<td>11</td>
</tr>
<tr>
<td>A8.1</td>
<td>ALTERNATE PROPOSALS INFORMATION FOR VOLUME 6 OF THE PROPOSAL</td>
<td>11</td>
</tr>
<tr>
<td>A8.2</td>
<td>ALTERNATE PROPOSALS INFORMATION FOR APPENDIX A TO THE PROPOSAL</td>
<td>12</td>
</tr>
<tr>
<td>A9.0</td>
<td>FORMAT AND ORGANIZATION OF THE PROPOSAL</td>
<td>12</td>
</tr>
</tbody>
</table>
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A1.0 GENERAL INSTRUCTIONS

This Appendix A describes the specific instructions for preparing Management and Technical Proposals.

Submit the information required by this Appendix A in the organization and format specified herein.

Proposals shall be submitted in separate volumes (See Table A – Outline for Submittal of Proposal), comprising the following information:

A) Executive Summary and Summary Statement;
B) Legal;
C) Experience and Qualifications;
D) Management Approach;
E) Technical Solutions;
F) Project Support;
G) Alternate Proposals; and
H) Appended Information.

All Proposal Information submitted in Volumes 1 through 6 will be used for evaluating the Proposals and determining the successful Proposer and will be incorporated into the Contract as Part 10, Design-Builder’s Proposal. The Supplemental Selection Information (Executive Summary, summary statement and the information in Appendix A to the Proposal) will be used for evaluating the Proposals and determining the successful Proposer but will not be incorporated into the Contract.

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

Text shall be in English in a standard font, a minimum of 10 points in height, single-spaced. Pages shall be 8-½ inch x 11-inch white paper, with simple lettered/numbered dividers for each section/subsection. Single sided pages shall be used except for pre-printed information, such as corporate brochures.

Drawings or sketches shall be submitted on 11-inch x 17-inch and/or 8 ½-inch x 11-inch white paper.

Schedule plots shall be on 24-inch x 36-inch or 22-inch x 34-inch paper, folded and inserted in an envelope or similar holder that is incorporated into the volume.

Number each page in each volume consecutively (i.e., 1-1, 1-2 ---; 2-1, 2-2, etc.). Center page numbers at the bottom of each page.

Proposers should present information clearly and concisely. Documentation that is difficult to read may be rejected and may lead to disqualification.

The information shall be easily reproducible by normal black and white photocopying machines. Color photographs, renderings and brochures shall be adequately bound and suitably protected for handling and circulation during review.

Volumes 2 through 6 are limited to a combined total of _#_ pages, exclusive of tabs, cover letters, calculations, specifications and drawings. The Quality Plan is also excluded from the page count.
A2.0 EXECUTIVE SUMMARY AND SUMMARY STATEMENT

A2.1 EXECUTIVE SUMMARY

Submit an Executive Summary and a summary statement with the Management and Technical Proposal but in a binder or folder separate from the Proposal volumes and appendices. The Executive Summary shall contain sufficient information to familiarize reviewers with the Proposer’s Project approach and its ability to satisfy the legal requirements of the Contract. Limit the Executive Summary to no more than 10 pages inclusive of text, selected photographs and/or sketches. Highlight those items which, in the opinion of the Proposer, represent significant value to the Department and which may distinguish its Proposal from those of others.

At a minimum, the Executive Summary shall include the following:

[Modify or replace the following list with those items of most interest to the Department based on the specific project.]

A) Legal: A summary of the legal structure of the Proposer, agreements among the Proposer team members and the legal commitments to the Department;

B) Financial: Summary of Proposer’s financial strength and structure for undertaking and completing the Work;

C) Experience and Qualifications: Summary of key personnel.

D) Management Approach: Summary of the management approach and concepts to be utilized in connection with the work. Specifically address:
   1) The proposed organizational structure, identifying all Principal Participants and other key firms, describing their roles on the Proposer’s team;
   2) Summary schedule with major milestones and a summary design and construction schedule;
   3) Proposed management systems to ensure successful and satisfactory completion and integration of the design and construction Work; and
   4) Proposer’s commitment to quality;

E) Technical Solutions: Summary of the design concepts and technical challenges to be addressed in connection with the Work. Specifically address:
   1) Drainage design and construction concepts; and
   2) Roadway design and construction concepts;

F) Project Support: Summary of the Project support concepts to be addressed in connection with the Work. Specifically address:
   1) Public Interaction; and
   2) Aesthetics design and construction concepts.

Do not include any information regarding price in the Executive Summary.

The Executive Summary shall be suitable for presentation to, and review by, the Commissioner. It may be released to the media after selection, hence sensitive or confidential information should not be discussed in the Executive Summary.
A2.2 SUMMARY STATEMENT

Prepare a summary statement outlining the specific areas where the Proposer has shown enhanced quality in long-term performance, durability and maintainability through the information submitted with its Proposal. Indicate in its statement the specific section of the Management and Technical Proposal where the information is shown.

Do not include any information regarding price in the summary statement.

A3.0 LEGAL AND FINANCIAL INFORMATION

A3.1 LEGAL INFORMATION FOR VOLUME 1 OF THE PROPOSAL

The Proposer shall submit:

A) Form of Proposal that shall constitute a firm offer to the Department valid for 180 calendar days after the Proposal Due Date. Form of Proposal shall be executed by the Proposer or by its legally authorized representative;

B) Complete Part 2 of the Appendix to Form of Proposal and submit the entire Appendix to Form of Proposal;

C) Form M/W/DBE, Proposer’s Status as a M/W/DBE;

D) Form NS, Named Subcontractors and Suppliers, including the percentage of the Proposal price that represents anticipated Subcontractor and Supplier participation (not specific dollar value of participation). Show all Major Subcontractors (Subcontractors performing 5% or more of the value of the Work), Major Suppliers (Suppliers providing products and Material valued in excess of 5% of the value of the Work), the Designer and known architectural/engineering subconsultants and the QC Engineering firm on Form NS;

E) Submit, on Proposer’s letterhead, in format of Form GF, a written summary of Proposer’s Good Faith Efforts to meet the Project M/W/DBE goals; and a narrative description of steps Proposer has taken or will take to meet the Project goals and/or meet Contract Good Faith Efforts requirements (see Appendix C);

F) Form IS, Certificate Regarding Ineligible Subcontractors, for each Subcontractor listed on Form NS;

G) Buy America Certificate (Form BAC) (FHWA Form 12-73);

H) Lobbying Certificate (Form LC); and

I) Licensing information.

A3.2 LEGAL INFORMATION FOR APPENDIX A TO THE PROPOSAL

A3.2.1 Notarized Power(s) of Attorney

Provide appropriate evidence that the Form of Proposal has been properly executed or that the representative has bound the Proposer, so that there is a valid Proposal that the Department can accept and constitute a binding Contract. Evidence shall include an opinion from an independent law firm and a notarized power of attorney. See also Section A3.2.3.

If the Proposer is a joint venture or partnership, submit:
A) A notarized power 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; and

B) Evidence that each member of the joint venture or partnership 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 Department.

A3.2.2 Non-Collusion Affidavit/Affirmation
Submit Form NC certifying that the Proposal is not the result of, and has not been influenced by collusion.

A3.2.3 Legal Opinion
Include a legal opinion in the format of Form OC by in-house or outside counsel with respect to the Proposer, its joint venture members or general partners.

A3.2.4 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.

A3.2.5 Certificate Regarding Ineligible Contractors (Form IC)
For the Proposer and each Principal Participant, submit Form IC.

A3.3 FINANCIAL INFORMATION FOR APPENDIX A TO THE PROPOSAL
Submit evidence (as described in this Section A3.3) of capability to meet the financial responsibilities of the Contract.

A3.3.1 Letter of Commitment of Surety
Submit letter(s) of commitment from surety(ies) meeting requirements of Section A3.3.2 to provide performance and payment bonds per Contract Documents Part 2, DB Section 103-3.

Do not include any information regarding the actual Proposal Price in the letter.

A3.3.2 Surety Financial Requirements
Any bond provided in accordance with this Section A3.3 shall be issued by a Surety with an AA-/Aa3 rating by two nationally recognized rating agencies or at least an A-VII rating by A.M. Best and Company. The Surety must be listed on Treasury Department Circular 570 and be on the list of companies approved by the State of New York.

A4.0 EXPERIENCE AND QUALIFICATIONS INFORMATION

A4.1 EXPERIENCE AND QUALIFICATIONS INFORMATION FOR VOLUME 2 OF THE PROPOSAL
Submit:

A) Form KP, Key Personnel.
A4.2 EXPERIENCE AND QUALIFICATIONS INFORMATION FOR APPENDIX A TO THE PROPOSAL

Submit:

A) Resumes of Key Personnel.

A5.0 MANAGEMENT APPROACH INFORMATION

A5.1 MANAGEMENT APPROACH INFORMATION FOR VOLUME 3 OF THE PROPOSAL

[Modify or replace the items in Sections A5.1.1 through A5.1.4.4 with those items of most interest to the Department based on the specific project.]

A5.1.1 MPT Plan

Submit a summary of the proposed MPT Plan as specified in Contract Documents Part 4, Performance Specification ____, Maintenance and Protection of Traffic During Construction, organized into the following sections:

A) Section A - Construction Staging Plan;
B) Section B - Traffic Impact Plan;
C) Section C - Traffic Mitigation Plan;
D) Section D - School Zone Safety Plan;
E) Section E - Emergency Vehicle Access and Response Plan; and
F) Section F - Maintenance of Property Access Plan;

A5.1.2 Project Controls

A5.1.2.1 Proposed Baseline Progress Schedule

The term “Proposed Baseline Progress Schedule” as used herein means the time-scaled, critical path network depicting Project Sections, Price Centers and subordinate activities and their respective durations, sequences and inter-relationships that represents the Proposer’s Work plan for designing, constructing and completing the Project.

Do not show or submit any price information with the Proposed Baseline Progress Schedule. Price information shall only be included in the Price Proposal (Appendix B).

Submit:

A) A Proposed Baseline Progress Schedule for the Project meeting the following requirements:

1) The Proposed Baseline Progress Schedule shall be in color hardcopy format and Primavera P3 electronic format on disk. See Contract Documents Part 5, Special Provision 108A, for specific requirements and formats, including coding requirements;
2) The Proposed Baseline Progress Schedule shall be consistent with the Department’s Project Sections and preferred Price Centers listed on Form PCD. Except where a Price Center is shown as a mandatory Price Center, the Proposer may adjust this list to more accurately reflect planned sequences and methods.
however, the level of detail shall be similar to that reflected in the list of preferred Price Centers. Mobilization shall not be shown as a Price Center. Mobilization shall be shown as an activity under Price Center 1;

3) All Price Centers shall be assigned to the Project as described in Contract Documents Part 2, DB Sections [109L-1.1][109S-1.1], Price Centers, and shown on Form PCD; and

4) The Proposed Baseline Progress Schedule shall reflect that Work included in the Proposal Price, but shall not include any price information;

B) A “stand-alone” narrative of sufficient detail to explain the basis of the Proposed Baseline Progress Schedule. Describe activities and how the activities interrelate, how activity durations were determined. Include/discuss as a minimum:

1) Basis for and assumptions used in preparing the Proposed Baseline Progress Schedule;

2) Anticipated production rates;

3) Anticipated order and delivery dates of Material and equipment, especially long-lead items;

4) Restraints, risks, and limitations;

5) Critical Path activities;

6) Holidays and other non-work days;

7) Potential problem areas; and

8) Coordination required;

C) Plan for mobilizing Key Personnel, equipment, Material and supplies. The mobilization plan must be consistent with the Proposed Baseline Progress Schedule;

D) Summary of major risks to the Proposed Baseline Progress Schedule with explanation of planned contingencies and approach to dealing with these risks should they arise;

E) Brief narrative description of the proposed Project Controls approach, including:

1) Description of Proposer’s system for preparing and updating the Baseline Progress Schedule; and

2) Description of the proposed plan to integrate design and subcontract activities into its scheduling and reporting system; and

F) Form 107A, ROW Acquisition Schedule.

A5.1.2.2 Price Center Descriptions

Complete and submit Form PCD describing the Price Centers. Completely describe the physical features and activities included in the Price Center and include all Work included in the Price Center Value of each Price Center as reflected on Form SP.

See Contract Documents Part 2, DB Section [109L-1.1][109S-1.1], regarding instructions for describing Price Centers.

A5.1.3 Organization

Note that some components will be rated on a Pass/Fail basis and will not receive quality ratings.
A5.1.3.1 Single Point of Contact
Designate a single point of contact and provide the information requested on Form C. The single point of contact shall be the Proposer’s nominated Project Manager (see Contract Documents Part 2, DB Section 108-3). (Pass/Fail)

A5.1.3.2 Commitment of Resources
Submit Form CR providing a written commitment, signed by the designated Project Principal, that the resources shown or indicated in the Proposal, including Key Personnel and other staff identified by name, equipment, Material, supplies and facilities, will be available and assigned to the Project if the Proposer is Awarded the Contract, to the extent such assignment remains within the control of the Proposer. (Pass/Fail)

A5.1.3.3 Organization Charts and Staff and Office Locations
Submit:
A) An organization chart showing the Key Personnel (as defined in Contract Documents Part 2, DB Section 104-3) (Pass/Fail);
B) An organization chart reflecting the roles and responsibilities of the Principal Participants and Named Subcontractors (design and construction) (Pass/Fail);
C) Description of those categories of Work which the Proposer anticipates will be performed by the Proposer’s own forces and those categories which will be performed by subcontractors;
D) Form NS, Named Subcontractors, described in Section A3.1(d). Failure to provide the documentation required on Form NS will render a Proposal non-responsive (Pass/Fail);
E) Plans and procedures for management of subcontractors;
F) Organization chart showing proposed design organization indicating responsibilities and organization of the design staff (Pass/Fail);
G) Organization chart(s) showing proposed construction organization indicating responsibilities and organization of the construction staff (Pass/Fail);
H) An organization chart showing the planned QC organizations (design and construction), including names of independent sampling and testing laboratory(ies), and to whom the QC staff report within the Proposer’s (Design-Builder’s) organization (Pass/Fail);
I) An organization chart showing the planned safety organization and its relationship to the Proposer’s organization. Indicate roles and responsibilities of safety staff (Pass/Fail);
J) City and state where assigned staff will be located, particularly the location(s) of design staff; and
K) Address of office(s) where Work will be done in the Project vicinity (Pass/Fail).

A5.1.4 Project Management Plan
Submit the information specified in this Section A5.1.3.

A5.1.4.1 Quality Control Proposal
Submit:
A) Summary of Proposer’s proposed Quality Plan per Contract Documents Part 2, DB Section 113. Provide a Quality Plan that addresses all components described therein and in the order and format specified. Include:
1) Design and Construction QC programs; and
2) How design and construction activities performed by different firms will be coordinated and integrated to ensure consistency of quality;

B) A narrative describing:
   1) The roles, responsibilities and authorities of quality control personnel (design and construction) over design and construction activities to ensure final product quality;
   2) How the independence of QC activities from production staff influence will be assured;
   3) The relationship and relative authority within the Proposer’s (Design-Builder’s) organization of quality control staff and design and construction production staff; and
   4) How QC will be handled for construction subcontractors;

C) Indicate the name(s), location(s) and qualifications of independent testing laboratory(ies) (Pass/Fail); and

D) Describe how design and construction activities performed by different firms will be coordinated to ensure consistency and quality.

**A5.1.4.2 Approach to Disputes Avoidance and Issue Resolution**

Submit:

A) A statement detailing Proposer’s philosophy and approach for disputes avoidance and/or issue resolution;

B) At least three (3) one-page summaries of experience on previous projects comparable to this Project that illustrate how this philosophy and approach was successfully applied to the benefit of the Owner and Proposer. Provide a current name and phone number of an owner/client representative for each of the projects that may be contacted for verification; and

C) A statement signed by the designated representative of each Principal Participant indicating each Principal Participant’s agreement to the philosophy and approach to minimizing disputes and facilitating dispute resolution (Pas/Fail).

**A5.1.4.3 Design Management**

Submit:

A) Form DU showing Proposer’s plan for dividing the Project Sections and/or Project into distinct Design Units (see Contract Documents Part 2, DB Section 111-3);

B) A brief narrative describing the following:
   1) The Proposer’s concept of design management. Indicate total design staffing required;
   2) The plan for addressing constructibility, durability, maintainability, safety, aesthetics and environmental mitigation in the design process;
   3) The plan for integrating and coordinating the design and construction efforts;
   4) A description of how the designs developed by different firms and/or offices will be integrated; and
5) A description of how the design personnel will interface with the construction organization;

   1) Identify design reviews planned for each Design Unit;
   2) Summarize the level of completion anticipated at each design review in terms of components designed (not just % complete); and
   3) Summarize how reviews of Construction Drawings, field design changes and As-Built drawings will be conducted; and

D) Describe how the Designer and the design staff will be involved during construction.

A5.1.4.4 Construction Management

Submit a brief narrative description of Proposer’s proposed construction management plan, including:

A) How Proposer plans to deal with unusual traffic events such as may be caused by accident delays in the vicinity of the Project;

B) Proposed construction staging and phasing plan indicating timing and sequencing of major activities for the Project. Emphasis should be placed on dividing the Project into Work zones such that all Work can be accomplished in a Work zone as expeditiously as possible;

C) Construction start date and time to complete.

A5.2 MANAGEMENT APPROACH INFORMATION FOR APPENDIX A TO THE PROPOSAL

[Include items that may be necessary to evaluate the Proposal but will not be included in the Contract.]

No information required.

A6.0 TECHNICAL SOLUTIONS INFORMATION

A6.1 TECHNICAL SOLUTIONS INFORMATION FOR VOLUME 4 OF THE PROPOSAL

[Modify or replace the items in Sections A6.1.1 through A6.1.3 with those items of most interest to the Department based on the specific project.]

In the Proposal provided in response to each of Sections A6.1.1 through A6.1.3, indicate and describe features of the proposed design, construction methods and/or Material offered by the Proposer that will:

A) Improve the long term performance of Project elements, particularly:
   1) Pavement;
   2) Drainage;
   3) Retaining structures;
   4) Striping/markings; and
   5) Signals;

B) Enhance the maintainability of the Project;
C) Minimize maintenance costs; and
D) Minimize interruptions in service or traffic for maintenance.

A6.1.1 Drainage

Prepare and submit:

A) Description of proposed drainage construction methods and Material types and justify why they were chosen;
B) Description of the computer software and methodology proposed for the drainage analysis and design of storm drains, channels and culverts; and
C) Description of how the design and construction of new facilities will meet the stormwater discharge permit requirements.

A6.1.2 Roadway

Submit the design information specified in Sections A6.1.2.1 through A6.1.2.3.

A6.1.2.1 Pavement Design Concepts

Prepare and submit:

A) Preliminary Pavement Design report as specified in Contract Documents Part 4, Performance Specification ___, Pavement, Section ___;
B) Preliminary design for the 20-year pavement, including cross-section showing proposed pavement design;
C) Concepts for integrating existing pavement structure into the final design of the pavement structure.

A6.1.2.2 Roadway Geometrics

Prepare and submit:

A) Discussion of any proposed non-material Basic Project Configuration Changes, as described in Contract Documents Part 2, DB Section 104-4.2, the Proposer has identified that would result in increased benefits or savings to the public and/or Department, improved maintenance of traffic, and/or expedited construction, without impairing essential functions and characteristics of the Project including but not limited to safety, traffic operations, desired appearance, and maintenance operations.

A6.1.2.3 Permanent Access

Prepare and submit:

A) Summary of Proposer’s plan for providing permanent access for landowners along the corridor; and
B) Demonstration of how the Proposer intends to show compliance with the Department’s Access Management Requirements, both now and in the future.

A6.1.3 Structures

Prepare and submit:
A6.2 TECHNICAL SOLUTIONS INFORMATION FOR APPENDIX A TO THE PROPOSAL

[Include items that may be necessary to evaluate the Proposal but will not be included in the Contract.]

No information required.

A7.0 PROJECT SUPPORT INFORMATION

A7.1 PROJECT SUPPORT INFORMATION FOR VOLUME 5 OF THE PROPOSAL

[Modify or replace the following list with those items of most interest to the Department based on the specific project.]

A7.1.1 Public Interaction

The Proposer shall submit:


A7.1.2 Aesthetics

Prepare and submit:

A) Summary of the Aesthetics Plan as specified in Contract Documents Part 4, Performance Specification___, Aesthetics; and
B) Identification and summarization of the elements of the Proposer’s proposed tree removal and replacement and landscaping plan.

A7.2 PROJECT SUPPORT INFORMATION FOR APPENDIX A TO THE PROPOSAL

[Include items that may be necessary to evaluate the Proposal but will not be included in the Contract.]

No information required.

A8.0 ALTERNATE PROPOSALS

A8.1 ALTERNATE PROPOSALS INFORMATION FOR VOLUME 6 OF THE PROPOSAL

The Proposer may prepare and submit Alternate Proposals for:

A) Any proposed material Basic Project Configuration Changes, as described in Contract Documents Part 2, DB Section 104-4.2, that the Proposer has identified.

B) Project components listed herein:

1) Preliminary design for an alternate pavement design (Option 2), if any, proposed by the Proposer as a “best value” alternative to the 20-year pavement design, including cross-sections and explanation and justification for the alternate design. The presentation of an alternate design is optional and not mandatory. If the Proposer does not wish to propose an alternate pavement design, so state in the Proposal;

2) (List any components for which a similar alternate proposal will be allowed)
If the Proposer includes any Alternate Proposals, the Proposer shall fully describe, illustrate and justify the so that the Department can easily compare the claimed benefits of the Alternate Proposal against the requirements for the Proposal during the evaluation. Any such Alternate Proposal shall be priced in accordance with the instruction in Appendix B.

A8.2 ALTERNATE PROPOSALS INFORMATION FOR APPENDIX A TO THE PROPOSAL

[Include items that may be necessary to evaluate the Proposal but will not be included in the Contract.]

No information required.

A9.0 FORMAT AND ORGANIZATION OF THE PROPOSAL

The Proposal shall be prepared in accordance with Table A, Outline for Submittal of Proposal, with cover of Proposal Documents titled as follows:

Part 10
DESIGN-BUILDER’S PROPOSAL
Volume _____
(Enter title from Table A).
<table>
<thead>
<tr>
<th>Proposal Volume/Section No.</th>
<th>Volume/Section Title &amp; Required Information</th>
<th>Reference</th>
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<tr>
<td></td>
<td>EXECUTIVE SUMMARY AND SUMMARY STATEMENT</td>
<td>A2.1 &amp; A2.2</td>
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<tr>
<td>VOLUME 1</td>
<td>LEGAL INFORMATION</td>
<td>A3.1</td>
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<tr>
<td>Section 1</td>
<td>• Form of Proposal;</td>
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<td>• Appendix to Form of Proposal;</td>
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<td>• Form M/W/DBE, Proposer’s Status as a M/W/DBE;</td>
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<td>VOLUME 2</td>
<td>EXPERIENCE AND QUALIFICATIONS INFORMATION</td>
<td>A4.0</td>
</tr>
<tr>
<td>Section 1</td>
<td>Form KP, Key Personnel</td>
<td>A4.1</td>
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<tr>
<td>VOLUME 3</td>
<td>MANAGEMENT APPROACH INFORMATION</td>
<td>A5.0</td>
</tr>
<tr>
<td>Section 1</td>
<td>• Maintenance and Protection of Traffic Plan; and</td>
<td>A5.1.1</td>
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<td></td>
<td>• Summary of MPT Plan.</td>
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<td>Section 2</td>
<td>PROJECT CONTROLS</td>
<td>A5.1.2</td>
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<td>Section 2.1</td>
<td>• Proposed Baseline Progress Schedule;</td>
<td>A5.1.2.1</td>
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<td>• Proposed Baseline Progress Schedule in hardcopy and electronic format;</td>
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<td>• Specified narrative;</td>
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<td>• Plan for mobilizing Key Personnel, equipment, Material and supplies;</td>
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<td>• Summary of major risks;</td>
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<td>• Project controls approach;</td>
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<td>• Form 107A.</td>
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<td>Section 2.2</td>
<td>• Price Center Descriptions; and</td>
<td>A5.1.2.2</td>
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<td>• Form PCD, Price Center Descriptions.</td>
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<td>Section 3</td>
<td>ORGANIZATION</td>
<td>A5.1.3</td>
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<td>Section 3.1</td>
<td>Form C, Single Point of Contact</td>
<td>A5.1.3.1</td>
</tr>
<tr>
<td>Section 3.2</td>
<td>Form CR, Commitment of Resources</td>
<td>A5.1.3.2</td>
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<td>Section 3.3</td>
<td>• Key Personnel organization chart;</td>
<td>A5.1.3.3</td>
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<td>• An organization chart reflecting the roles and responsibilities of the Principal Participants and Named Subcontractors;</td>
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<td>• Description of self-performed and subcontracted Work;</td>
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<td>• Plans and procedures for managing subcontractors;</td>
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<td>• Organization chart for safety organization with roles and responsibilities;</td>
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<td>• City and state where assigned staff will be located; and</td>
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<td>PROJECT MANAGEMENT PLAN</td>
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<td>• QC Proposal;</td>
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<td>• Summary of Quality Plan;</td>
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<td>• Name, location and qualifications of independent testing lab(s); and</td>
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<td>• Coordination to ensure consistency and quality among firms.</td>
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<td>• Approach to Disputes Avoidance and Resolution;</td>
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<td>• Statement of Proposer’s philosophy and approach to disputes avoidance and resolution;</td>
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<td>• Three (3) experience summaries; and</td>
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<td>• Statement of agreement regarding approach signed by representatives of all Principal Participants.</td>
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<tr>
<td>Section 4.3</td>
<td>• Design Management;</td>
<td>A5.1.4.3</td>
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<td>• Form DU, Design Units;</td>
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<td>• Specified narrative;</td>
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<td>• Summary of Design Review Plan; and</td>
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<td>• Description of Designer involvement during construction.</td>
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<tr>
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<td>• Construction Management;</td>
<td>A5.1.4.4</td>
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<td>• Plan to deal with unusual traffic events;</td>
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**VOLUME 4 TECHNICAL SOLUTIONS INFORMATION**

**Section 1 DRAINAGE**

- Describe drainage construction methods and Material;
- Describe design methodologies; and
- Narrative regarding stormwater discharge.

**Section 2 ROADWAY**

**Section 2.1**

- Pavement Design Concepts;
- Preliminary Pavement Design Report;
- Preliminary design for 20-year pavement, including cross-section; and
- Concepts for integrating existing pavement structure into the final design of the pavement structure.

**Section 2.2**

- Roadway Geometrics; and
- Specified narrative.

**Section 2.3**

- Permanent Access;
- Summary of permanent access plan; and
- Demonstrate compliance with Access Management Requirements.

**Section 3**

- Structures; and
- Specified narrative.
<table>
<thead>
<tr>
<th>VOLUME 5</th>
<th>PROJECT SUPPORT INFORMATION</th>
<th>A7.0</th>
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</thead>
<tbody>
<tr>
<td>Section 1</td>
<td>PUBLIC INTERACTION</td>
<td></td>
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<tr>
<td></td>
<td>Preliminary Public Interaction Program</td>
<td>A7.1.1</td>
</tr>
<tr>
<td>Section 2</td>
<td>AESTHETICS</td>
<td>A7.1.2</td>
</tr>
<tr>
<td></td>
<td>• Summary of the Aesthetics Plan; and</td>
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<tr>
<td></td>
<td>• Summary of the tree removal and replacement and landscaping plan.</td>
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<tr>
<th>VOLUME 6</th>
<th>ALTERNATE PROPOSALS</th>
<th>A8.0</th>
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</thead>
<tbody>
<tr>
<td>Section 1</td>
<td>Material Basic Project Configuration Changes</td>
<td>A8.1</td>
</tr>
<tr>
<td>Section 2</td>
<td>Alternate pavement design, including cross-section; and</td>
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<tr>
<td></td>
<td>Other Alternative Proposals.</td>
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</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>APPENDIX A</th>
<th>LEGAL, FINANCIAL, MANAGEMENT APPROACH, TECHNICAL SOLUTIONS, PROJECT SUPPORT, AND ALTERNATE PROPOSALS INFORMATION FOR APPENDIX A</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 1</td>
<td>LEGAL INFORMATION FOR APPENDIX A</td>
<td>A3.2</td>
</tr>
<tr>
<td></td>
<td>• Notarized Powers of Attorney;</td>
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</tr>
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<td>• If consortium or joint venture, evidence of joint and severable liability;</td>
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<tr>
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<td>• Form NC, Non-Collusion Affidavit;</td>
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<tr>
<td></td>
<td>• Form OC, Legal Opinion;</td>
<td>A3.2.3</td>
</tr>
<tr>
<td></td>
<td>• Organizational documents; and</td>
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</tr>
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<td></td>
<td>• Form IC, Certificate Regarding Ineligible Contractors.</td>
<td>A3.2.6</td>
</tr>
<tr>
<td>Section 2</td>
<td>FINANCIAL INFORMATION FOR APPENDIX A</td>
<td>A3.3</td>
</tr>
<tr>
<td></td>
<td>Letter of Commitment of Surety</td>
<td>A3.3.1</td>
</tr>
<tr>
<td></td>
<td></td>
<td>A3.3.2</td>
</tr>
<tr>
<td>Section 3</td>
<td>EXPERIENCE AND QUALIFICATIONS INFORMATION FOR APPENDIX A</td>
<td>A4.2</td>
</tr>
<tr>
<td></td>
<td>Resumes of Key Personnel</td>
<td>A4.2</td>
</tr>
<tr>
<td>Section 4</td>
<td>MANAGEMENT APPROACH INFORMATION FOR APPENDIX A</td>
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(Project Name)
DESIGN-BUILD PROJECT

PIN ___________

INSTRUCTIONS TO PROPOSERS

APPENDIX B

PRICE PROPOSAL INSTRUCTIONS (S)
(Smaller, Less Complex Projects)
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# Table of Contents

B1.0 INTRODUCTION ........................................................................................................................... 1  
B2.0 PRICE PROPOSAL ...................................................................................................................... 1  
B2.1 PROPOSAL PRICE SUBMITTAL ............................................................................................. 1  
B2.2 SCHEDULE OF PRICES (FORM SP(S)) ................................................................................ 2  
  B2.2.1 Preliminaries and General Requirements (Form PC1(S)) .............................................. 2  
  B2.2.2 Project-Wide Engineering and Design Activities (Form PC2(S)) ............................... 2  
  B2.2.3 Project-Wide Maintenance and Protection of Traffic (MPT) (Form PC3(S)) .......... 2  
  B2.2.4 Project-Wide Hazardous and Contaminated Substances Remediation Activities (Form  
      PC6(S)) ............................................................................................................................ 3  
  B2.2.5 Form SOV (Option 1) ................................................................................................. 3  
  B2.2.6 Time/Price Curve ........................................................................................................ 3  
B2.3 PROPOSAL BOND ................................................................................................................. 3  
B3.0 ESCROWED PROPOSAL DOCUMENTS ................................................................. 3  
B4.0 FORMAT FOR SUBMITTAL OF PRICING INFORMATION .............................................. 3
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**B1.0 INTRODUCTION**

This Appendix B specifies the Pricing Information to be submitted by all Proposers.

All forms named herein are found in Appendix C 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.

**B2.0 PRICE PROPOSAL**

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

Upon Award, the Price Proposal of the selected Proposer will be incorporated into the Contract at Part 10.

Submit the Price Proposal under separate cover, clearly marked by the Proposal Due Date to the addressee and address specified in ITP, Section 2.2.1.

The Price Proposal shall consist of:

A) Proposal Bond;
B) Form PP; Price Proposal cover sheet;
C) Form SP(S); Schedule of Prices;
D) Form PC1(S); Preliminaries and General Requirements;
E) Form PC2(S); Engineering and Design Activities;
F) Form PC3(S); Project-Wide Maintenance and Protection of Traffic;
G) Form PC6(S); Project-Wide hazardous and Contaminated Substances Remediation;
H) Form SOV; Schedule of Values;
I) Time/price curve;
J) List of Proposed M/W/DBE’s;
K) Form LSI; Letter of Subcontract Intent;
L) Copy of Proposed Baseline Schedule (see ITP, Appendix A, Section A4.1.2.1);
and
M) Copy of Form PCD (See ITP, Appendix A, Section A4.1.2.2).

**B2.1 PROPOSAL PRICE SUBMITTAL**

Submit Form SP(S), Forms PC1 through PC3, Form PC6(S), Form SOV, time/price curve, List of Proposed M/W/DBE’s, Form LSI, the copies of the Proposed Baseline Schedule, and Form PCD in a separate, sealed envelope.

Securely attach Form PP to the outside of the envelope containing the forms listed in the preceding
paragraph of this Section B2.1. Have all persons signing the Proposal Form sign Form PP.

B2.2 SCHEDULE OF PRICES (FORM SP(S))

Complete and submit Form SP(S) in compliance with the following instructions:

A) Price in year ____ dollars, escalated to the mid-point of construction;

B) Provide a lump sum price [the Price Center Value (PCV)] for each Price Center on Form SP(S). If the Proposer shows any components for a Price Center, such as Material, show a lump sum price for such components on Form SP(S);

C) If the Proposer plans to request payment for any Material upon delivery to the Site, identify the specific type of Material and the price assigned to the Material on Form SP(S) as a component of the appropriate Price Center;

D) The Price Center Value shall be the total price to complete all Work in that Price Center, including such planning, management, overhead, use of tools and equipment and other Work as required to complete such Work and such costs necessary to integrate the Work with the Work in other Price Centers, except those costs included in other Price Centers;

E) The PCV for PC1 shall be between 10% and 20% of the base Proposal Price. The price of the mobilization activity within Price Center 1 shall not exceed 4 percent of the Base Proposal Price;

F) For Price Center 2, provide a lump sum price for each of the components listed on Form PC2;

G) The Price Center titles, contents and limits on Form SP(S) shall match those shown on Form PCD; and

H) The sum of the Price Center Values shall be the Proposal Price. The Proposal Price will become the Contract Price upon Award of the Contract.

B2.2.1 Preliminaries and General Requirements (Form PC1(S))

The contents of Price Center 1, Preliminaries and General Requirements are shown on Form PC1(S). The Proposer may add (but not delete) activities to Form PC1(S) as appropriate to reflect its plan to carry out the Work. Provide a price for each activity on Form PC1(S).

The Price Center Value of Price Center 1 (which includes the price for mobilization) shall not be less than (10) percent nor more than (20) percent of the Contract Price.

B2.2.2 Project-Wide Engineering and Design Activities (Form PC2(S))

Show design activities and components on Form PC2(S).

The components of Price Center 2 are shown on Form PC2(S). The Proposer may add and/or revise engineering and/or design activities to describe the components of Price Center 2. Ensure Form PC2(S) is consistent with the major Design Units designated on Form DU. Provide a lump sum price for each activity shown on Form PC2(S). The sum of the lump sum prices of the activities shall be the Price Center Value for Price Center 2.

B2.2.3 Project-Wide Maintenance and Protection of Traffic (MPT) (Form PC3(S))

For Price Center 3, provide lump sum prices for the activities shown on Form PC3(S). The Proposer may add activities as appropriate to reflect its plan to carry out the Work. The sum of the lump sum prices of the activities shall be the Price Center Value for Price Center 3.
B2.2.4 Project-Wide Hazardous and Contaminated Substances Remediation Activities (Form PC6(S))

For Price Center 6, provide lump sum and unit prices and extended amounts for unit priced items for the activities shown on Form PC6(S). The sum of the prices of the activities shall be the Price Center Value for Price Center 6.

B2.2.5 Form SOV (Option 1)

Provide prices for the items or components listed on Form SOV (Option 1). If the Department exercises Option 1 pursuant to Contract Documents Part 2, DB Section 109S-1.2.1, the prices will be incorporated into Contract Documents Part 10, and will be used as a basis of determining increases and/or decreases in Contract Price pursuant to Contract Documents Part 2, DB Section 109S-1.2.1.

Price Form SOV in year ___ dollars, escalated or adjusted to the mid-point of construction.

B2.2.6 Time/Price Curve

Submit a time/price curve for the Project.

Develop and include a time/price curve from the scheduling software used to provide the Baseline Progress Schedule.

The time/price curve shall cover the entire period of the Contract specified in monthly increments through Final Acceptance.

The cumulative payment percentages shown on the time/price curve shall be reasonably compatible with the progress of Work indicated in the Proposed Baseline Progress Schedule. “Reasonably compatible” shall mean that the cumulative percentage shown at the quarter points (25%-50%-75%) on the time/price curve shall be within 10 percent of the cumulative percentages shown on the Proposed Baseline Progress Schedule for each Price Center.

B2.3 PROPOSAL BOND

Submit a Proposal Bond in the sum indicated in the Appendix to Form of Proposal.

Submit the Proposal Bond concurrently with the Price Proposal in a separate, sealed envelope that is clearly marked as “Proposal Bond” with the Project name and Contract number and the Proposer’s name.

See also ITP, Section 3.5.

B3.0 ESCROWED PROPOSAL DOCUMENTS

Submit Form EPD to the addressee and address specified in ITP, Section 3.6, by the time specified in ITP, Section 3.6 in accordance with Contract Documents Part 2, DB Section 110.

Within 72 hours of the Proposal Due Date, submit two (2) signed originals of the Escrow Instructions on Form EPD. Deliver the EPD and only one (1) signed original of the Escrow Instructions into escrow with an Escrow Agent of the Proposer’s choosing within 72 hours of when the Proposals are due.

B4.0 FORMAT FOR SUBMITTAL OF PRICING INFORMATION

Organize and submit the Price Proposal in the format shown in Table B-1 by the Proposal Due Date,
except submit Form EPD per ITP, Section 3.6.

### Table B-1
Price Proposal

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<th>Section</th>
<th>Description</th>
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</thead>
<tbody>
<tr>
<td>Section 1</td>
<td>Form PP Price Proposal Cover Sheet</td>
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</tr>
<tr>
<td>Section 2</td>
<td>• Form SP(S) Schedule of Prices;</td>
<td>B2.2</td>
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<tr>
<td></td>
<td>• Form PC1(S) Preliminary and General Requirements;</td>
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</tr>
<tr>
<td></td>
<td>• Form PC2(S) Project-Wide Engineering and Design Activities;</td>
<td>B2.2.2</td>
</tr>
<tr>
<td></td>
<td>• Form PC3(S) Project-Wide Maintenance and Protection of Traffic;</td>
<td>B2.2.3</td>
</tr>
<tr>
<td></td>
<td>• Form PC6(S) Project-Wide Hazardous and Contaminated Substances Remediation;</td>
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<td>• Form SOV Schedule of Values;</td>
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<td></td>
<td>• Time/price curve;</td>
<td>B2.2.6</td>
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<tr>
<td></td>
<td>• List of Proposed M/W/DBE’s;</td>
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</tr>
<tr>
<td></td>
<td>• Form LSI Letter of Subcontract Intent;</td>
<td>B2.0</td>
</tr>
<tr>
<td></td>
<td>• Copy of Proposed Baseline Progress Schedule; and</td>
<td>B2.0</td>
</tr>
<tr>
<td></td>
<td>• Copy of Form PCD.</td>
<td></td>
</tr>
<tr>
<td>Section 3</td>
<td>Other Proposal Documents</td>
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<td></td>
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<td></td>
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(Project Name)
DESIGN-BUILD PROJECT
PIN ____________

INSTRUCTION TO PROPOSERS

APPENDIX B

PRICE PROPOSAL INSTRUCTIONS (L)
(Larger, More Complex Projects)
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### TABLE OF CONTENTS

B1.0 INTRODUCTION ........................................................................................................................... 1

B2.0 PRICE PROPOSAL......................................................................................................................... 1
  B2.1 PROPOSAL PRICE SUBMITTAL .................................................................................................. 1
  B2.2 SCHEDULE OF PRICES (FORM SP(L)) ................................................................................ 1
    B2.2.1 Preliminaries and General Requirements (Form PC1(L)) .................................................. 2
    B2.2.2 Project-Wide Engineering and Design Activities (Form PC2(L)) .................................... 2
    B2.2.3 Project-Wide Maintenance and Protection of Traffic (MPT) (Form PC3(L)) ..................... 2
    B2.2.4 Project-Wide Environmental Mitigation and Monitoring (Form PC4(L)) ......................... 3
    B2.2.5 Project-Wide Public Interaction Activities (Form PC5(L)) ............................................... 3
    B2.2.6 Project-Wide Hazardous and Contaminated Substances Remediation Activities (Form PC6(L)) ............................................................ 3
    B2.2.7 Form SOV (Option 1) ........................................................................................................ 3
    B2.2.8 Form PPS-P ....................................................................................................................... 3
      B2.2.8.1 General Requirements .................................................................................................. 3
      B2.2.8.2 Developing the PPS-P .................................................................................................. 3
  B2.3 PROPOSAL BOND ..................................................................................................................... 4

B3.0 ESCROWED PROPOSAL DOCUMENTS ................................................................................... 4

B4.0 SUPPLEMENTAL PRICING INFORMATION .......................................................................... 4

B5.0 FORMAT FOR SUBMITTAL OF PRICING DOCUMENTS .................................................... 4
  B5.1 PRICE PROPOSAL .................................................................................................................... 4
  B5.2 SUPPLEMENTAL PRICING INFORMATION ......................................................................... 5
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B1.0  INTRODUCTION

This Appendix B specifies the Pricing Information and Supplemental Pricing Information to be submitted by all Proposers and resubmitted by the selected Proposer prior to Contract Execution.

All forms named herein are found in Appendix C 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.

B2.0  PRICE PROPOSAL

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

Upon Award, the Price Proposal of the selected Proposer will be incorporated into the Contract at Part 10.

Submit the Price Proposal under separate cover, clearly marked by the Proposal Due Date to the addressee and address specified in ITP, Section 2.2.1.

The Price Proposal shall consist of:

A) Proposal Bond;
B) Form PP(L); Price Proposal cover sheet;
C) Form SP(L); Schedule of Prices;
D) Form PC1(L); Preliminaries and General Requirements;
E) Form PC2(L); Engineering and Design Activities;
F) Form PC3(L); Project-Wide Maintenance and Protection of Traffic ;
G) Form PC4(L); Project-Wide Environmental Monitoring and Mitigation;
H) Form PC5(L); Project-Wide Public Interaction;
I) Form PC6(L); Project-Wide Hazardous and Contaminated Substances Remediation Activities;
J) Form SOV; Schedule of Values;
K) Form PPS-P; Proposal Periodic Payment Schedule;
L) List of Proposed M/W/DBE’s;
M) Form LSI; Letter of Subcontract Intent;
N) Copy of Proposed Baseline Progress Schedule (see ITP, Appendix A, Section A4.1.2.1); and
O) Copy of Form PCD(L) (See ITP, Appendix A, Section A4.1.2.2).

B2.1  PROPOSAL PRICE SUBMITTAL

Submit Form SP(L), Forms PC1(L) through PC6(L), Form SOV, Form PPS-P, List of Proposed
M/W/DBE’s, Form LSI, the copies of the Proposed Baseline Schedule, and Form PCD(L) in a separate, sealed envelope.

Securely attach Form PP to the outside of the envelope containing the forms listed in the preceding paragraph of this Section B2.1. Have all persons signing the Proposal Form sign Form PP.

**B2.2 SCHEDULE OF PRICES (FORM SP(L))**

Complete and submit Form SP(L) in compliance with the following instructions:

A) Price in year ____ dollars, escalated to the mid-point of construction;

B) Provide a lump sum price [the Price Center Value (PCV)] for each Price Center on Form SP(L). If the Proposer shows any components for a Price Center, such as Material, show a lump sum price for such components on Form SP(L);

C) If the Proposer plans to request payment for any Material upon delivery to the Site, identify the specific type of Material and the price assigned to the Material on Form SP(L) as a component of the appropriate Price Center;

D) The Price Center Value shall be the total price to complete all Work in that Price Center, including such planning, management, overhead, use of tools and equipment and other Work as required to complete such Work and such costs necessary to integrate the Work with the Work in other Price Centers, except those costs included in other Price Centers;

E) The PCV for PC1 shall be between 10% and 20% of the base Proposal Price. The price of the mobilization activity within Price Center 1 shall not exceed 4 percent of the Base Proposal Price;

F) For Price Center 2, provide a lump sum price for each of the components listed on Form PC2;

G) The Price Center titles, contents and limits on Form SP(L) shall match those shown on Form PCD;

H) The sum of the Price Center Values shall be the Proposal Price. The Proposal Price will become the Contract Price upon Execution of the Contract.

**B2.2.1 Preliminaries and General Requirements (Form PC1(L))**

The contents of Price Center 1, Preliminaries and General Requirements are shown on Form PC1(L). The Proposer may add (but not delete) activities to Form PC1 as appropriate to reflect its plan to carry out the Work. Provide a price for each activity on Form PC1(L).

The Price Center Value of Price Center 1 (which includes the price for mobilization) shall not be less than (10) percent nor more than (20) percent of the Contract Price.

**B2.2.2 Project-Wide Engineering and Design Activities (Form PC2(L))**

Show design activities and components on Form PC2(L).

The components of Price Center 2 are shown on Form PC2(L). The Proposer may add and/or revise engineering and/or design activities to describe the components of Price Center 2. Ensure Form PC2(L) is consistent with the major Design Units designated on Form DU. Provide a lump sum price for each activity shown on Form PC2(L). The sum of the lump sum prices of the activities shall be the Price Center Value for Price Center 2.

**B2.2.3 Project-Wide Maintenance and Protection of Traffic (MPT) (Form PC3(L))**
For Price Center 3, provide lump sum prices for the activities shown on Form PC3(L). The Proposer may add activities as appropriate to reflect its plan to carry out the Work. The sum of the lump sum prices of the activities shall be the Price Center Value for Price Center 3.

**B2.2.4 Project-Wide Environmental Mitigation and Monitoring (Form PC4(L))**

For Price Center 4, provide lump sum prices for the activities shown on Form PC4(L). The Proposer may add activities as appropriate to reflect its plan to carry out the Work. The sum of the prices of the activities shall be the Price Center Value for Price Center 4.

**B2.2.5 Project-Wide Public Interaction Activities (Form PC5(L))**

For Price Center 5, provide lump sum and unit prices and extended amounts for unit priced items for the activities shown on Form PC5(L). The sum of the prices of the activities shall be the Price Center Value for Price Center 5.

**B2.2.6 Project-Wide Hazardous and Contaminated Substances Remediation Activities (Form PC6(L))**

For Price Center 6, provide lump sum and unit prices and extended amounts for unit priced items for the activities shown on Form PC6(L). The sum of the prices of the activities shall be the Price Center Value for Price Center 6.

**B2.2.7 Form SOV (Option 1)**

Provide prices for the items or components listed on Form SOV (Option 1). If the Department exercises Option 1 pursuant to Contract Documents Part 2, DB Section 109L-1.2.1, the prices will be incorporated into Contract Documents Part 10, and will be used as a basis of determining increases and/or decreases in Contract Price pursuant to Contract Documents Part 2, DB Section 109L-1.2.1.

Price Form SOV in year ___ dollars, escalated or adjusted to the mid-point of construction.

**B2.2.8 Form PPS-P**

Submit a Proposal Periodic Payment Schedule on Form PPS-P.

**B2.2.8.1 General Requirements**

Develop and include a PPS-P on Form PPS-P.

The PPS-P shall cover the entire period of the Contract specified in monthly increments through Final Acceptance.

The cumulative periodic payment percentages shown on the PPS-P shall be reasonably compatible with the progress of Work indicated in the Proposed Baseline Progress Schedule. “Reasonably compatible” shall mean that the cumulative percentage shown at the quarter points (25%-50%-75%) on the PPS-P shall be within 10 percent of the cumulative percentages shown on the Proposed Baseline Progress Schedule for each Price Center.

**B2.2.8.2 Developing the PPS-P**

A) Distribute the Proposal Price over the period of the Contract within the limitations described in this section to indicate the Proposer’s desired payment schedule. The resulting curve shall be the PPS-P; and

B) In developing the PPS-P, note the requirements for the Contract Periodic Payment Schedule (Form PPS-C) in Contract Documents Part 2, DB Section 109L-1.3.
B2.3 PROPOSAL BOND
Submit a Proposal Bond in the sum indicated in the Appendix to Form of Proposal.

Submit the Proposal Bond concurrently with the Price Proposal in a separate, sealed envelope that is clearly marked as “Proposal Bond” with the Project name and Contract number and the Proposer’s name.

See also ITP, Section 3.5.

B3.0 ESCROWED PROPOSAL DOCUMENTS
Submit Form EPD to the addressee and address specified in ITP, Section 3.6, by the time specified in ITP, Section 3.6 in accordance with Contract Documents Part 2, DB Section 110.

Submit two (2) signed originals of the Escrow Instructions on Form EPD. Deliver the EPD and only one (1) signed original of the Escrow Instructions into escrow with an Escrow Agent of the Proposer’s choosing.

B4.0 SUPPLEMENTAL PRICING INFORMATION
The selected Proposer shall submit the Supplemental Pricing Information specified in this Section B4.0 prior to Contract Execution. The information submitted will be incorporated in the Contract at Part 10.

If the information herein specified is not submitted prior to the date of Contract Execution, the Department may take action as specified in ITP, Section 5.0.

Provide Supplemental Pricing Information, using the forms listed herein and provided in Appendix C.

Submit Form PCP: Schedule of Progress Checkpoints (see Contract Documents Part 2, DB Section 109L-1.4).

B5.0 FORMAT FOR SUBMITTAL OF PRICING DOCUMENTS

B5.1 PRICE PROPOSAL
Organize and submit the Price Proposal in the format shown in Table B-1 by the Proposal Due Date, except submit Form EPD per ITP, Section 3.4.

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<tr>
<td>Section 1</td>
<td>Form PP (L) Price Proposal Cover Sheet</td>
</tr>
<tr>
<td>Section 2</td>
<td>• Form SP(L) Schedule of Prices;</td>
</tr>
<tr>
<td></td>
<td>• Form PC1(L) Preliminary and General Requirements;</td>
</tr>
<tr>
<td></td>
<td>• Form PC2(L) Project-Wide Engineering and Design Activities;</td>
</tr>
<tr>
<td></td>
<td>• Form PC3(L) Project-Wide Maintenance and Protection of Traffic;</td>
</tr>
</tbody>
</table>

New York State Department of Transportation

B2.3 PROPOSAL BOND
Submit a Proposal Bond in the sum indicated in the Appendix to Form of Proposal.

Submit the Proposal Bond concurrently with the Price Proposal in a separate, sealed envelope that is clearly marked as “Proposal Bond” with the Project name and Contract number and the Proposer’s name.

See also ITP, Section 3.5.

B3.0 ESCROWED PROPOSAL DOCUMENTS
Submit Form EPD to the addressee and address specified in ITP, Section 3.6, by the time specified in ITP, Section 3.6 in accordance with Contract Documents Part 2, DB Section 110.

Submit two (2) signed originals of the Escrow Instructions on Form EPD. Deliver the EPD and only one (1) signed original of the Escrow Instructions into escrow with an Escrow Agent of the Proposer’s choosing.

B4.0 SUPPLEMENTAL PRICING INFORMATION
The selected Proposer shall submit the Supplemental Pricing Information specified in this Section B4.0 prior to Contract Execution. The information submitted will be incorporated in the Contract at Part 10.

If the information herein specified is not submitted prior to the date of Contract Execution, the Department may take action as specified in ITP, Section 5.0.

Provide Supplemental Pricing Information, using the forms listed herein and provided in Appendix C.

Submit Form PCP: Schedule of Progress Checkpoints (see Contract Documents Part 2, DB Section 109L-1.4).

B5.0 FORMAT FOR SUBMITTAL OF PRICING DOCUMENTS

B5.1 PRICE PROPOSAL
Organize and submit the Price Proposal in the format shown in Table B-1 by the Proposal Due Date, except submit Form EPD per ITP, Section 3.4.

<table>
<thead>
<tr>
<th>Table B-1</th>
<th>Price Proposal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section</td>
<td>Description</td>
</tr>
<tr>
<td>Section 1</td>
<td>Form PP (L) Price Proposal Cover Sheet</td>
</tr>
<tr>
<td>Section 2</td>
<td>• Form SP(L) Schedule of Prices;</td>
</tr>
<tr>
<td></td>
<td>• Form PC1(L) Preliminary and General Requirements;</td>
</tr>
<tr>
<td></td>
<td>• Form PC2(L) Project-Wide Engineering and Design Activities;</td>
</tr>
<tr>
<td></td>
<td>• Form PC3(L) Project-Wide Maintenance and Protection of Traffic;</td>
</tr>
</tbody>
</table>

New York State Department of Transportation

B2.3 PROPOSAL BOND
Submit a Proposal Bond in the sum indicated in the Appendix to Form of Proposal.

Submit the Proposal Bond concurrently with the Price Proposal in a separate, sealed envelope that is clearly marked as “Proposal Bond” with the Project name and Contract number and the Proposer’s name.

See also ITP, Section 3.5.

B3.0 ESCROWED PROPOSAL DOCUMENTS
Submit Form EPD to the addressee and address specified in ITP, Section 3.6, by the time specified in ITP, Section 3.6 in accordance with Contract Documents Part 2, DB Section 110.

Submit two (2) signed originals of the Escrow Instructions on Form EPD. Deliver the EPD and only one (1) signed original of the Escrow Instructions into escrow with an Escrow Agent of the Proposer’s choosing.

B4.0 SUPPLEMENTAL PRICING INFORMATION
The selected Proposer shall submit the Supplemental Pricing Information specified in this Section B4.0 prior to Contract Execution. The information submitted will be incorporated in the Contract at Part 10.

If the information herein specified is not submitted prior to the date of Contract Execution, the Department may take action as specified in ITP, Section 5.0.

Provide Supplemental Pricing Information, using the forms listed herein and provided in Appendix C.

Submit Form PCP: Schedule of Progress Checkpoints (see Contract Documents Part 2, DB Section 109L-1.4).

B5.0 FORMAT FOR SUBMITTAL OF PRICING DOCUMENTS

B5.1 PRICE PROPOSAL
Organize and submit the Price Proposal in the format shown in Table B-1 by the Proposal Due Date, except submit Form EPD per ITP, Section 3.4.

<table>
<thead>
<tr>
<th>Table B-1</th>
<th>Price Proposal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section</td>
<td>Description</td>
</tr>
<tr>
<td>Section 1</td>
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</tr>
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<td></td>
<td>• Form PC1(L) Preliminary and General Requirements;</td>
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<tr>
<td></td>
<td>• Form PC2(L) Project-Wide Engineering and Design Activities;</td>
</tr>
<tr>
<td></td>
<td>• Form PC3(L) Project-Wide Maintenance and Protection of Traffic;</td>
</tr>
</tbody>
</table>
B5.2 SUPPLEMENTAL PRICING INFORMATION
The selected Proposer only shall organize and submit the Supplemental Pricing Information in the format shown in Table B-2 prior to Award.

Table B-2
Supplemental Pricing Information

<table>
<thead>
<tr>
<th>Description</th>
<th>Appendix Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Form PCP Schedule of Progress Checkpoints</td>
<td>B4.0</td>
</tr>
</tbody>
</table>

Supplemental Pricing Information

New York State Department of Transportation
This page is intentionally left blank.
(Project Name)
DESIGN-BUILD PROJECT

PIN ____________

INSTRUCTIONS TO PROPOSERS

APPENDIX C

FORMS
(Smaller Less Complex Projects)
## INDEX OF FORMS

<table>
<thead>
<tr>
<th>Form Designator</th>
<th>Form Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposal Form</td>
<td>Proposal Form</td>
</tr>
<tr>
<td>Appendix to Proposal Form</td>
<td>Appendix to Proposal Form</td>
</tr>
<tr>
<td>Proposal Bond</td>
<td>Proposal Bond</td>
</tr>
<tr>
<td>Performance Bond Form</td>
<td>Performance Bond Form</td>
</tr>
<tr>
<td>Payment Bond Form</td>
<td>Payment Bond Form</td>
</tr>
<tr>
<td>List of Proposed M/W/DBE’s</td>
<td>List of Proposed M/W/DBE’s</td>
</tr>
<tr>
<td>107A</td>
<td>ROW Acquisition Schedule</td>
</tr>
<tr>
<td>BAC</td>
<td>Buy America Certificate</td>
</tr>
<tr>
<td>C</td>
<td>Single Point of Contact</td>
</tr>
<tr>
<td>C218m</td>
<td>Certificate of Insurance</td>
</tr>
<tr>
<td>CF</td>
<td>RFP Comment Form</td>
</tr>
<tr>
<td>CR</td>
<td>Commitment to Assign Identified Resources to Project</td>
</tr>
<tr>
<td>M/W/DBE</td>
<td>Proposer’s Status as a M/W/DBE</td>
</tr>
<tr>
<td>DU</td>
<td>Design Unit Descriptions</td>
</tr>
<tr>
<td>EPD</td>
<td>Escrow Agreement</td>
</tr>
<tr>
<td>GF</td>
<td>Proposer’s M/W/DBE Good Faith Efforts</td>
</tr>
<tr>
<td>IC</td>
<td>Certificate Regarding Ineligible Contractors</td>
</tr>
<tr>
<td>IS</td>
<td>Certificate Regarding Ineligible Subcontractors</td>
</tr>
<tr>
<td>KP</td>
<td>Key Personnel Information</td>
</tr>
<tr>
<td>LC</td>
<td>Lobbying Certificate</td>
</tr>
<tr>
<td>LSI</td>
<td>Letter of Subcontract Intent</td>
</tr>
<tr>
<td>NC</td>
<td>Non-Collusion Affidavit</td>
</tr>
<tr>
<td>NS</td>
<td>Named Subcontractors</td>
</tr>
<tr>
<td>OC</td>
<td>Opinion of Counsel</td>
</tr>
<tr>
<td>PC1(S)</td>
<td>Price Center 1, Preliminaries and General Requirements</td>
</tr>
<tr>
<td>PC2(S)</td>
<td>Price Center 2, Design Activities</td>
</tr>
<tr>
<td>PC3(S)</td>
<td>Price Center 3, Project-Wide Maintenance and Protection of Traffic</td>
</tr>
<tr>
<td>PC6(S)</td>
<td>Price Center 6, Hazardous and Contaminated Substances Remediation</td>
</tr>
<tr>
<td>PCD(S)</td>
<td>Price Center Descriptions</td>
</tr>
<tr>
<td>PP(S)</td>
<td>Price Proposal Cover Sheet</td>
</tr>
<tr>
<td>SOV</td>
<td>Schedule of Values</td>
</tr>
<tr>
<td>SP(S)</td>
<td>Schedule of Prices Format</td>
</tr>
</tbody>
</table>
FORM OF PROPOSAL

NAME ___________________________________ TELEPHONE No. ( ) ________________________
ADDRESS ____________________________________________________________________________

*CONTRACTOR'S LICENSE No. ______________ * LICENSE CLASSIFICATION_____________

* Not Required for Proposing on Federal-Aid Projects

TO THE NEW YORK STATE DEPARTMENT OF TRANSPORTATION:
The undersigned proposes to design and construct this Project in accordance with the New York State Department of Transportation's current Standard Specifications for Road and Bridge Construction, the Selected DBE Program Provisions, the Design Criteria, the Performance Specifications 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 of New York Project No. ________ in ________ County(ies), New York on ________ between ________ being about ________ in length, at the prices stated in the Schedule of Prices (Form SP). The undersigned also certifies that he has examined the site of the proposed Work, the RFP, the preliminary plans, the Performance Specifications, the Special Provisions and all other 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:

1. To execute the standard form contract and to furnish Contract Bonds in the amount specified in Contract Documents Part 2, Section 103., within fifteen (15) days after receiving notification of the acceptance of this Proposal, and failing to do so, to forfeit the accompanying check or proposal bond to the State as liquidated damages, and the Commissioner of Transportation may proceed to award the Contract to others.

2. To commence Work within 30 days, or such additional time as may be allowed in writing by the Commissioner of Transportation, after notification of Award of Contract, and to complete the Contract as awarded by the Final Completion date specified in Section ___.

3. To furnish a performance and a payment bond in the penalty of full amount of Contract as surety conditioned for the full, complete and faithful performance of this Contract.

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 below):

☐ 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 contract during the five-year period immediately preceding this Bid 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.

5. In accordance with the Contract to repair, maintain and guarantee all work performed thereunder until accepted by the Commissioner of Transportation.

6. In the event a race conscious measures program goal is placed on this Project, the established DBE goal for this Project is ______________ %. In accordance with 49 CFR Part 23 (amended) and 49 CFR Part 26, the Department's Disadvantaged Business Enterprise Program, the Selected DBE Program Provisions and modifications to the Provisions, the undersigned (Check appropriate box below):

☐ Assures to meet or exceed the established DBE goal.
2. Cannot meet the established DBE goal and assures to meet or exceed a DBE goal of ________%. All documentation indicating the good faith efforts to meet the established DBE goal shall be submitted at the Proposal Due Date.

7. In the event a race conscious measure program goal is placed on this Project, the undersigned, as the apparent best value Proposer further assures that it will submit Form A-585, DBE-1 (for federally funded projects) at the Proposal Due Date. Failure to submit this form within the specified time shall render the Proposal non-responsive.

8. The Proposer, hereby certifies that it has ( ) has not ( ), participated in a previous contract or subcontract subject to the equal opportunity clause, as required by Executive Orders 11246, 10925 and 11114 as amended, and that it has ( ), has not ( ), filed with the Office of Federal Contract Compliance Program all reports due under the applicable filing requirements.

9. We acknowledge receipt of the following Amendments:

<table>
<thead>
<tr>
<th>NUMBER</th>
<th>DATE</th>
<th>NUMBER</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

10. 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 State of New York, but only to the extent that such overcharges are passed on to the State. The undersigned further agrees to require its Subcontractors to assign any and all such claims for overcharges to the State, but only to the extent such overcharges are passed on to the State, by executing an assignment on a form obtainable from the Engineer 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 State.

11. The undersigned tenders herewith, as a Proposal guarantee for which receipt has been given, a certified check, bid bond, cashier's check, postal money order or bank money order in the amount of at least 5% of the amount proposed drawn to the order of the New York State Department of Transportation.

Organization: _______________________________________________________
By: _______________________________________________________________
Title: ______________________________________________________________

STATE OF _________________________) ss
COUNTY OF _________________________) ss

SUBSCRIBED AND SWORN TO ME ON THIS:

_______ DAY OF ____________________, 20____

____________________________________________
NOTARY PUBLIC
My Commission Expires: _______________________________
Appendix to Form of Proposal

Appendix – Part 1

1. Proposal Validity Period 180 days from Proposal Date

2. Warranty Period: Per Special Provision 104

3. Proposal Bond 5% of the Proposal Price

4. Performance Bond 100% of Contract Price

5. Payment Bond 100% of Contract Price


7. Liquidated Damages for:

   Failure to achieve Substantial Completion by date specified in Contract Documents Part 1, Article 2.2 and/or failure to meet Final Acceptance by the date specified in Contract Documents Part 1, Article 2.3: Per Special Provision 108C

8. Rate of retention: Per Part 2, DB Section 109L-8

9. Limit of retention: Per Part 2, DB Section 109L-8

10. The Department’s address:

    New York State Department of Transportation

    ________

11. Deadline for the Department’s Exercising Option 1 = 30 days after Award

14. Deadline for the Department’s Exercising Option __ = ___ days after Award

15. Contract Time ___ Calendar Days
Appendix – Part 2
(To be completed by the Proposer as part of the Proposal Documents)

1. Design-Builder’s proposed insurance policy coverage;
2. Design-Builder’s proposed Designer;
3. Design-Builder’s Proposed Named Subcontractors;
4. Parts of the Project proposed to be subcontracted other than to Named Subcontractors;
5. Design-Builder’s local address within ________ area; and
6. RFP Addenda issued by the Department and received by the Proposer:

Addendum No.: Date:
PROPOSAL BOND

KNOW ALL BY THESE PRESENTS, that __________________________,

(Name of Firm)

______________________________

(Address)

(hereinafter called the "Design-Builder") and the ________________________________ a corporation created and existing under the laws of the State of __________________________,

having its principal office in the City of ________________________________ (hereinafter called the "Surety"), are held and firmly bound unto the people of the State of New York (hereinafter called the "State"), in the full just sum of __________________________, 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 Design-Builder 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:

Signed, sealed, and dated this ________________________________ 200__ A.D.

WHEREAS, the said Design-Builder has submitted to the Commissioner of Transportation of the State of New York, a Proposal for ________________________________

(Description of Project)

AND

WHEREAS, under the terms of the laws of the State of New York, the said Design-Builder has filed or intends to file this bond to guarantee that the Design-Builder will execute all required Contract Documents and furnish such faithful performance and payment bonds as may be required by law in accordance with the terms of the Design-Builder's said Proposal.

NOW, THEREFORE, the condition of the foregoing obligation is such, that if the said Design-Builder shall promptly execute and submit, and the Commissioner of Transportation shall accept, all required Contract Documents including such faithful performance and payment bonds as may be required in accordance with the terms of the Design-Builder's said Proposal, then this obligation shall be null and void, otherwise to remain in full force and virtue.

IN TESTIMONY WHEREOF, the said Design-Builder has hereunto set its hand and seal and the said

Surety has caused this instrument to be signed by its ________________________________ and its ________________________________, and its corporate seal to be hereunto affixed, the day and year first above written.
Signed, sealed and delivered in the presence of:

Design-Builder

______________________________

______________________________

______________________________

Surety

______________________________

______________________________

______________________________

(Acknowledgment by Design-Builder, unless it be a corporation)

STATE OF NEW YORK

COUNTY OF ______________________

On this ______________________day of ________________________200__,

before me personally came ________________________, to me

known and known to me to be the person described in and who executed the foregoing

instrument, and acknowledged that he/she executed the same.

______________________________

Notary Public County
(Acknowledgment by Design-Builder, if a corporation)

STATE OF NEW YORK

COUNTY OF _________________

On this _________________________ day of _________________________ 200__,

before me personally came _____________________________, to me known who being by me duly sworn, did depose and say that he/she resides in

______________________________ ; that he/she is the _________________ of the ______________________________, the corporation described in and which executed the foregoing instrument; that he/she knew the seal of said corporation; that the seal affixed to said instrument was such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he/she signed his/her name thereto by like order.

________________________________
Notary Public County

(Acknowledgment by Surety)

STATE OF NEW YORK

COUNTY OF _________________

On this _________________________ day of _________________________ 200__,

before me personally came _____________________________, to me known, who being by me duly sworn, did depose and say that he/she resides in

______________________________ , that he/she is the _________________ of the _________________, the corporation described in and which executed the within instrument, that he/she knows the seal of said corporation, that the seal affixed to said instrument is such corporate seal, that it was so affixed by the order of the board of directors of said corporation, and that he/she signed his/her name thereto by like order.

________________________________
Notary Public County
PERFORMANCE BOND FORM

KNOW ALL BY THESE PRESENT, that ___________________________

(Name)
of ____________________________, ____________________________, of

(Firm)        (Name)

_________________________, and ____________________________, of

(Firm)        (Name)

_________________________, (hereinafter called the “Design-Builder”) and

(Firm)

_________________________, of ____________________________.

(Name)        (Firm)

(hereinafter called the “Surety”) are held and firmly bound unto the people of the State of New

York in the full and just sum of ____________________________ Dollars ($_________) 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 Design-Builder binds itself, its heirs, executors,

administrators, or assigns and the said Surety binds itself, its successors, or assigns, jointly and

severally, firmly by these presents.

Signed and dated this __________________ day of ____________________________, 200___.

WHEREAS, said Design-Builder has entered into a certain written contract dated this

____________ day of ________________, 200___, with the People of the State of New York

for the construction, improvement, maintenance, or repair of a Public Highway.

In the event of a failure of performance of the Contract by the Design-Builder, which shall

include, but not be limited to, any breach or default of the Contract by the Design-Builder, or in

case said Contract is forfeited by the Design-Builder 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

State, has the option to either remedy the default, breach, or forfeiture of the Design-Builder or

take charge and fully perform and complete the Work mentioned and described in said Contract

and Specifications, 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 this performance bond shall be subject to the advance written approval of the

Department. If the Surety completes the Contract, it shall be paid for the actual items of Work

performed in accordance with the Design-Builder's Contract terms and prices. In this event the

Surety assumes the rights and obligations of the Design-Builder.
It shall be the duty of the Surety to give unequivocal notice in writing to the Department, within forty-five days after receipt of written notice from the Department to the Surety, of the Surety's election to remedy default(s), 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 performance 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 Department'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 Department to maintain the Project Site in a safe and convenient manner for the public. It shall also be the duty of the Surety to give prompt notice in writing to the New York State Department of Transportation 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 the Design-Builder or the Design-Builder'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 New York State Department of Transportation shall give ten days notice of such failure, both to the Design-Builder and Surety, and after the expiration of the ten days the Department may cause the Work to be completed pursuant to Section 40 of the New York State Highway Law, and the Surety and the Design-Builder 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 the excess Work is estimated, the Design-Builder and Surety shall pay, free from all liens and encumbrances, the State determined estimated completion costs above the funds remaining for this Contract, to the New York State Department of Transportation within 30 days of receipt of the estimate. Adjustment of the Department's estimated completion cost will be made upon the Department'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 New York State Department of Transportation promptly on demand. Additionally, Design-Builder and Surety shall be liable for any applicable liquidated damages and/or engineering costs.

In addition, the said Design-Builder 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 Department.

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 or Specifications shall in any way affect the obligations of said Surety of its bond.
Signed, sealed and delivered in the presence of:

Design-Builder

______________________________

______________________________

______________________________

Surety

______________________________

______________________________

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

By:

STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

Dated: ____________________________

(Acknowledgment by Design-Builder, unless it be a corporation)

STATE OF NEW YORK

COUNTY OF ________________________

On this ___________________________ day of ___________________________ 200__,

before me personally came __________________________, to me known and known to me to be the person described in and who executed the foregoing instrument, and he/she acknowledged that he/she executed the same.

______________________________
Notary Public County
(Acknowledgment by Design-Builder, if a corporation)
STATE OF NEW YORK

COUNTY OF ______________________

On this ______________________ day of ______________________ 200____,

before me personally came ______________________, to me known who being by me duly sworn, did depose and say that he/she resides in ______________________;

that he/she is the ______________________ of the ______________________, the corporation described in and which executed the foregoing instrument; and that he/she signed his/her name thereto by order of the Board of Directors of said corporation.

_____________________________
Notary Public County

(Acknowledgment by Surety)

STATE OF NEW YORK

COUNTY OF ______________________

On this ______________________ day of ______________________ 200____,

before me personally came ______________________, to me known, who being by me duly sworn, did depose and say that he/she resides in ______________________,

that he/she is the ______________________ of the ______________________, the corporation described in and which executed the foregoing instrument; and that he/she signed his/her name thereto by order of the Board of Directors of said corporation.

_____________________________
Notary Public County
PAYMENT BOND FORM

KNOW ALL BY THESE PRESENT, that ____________________________ of __________________

(hereinafter called the “Design-Builder”) and the ____________________________ a

corporation created and existing under the laws of the State of ____________________________

having its principal office in the City of ____________________________ (hereinafter called the “Surety”), are held and firmly bound unto the people of the State of New York (hereinafter called the “State”), in the full and just sum of 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 Design-Builder 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:

Signed and dated this ____________________________ 200__ A.D.

WHEREAS, said Design-Builder has entered into a certain written Contract, bearing date with the New York State Department of Transportation.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH that if the said Design-Builder shall promptly pay all moneys due to all persons furnishing labor or Material 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 Design-Builder to furnish this bond in order to comply with the provisions of 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.

IN TESTIMONY WHEREOF, the said Design-Builder has hereunto set its hand and the said Surety has caused this instrument to be signed by its ____________________________

President and its ____________________________, the day and year first above written.
Signed, sealed and delivered in the presence of:

Design-Builder


Surety


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

By:

STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

Dated: ______________________________

I hereby approve the foregoing contract and bond.

By:

STATE OF NEW YORK
OFFICE OF THE COMPTROLLER

Dated: ______________________________
(Acknowledgment by Design-Builder, unless it be a corporation)

STATE OF NEW YORK

COUNTY OF _______________________

On this ________________________ day of ________________________, 200__,

before me personally came ________________________, to me known and known to me to be the person described in and who executed the foregoing instrument, and acknowledged that he/she executed the same.

______________________________
Notary Public County

(Acknowledgment by Design-Builder, if a corporation)

STATE OF NEW YORK

COUNTY OF _______________________

On this ________________________ day of ________________________, 200__,

before me personally came ________________________, to me known who being by me duly sworn, did depose and say that he/she resides in ________________________; that he/she is the ________________________ of the ________________________, the corporation described in and which executed the foregoing instrument; and that he/she signed his/her name thereto by order of the board of directors of said corporation.

______________________________
Notary Public County
(Acknowledgment by Surety)

STATE OF NEW YORK

COUNTY OF ______________________

On this ______________________ day of ______________________ 200__,

before me personally came ______________________, to me known, who being by me duly sworn, did depose and say that he/she resides in ______________________, that he/she is the ______________________ of the ______________________, the corporation described in the foregoing instrument; and that he/she signed his/her name thereto by order of the board of directors of said corporation.

____________________________________
Notary Public County
<table>
<thead>
<tr>
<th>Firm Name (Legal business name used for M/W/DBE certification)</th>
<th>Address</th>
<th>How will firm participate? (Prime, Joint Venture, Partner, Subcontractor, Consultant, Trucker or Supplier)</th>
<th>State(s) in which currently certified</th>
<th>Description of Work</th>
<th>Minimum dollar value of proposed participation</th>
<th>Estimated Percentage of Total Proposal Price</th>
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</tbody>
</table>

Use additional sheets as necessary.
### Form 107A
ROW Acquisition Schedule

<table>
<thead>
<tr>
<th>Status Legend</th>
<th>Acquired</th>
<th>All impacts identified</th>
<th>A</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Not yet acquired</td>
<td>All impacts identified</td>
<td>B</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Not all impacts identified</td>
<td>C</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Probable need for condemnation</td>
<td>D</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Parcel</th>
<th>Type</th>
<th>Location</th>
<th>Owner</th>
<th>Status</th>
<th>Contractor's Priority No.</th>
<th>Date Desired by Design-Builder *</th>
<th>Date Available</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>FEE</td>
<td></td>
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<td>2</td>
<td>FEE</td>
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<td>FEE</td>
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<td>FEE</td>
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<td>FEE</td>
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<td>6</td>
<td>FEE</td>
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</tbody>
</table>

*Individual parcels will be identified in these areas. Design-Builder is to provide priority and dates required for ROW in these areas based on alignment shift.
FORM BAC
Buy America Certificate

BUY AMERICA PROVISION

This procurement is subject to the Federal Highway Administration (FHWA) Buy America Requirement in 23 CFR 635.410.

A Buy America Certificate, in format below, must be completed and submitted with the Proposal. After the Proposal Due Date, each Proposer is bound by its original certification. However, in accordance with 49 USC 5323(j)(7), a Proposer may have the opportunity to correct an inadvertent error in its certification. A Proposer may correct any certification of noncompliance or failure to properly complete this certification if the Proposer attests under penalty of perjury that it submitted an incorrect certification as a result of an inadvertent or clerical error. The burden of establishing such inadvertent or clerical error is on the Proposer. The Proposer’s failure to sign the certification is not considered an inadvertent or clerical error. A Proposal which does not include the certificate will be considered non-responsive.

A false certification is a criminal act in violation of 18 U.S.C. 1001. Should this procurement be investigated, the successful Proposer has the burden of proof to establish that it is in compliance.

A waiver of Buy America requirements may be sought by the Department if grounds for the waiver exist, however, the Proposer certifies that it will comply with the applicable Buy America requirements if a waiver of those requirements is not available.

Section 165(a) of the Surface Transportation Assistance Act of 1982 permits FHWA participation on this Contract only if iron, steel and manufactured products used in the Contract are produced in the United States.
BUY AMERICA CERTIFICATE

Certificate of Compliance

The Proposer hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(2), and the applicable regulations in 23 CFR 635.410.

Date: _________________________________________
Signature:_______________________________________
Proposer’s Name: _______________________________
Title: _________________________________________

Or

Certificate for Non-Compliance

The Proposer hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j)(2), but may qualify for a waiver to the requirement to 49 U.S.C. 5323(j)(2)(B) or (j)(2)(D) and regulations in 23 CFR 635.410.

Date: _________________________________________
Signature:_______________________________________
Proposer’s Name: _______________________________
Title: _________________________________________

NOTE: Failure to complete, sign and submit this certificate may result in rejection of the entire Proposal.
FORM C
SINGLE POINT OF CONTACT

Proposer’s Name: ________________________________

Name of Point of Contact: ____________________________

Company Affiliation: ________________________________

Address: _______________________________________

_________________________________________________

Office Phone: ____________________________

Fax: ____________________________

Cell Phone or Pager No. ____________________________
New York State Department of Transportation

**CERTIFICATE OF INSURANCE**

<table>
<thead>
<tr>
<th>Name and Address of Insured Design-Builder:</th>
<th>Additional Insured:</th>
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</table>

<table>
<thead>
<tr>
<th>Location and Description of Work:</th>
<th>Contract #.</th>
</tr>
</thead>
</table>

The subscribing insurance company, authorized to do business in the State of New York, certifies that insurance of the kinds and types and for limits of liability herein stated, covering the work herein designated, has been procured by and furnished on the behalf of the insured Design-Builder and is in full force and effect for the period listed below.

<table>
<thead>
<tr>
<th>KIND OF INSURANCE</th>
<th>POLICY NUMBER</th>
<th>EFFECTIVE DATE</th>
<th>EXPIRATION DATE</th>
<th>LIMITS OF LIABILITY (In thousands)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Design-Builder's Liability</td>
<td></td>
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<td></td>
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<tr>
<td>(b) Design-builder's Protective Liability</td>
<td></td>
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<tr>
<td>(c) Completed Operations Liability</td>
<td></td>
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<tr>
<td>(d) Protective liability furnished by Design-Builder in the name of the People and the State of New York, Commissioner of Transportation and their employees, and any Construction Compliance Engineer or Construction Compliance Monitors and such others as specified in Contract Documents Part 5, Special Provision 107</td>
<td></td>
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<tr>
<td>(e) Commercial general liability (Premises, Existence, Hazard) in the name of the People and the State of New York, Commissioner of Transportation and their employees, and any Construction Compliance Engineer or Construction Compliance Monitors and such others as specified in Contract Documents Part 5, Special Provision 107</td>
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<td>(f) Railroad Protective Liability</td>
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<tr>
<td>(g) Professional Liability</td>
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<tr>
<td>(h) Worker's Compensation</td>
<td>Limits as required by law</td>
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<td>(i) Disability Benefits</td>
<td>Limits as required by law</td>
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<td>(j) Excess Umbrella</td>
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<td>(k) Automobile Liability</td>
<td>Limits as required by law</td>
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<td>(l) Other</td>
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This is to certify that _________________________________________ (hereinafter called Company) of 
_______________________________________, has issued to ________________________________ 
_________________________________________________ a policy or policies of insurance effective from the dates 
listed on the front of this certificate at 12:01 standard time at the address of the insured stated in said 
policy or policies and continuing until canceled as provided herein to provide liability insurance covering 
the obligations imposed upon such Design-Builder by the provisions of the laws of the State of New York, 
regulations promulgated therewith and the terms and provisions of Contract ______________________.

Such insurance as herein certified (1) applies to all operations of said insured in connection with the Work 
required by the provisions of the documents forming the Contract, (2) also applies on the effective date 
stated above, whether or not the Contract Documents between the insured Design-Builder and the New 
York State Department of Transportation have been executed, and (3) is written in accordance with the 
company’s regular policies and endorsements, subject to the company’s applicable manuals or rules and 
rates in effect, as modified and amended by this Certificate and 

RUBBER STAMP NOT ACCEPTABLE

Dated: _____________________________________
FORM CF
RFP COMMENT FORM

Comment Sheet No. ______ of ________ Sheets

<table>
<thead>
<tr>
<th>Part No.</th>
<th>Section No.</th>
<th>Comment(s)</th>
<th>Reserved for Response</th>
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FORM CR
COMMITMENT TO ASSIGN IDENTIFIED RESOURCES TO PROJECT

Proposer’s Name: ________________________________

Understanding the Department’s concern that the personnel resources 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, ________________________________ (Name of Proposer) commits that the personnel resources shown in the Proposal, including identified design staff, 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”).

Signed: ________________________________
Printed Name: ________________________________
Title: ________________________________
Date: ________________________________

(To be executed by the Proposer’s designated Project Principal or Project Manager)
FORM M/W/DBE
PROPOSER’S STATUS AS A M/W/DBE

PROPOSER: ________________________________

M/W/DBE or Joint Venturer Status

a) Indicate (X) whether the Proposer qualifies as a M/W/DBE recognized by the Department or NYSDED_____.

If the Proposer is the above, it must have current certification status with the Department or NYSDED, or application must be approved prior to Proposal evaluation.

b) Indicate (X) whether the Proposer is joint venturing with a M/W/DBE _____

If either of the above is a joint venturer, a copy of the joint venture agreement and evidence of M/W/DBE certification must be submitted to the Department prior to the Proposal evaluation.

c) If the Proposer checked M/W/DBE in item b) above, complete the following:

(1) Provide a description of the proposed Work to be performed by the Proposer's own work force and the dollar value.

(2) Provide a description and dollar value of the Work to be performed by the M/W/DBE joint venturers, and identify their M/W/DBE status.

M/W/DBE Dollar Value $ ____________________

Note: The Department or NYSDED certifies firms as M/W/DBEs on a “first come first served” basis.
FORM DU
DESIGN UNIT DESCRIPTIONS

Proposer Name: ________________________________________________

<table>
<thead>
<tr>
<th>Price Center Code (from Form PCD(L)) (1)</th>
<th>Design Unit Code</th>
<th>Design Unit Description</th>
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Note: (1) – Selected Proposer shall add Price Center Codes prior to Contract execution.
NEW YORK STATE DEPARTMENT OF TRANSPORTATION

FORM EPD

ESCROW AGREEMENT

THIS ESCROW AGREEMENT (this “Agreement”) is made and entered into this _______________, 200_, by and among the New York State Department of Transportation (the “Department”), and ______________________, (“Proposer”) and ______________________ (“Escrow Agent”) with reference to the following facts:

1. The Department has issued a Request for Proposals to furnish the design of and to build the ______ Project (the “RFP”);
2. Proposer has submitted to the Department a proposal (the “Proposal”) in response to the RFP;
3. As part of the Proposal, Proposer is submitting one copy of required information used in the preparation of its Proposal in accordance with Section 3.4 of the Instructions to Proposers included in the RFP. Said information is contained in ___ separately sealed boxes (“Escrowed Proposal Documentation”); and
4. The Department and Proposer wish to employ the services of Escrow Agent to act as the escrow holder with regard to the Escrowed Proposal Documentation, and Escrow Agent has agreed to serve as escrow holder under the terms and conditions provided in this Agreement:

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

1. Deposit. Proposer hereby deposits with Escrow Agent the Escrowed Proposal Documentation. Escrow Agent hereby acknowledges receipt of such Escrowed Proposal Documentation, and such Escrowed Proposal Documentation shall be held in escrow under the terms and conditions of this Agreement.
2. Holding of Escrowed Proposal Documentation. Escrow Agent shall hold the Escrowed Proposal Documentation in escrow in a designated area on the premises of Escrow Holder located at _______________ on a non-public basis. The Escrowed Proposal Documentation shall be stored in an area which is locked at all times. No third party, including the employees of Escrow Agent, shall be allowed access to any part of the Escrowed Proposal Documentation. Escrow Agent shall allow access to the Escrowed Proposal Documentation, from time to time only to designated representatives of the Department and Proposer for purposes of joint review of the Escrowed Proposal Documentation by the Department and Proposer. No access shall be given to either representative from the Department or Proposer unless representatives from both are present. Escrow Agent shall provide such access to the Department and Proposer during Escrow Agent’s business hours upon reasonable advance notice. _______________, or his/her successor, is authorized to request access on behalf of the Department and _______________, or his/her successor, is authorized to request access on behalf of Proposer. The Department or Proposer may change its authorized representative by providing written notice to the other parties. Escrow Agent shall allow access only to those individuals designated in written notices from the authorized representatives designated above.
3. Release of Escrowed Proposal Documentation. Escrow Agent shall release the Escrowed Proposal Documentation as follows:

a) If the Department does not enter into a contract with Proposer, Escrow Agent shall release the Escrowed Proposal Documentation to Proposer upon delivery by the Department of a
FORM EPD

certificate from _________________, certifying that the Department has determined not to enter into a contract with Proposer.

4. Representation and Warranty. Proposer represents and warrants to the Department that, prior to delivery of the Escrowed Proposal Documentation to Escrow Agent, the Escrowed Proposal Documentation were personally examined by an authorized representative of Proposer and that they meet the requirements of the RFP (including the requirements of Contract Documents Part 2, DB Section 110) and are sufficient to enable a complete understanding of the interpretation of how Proposer arrived at its Price Proposal.

5. Rights of Escrow Agent. If conflicting demands are made or notices serviced upon Escrow Agent with respect to this escrow, the parties hereto expressly agree that it shall have the absolute right at its election to do either or both of the following:

a) Withhold and stop all further proceedings in, and performance of this escrow; or
b) File a suit in interpleader and obtain an order from the court requiring the parties to interplead and litigate in such court their several claims and rights among themselves.

6. Fees. See Exhibit C hereto.

7. Notices. All notices which may or are required to be given or made by either party hereto to the other shall be in writing. Such notices shall be either personally delivered or sent by registered mail, postage prepaid, to:

If to Proposer:

________________________________________________________________________

Attention: ______________________________

If to the Department:

________________________________________________________________________

Attention: ______________________________

If to Escrow Agent:

________________________________________________________________________

Attention: ______________________________

Or to such other addresses and such other places as any party hereto may from time to time designate by written notice to the others.
FORM EPD

8. Counterparts: This Agreement may be executed in one or more counterparts, all of which together shall be deemed an original.

9. Headings. The title headings of the respective paragraphs of this Agreement are inserted for convenience only, and shall not be deemed to be part of this Agreement or considered in construing this Agreement.

10. Governing Law. The laws of the State of New York shall govern this Agreement.

11. Attorney’s Fees. If either the Department or Proposer commences or engages in any action by or against the other party directly or indirectly arising out of or in connection with this Agreement, the prevailing party shall be entitled to have and recover from the losing party reasonable attorney’s fees and other costs incurred in the action and in preparation for said action and any subsequent appeal.

IN WITNESS WHEREOF, the parties hereto, each intending to be legally bound by this writing, have caused this Agreement to be executed the date first above written.

“THE DEPARTMENT” New York State Department of
Transportation

By: __________________________
Title: __________________________

“PROPOSER” ______________________________
By: __________________________
Title: __________________________

The escrow provided for in this Agreement is hereby Accepted, only to the extent of the escrow provisions, by Escrow Agent.

______________________________
By: __________________________
Title: __________________________

EXHIBIT A
FORM EPD

Sealed Scope and Price Proposals
EXHIBIT B

ESCROW AGREEMENT FOR THE CONTRACT

_______ Project

THIS ESCROW AGREEMENT (this “Agreement”) is made and entered into this _______, 200_, among the New York State Department of Transportation, (the Department, and _______________________, (“Design-Builder”) and __________________ (“Escrow Agent”) with reference to the following facts:

A. The Department has issued a Request for Proposals to furnish the design of and to build the _______ Project ("RFP");

B. Design-Builder has submitted to the Department a Proposal (the “Proposal”) in response to the RFP;

C. As part of the Proposal, Design-Builder is submitting one copy of all information regarding the assumptions made in calculating the Contract Price as required under Contract Documents Part 2, DB Section 110, in separately sealed boxes (Escrowed Proposal Documentation); and

D. The Department and Design-Builder wish to employ the services of Escrow Agent to act as the escrow holder with regard to the Escrowed Proposal Documentation, and Escrow Agent has agreed to serve as such escrow holder under the terms and conditions provided in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

1. Deposit. Design-Builder hereby deposits with Escrow Agent the Escrowed Proposal Documentation. Escrow Agent hereby acknowledges receipt of such Escrowed Proposal Documentation, and such Escrowed Proposal Documentation shall be held in escrow under the terms and conditions of this Agreement.

2. Holding of Escrowed Proposal Documentation. Escrow Agent shall hold the Escrowed Proposal Documentation in escrow in a designated area on the premises of Escrow Holder located at ________________ on a non-public basis. The Escrowed Proposal Documentation shall be stored in an area which is locked at all times. No third party, including the employees of Escrow Agent, shall be allowed access to any of the Escrowed Proposal Documentation. Escrow Agent shall allow access to the Escrowed Proposal Documentation, from time to time only to designated representatives of the Department and Design-Builder for purposes of joint review of the Escrowed Proposal Documentation by the Department and Design-Builder. No access shall be given to either representative from the Department or Design-Builder unless representatives from both are present. Escrow Agent shall provide such access to the Department and Design-Builder during Escrow Agent’s business hours upon reasonable advance notice. ____________________, or his/her successor, is authorized to request access on behalf of the Department and ____________________, or his/her successor, is authorized to request access on behalf of Design-Builder. The Department or Design-Builder may change its authorized representative by providing written notice to the other parties. Escrow Agent shall allow access only to those individuals designated in written notices from the authorized representatives designated above.
3. **Release of Escrowed Proposal Documentation.** Unless otherwise notified in writing, Escrow Agent shall release the Escrowed Proposal Documentation to Design-Builder at __________________________, upon receipt by Escrow Agent of a certificate from __________________________, Department’s Project Manager, certifying that the Department has determined not to enter into a contract with Design-Builder or if escrow agent does not receive notice prior to ____________ it will deliver Escrowed Proposal Documentation back to Design-Builder.

4. **Right of Escrow Agent.** If conflicting demands are made or notices served upon Escrow Agent with respect to this escrow, the parties thereto expressly agree that it shall have the absolute right at its election to do either or both of the following:

(a) withhold and stop all future proceedings in, and performance of this escrow; or

(b) file a suit in interpleader and obtain an order from the court requiring the parties to interplead and litigate in such court their several claims and right among themselves.

5. **Fee.** See Exhibit C of the Escrow Agreement.

6. **Notices.** All notices which may or are required to be given or made by either party hereto to the other shall be in writing. Such notices shall be either personally delivered or sent by registered mail, postage prepaid, to:

If to Design-Builder:

Attention: __________________________

________________________

Phone ______________

Fax ______________

If to the Department:

Attention: __________________________

________________________

Phone ______________

Fax ______________

If to Escrow Agent:

Attention: __________________________

________________________

or to such other addresses and such other places as any party hereto may from time to time designate by written notice to the others.
7. **Counterparts.** This Agreement may be executed in one or more counterparts, all of which together shall be deemed an original.

8. **Headings.** The title headings of the respective paragraphs of this Agreement are inserted for convenience only, and shall not be deemed to be part of this Agreement or considered in construing this Agreement.

9. **Governing Law.** The laws of the State of New York shall govern this Agreement.

10. **Attorney’s Fees.** If either the Department or Design-Builder commences or engages in any action by or against the other party directly or indirectly arising out of or in connection with this Agreement, the prevailing party shall be entitled to have and recover from the losing party reasonable attorneys’ fees and other costs incurred in the action and in preparation for said action and any subsequent appeal.

IN WITNESS WHEREOF, the parties hereto, each intending to be legally bound by this writing, have caused this Agreement to be executed the date first above written.

**“THE DEPARTMENT”**

New York State Department of Transportation

By: ________________________________

Title: _______________________________

**“DESIGN-BUILDER”**

By: ________________________________

Title: _______________________________

The escrow provided for this agreement is hereby accepted, only to the extent of the escrow provisions, by Escrow Agent.

By: ________________________________

Title: _______________________________

Date: _______________________________
EXHIBIT C

Holding Escrow Agent Fees

Set up and Acceptance Fee $_____
Annual Escrow Fee (in advance) $_____

Plus:

___ per Thousand
___
___ remainder

Account Activity Charges

1. Investment of Funds (per asset) $_____
2. Disbursement (check or wire) $_____

Plus charges at cost for out-of-pocket expenses, extraordinary services, and costs for review of documents by Escrow Agent’s legal counsel.
FORM GF
PROPOSER’S M/W/DBE GOOD FAITH EFFORTS

(Not required if List of Proposed M/W/DBEs demonstrates meeting the Contract specific goals)

PROPOSER_________________________
ADDRESS __________________________

All Proposers shall submit the following information to demonstrate that a good faith effort has been made to provide opportunities for M/W/DBE firms on the Project.

Proposers shall submit the following information to remain eligible for selection:

1. The names and dates of advertisement of each newspaper, trade paper, and minority-focus paper in which a request for M/W/DBE participation for this Project was placed by the Proposer.

<table>
<thead>
<tr>
<th>Papers</th>
<th>Dates of Advertisement</th>
</tr>
</thead>
</table>

2. The names and dates of written notices of all certified M/W/DBEs solicited by direct mail or other means for this Project and the dates and methods used for following up initial solicitations to determine with certainty whether the M/W/DBEs were interested:

<table>
<thead>
<tr>
<th>Names of M/W/DBEs Solicited</th>
<th>Dates of Solicitations</th>
<th>Follow-up Methods and Dates</th>
</tr>
</thead>
</table>

3. Items of Work for which the Proposer requested bids, proposals or Material to be supplied by M/W/DBEs, if any; the information furnished interested M/W/DBEs in the way of plans, specifications and requirements for the Work, and any breakdown of items of Work into economically feasible units to facilitate M/W/DBE participation. Where there are M/W/DBEs available for doing portions of the Work normally performed by the Proposer with its own forces, the Proposer will be expected to make portions of such Work available for M/W/DBEs to bid on.
FORM GF
PROPOSER’S M/W/DBE GOOD FAITH EFFORTS

Items of Work:

Information Furnished:

Breakdown of Items:

4. The names of M/W/DBEs who submitted bids or proposals for any of the Work indicated above which were not accepted, a summary of the Proposer’s discussions and/or negotiations with them, the name of the Subcontractor or supplier who was selected for that portion of the Work, and the reasons for the Proposer’s choice. If the reason for rejecting a M/W/DBE bid was price, give the price bid or proposed by the rejected M/W/DBE and the price bid or proposed by the selected Subcontractor or supplier. Since the utilization of available M/W/DBEs is expected, only significant price differences will be considered as cause for rejecting such M/W/DBE bids or proposals.

Names of rejected M/W/DBEs:

____________________________________________________________________________
____________________________________________________________________________
____________________________________________________________________________
____________________________________________________________________________

Summary of discussions and/or negotiations:

____________________________________________________________________________
____________________________________________________________________________
____________________________________________________________________________
____________________________________________________________________________

Names of Subcontractors or suppliers who were selected over the rejected M/W/DBEs listed above and the reasons for that choice:
FORM GF
PROPOSER’S M/W/DBE GOOD FAITH EFFORTS

5. Assistance that the Proposer has extended to rejected M/W/DBEs identified above to remedy the deficiency in their bids:

______________________________________________________________________________
______________________________________________________________________________
______________________________________________________________________________

6. Efforts to assist interested M/W/DBEs on obtaining required bonding, lines of credit or insurance.

7. Efforts to assist interested M/W/DBEs in obtaining necessary equipment, supplies, Material or related assistance or services.

8. Effective use of services of available minority/women community organizations, contractor groups and local/State/Federal minority/women business assistance offices and other organizations to assist in recruitment and placements of M/W/DBEs.

9. Any additional data to support a demonstration of good faith effort, such as contacts with M/W/DBE assistance agencies:

______________________________________________________________________________
______________________________________________________________________________
______________________________________________________________________________
______________________________________________________________________________

Note:

(1) See Federal Register, Vol. 64, No. 21, Tuesday, February 2, 1999/Rules and Regulations, Appendix A to Part 26 – Guidance Concerning Good Faith Efforts.
(2) Use additional sheets of paper if necessary. Appropriate documentation such as copies of newspaper ads, letters soliciting bids, and telephone logs should accompany this form.
FORM GF
PROPOSER’S M/W/DBE GOOD FAITH EFFORTS

GOALS AND GOOD FAITH EFFORTS AFFIDAVIT

STATE OF ________________________________
COUNTY OF ________________________________ SS:

Each of the undersigned, being first duly sworn, deposes and says that ___________________________ is the ________________ of ___________________________ and ___________________________ is the ________________ of ___________________________, which entity(ies) are the ________________ of ___________________________, the entity making the foregoing Proposal and affirms that the Proposer will either achieve the M/W/DBE goal described in Contract Documents Part 1, Article 5.1 (for M/WBE goals) or Article 5.2 (for DBE goals), or will make good faith efforts to do so as described in Contract Documents Part 2, DB Section 102-9.6 (for W/WBE goals) or DB Section 102-10.6 (for DBE goals).

___________________________________                   _________________________________
(Signature)            (Signature)

___________________________________                   _________________________________
(Signature)            (Signature)

___________________________________                   _________________________________
(Title)             (Title)

Subscribed and sworn to before me this _____ day of ____________, 200_.

_______________________________________
Notary Public in and for
said County and State

[Seal]     My commission expires:

[Duplicate or modify this form as necessary so that it accurately describes the entity making the Proposal and so that it is signed on behalf of all general partners or joint venturers of the Proposer.]
FORM IC
CERTIFICATE REGARDING INELIGIBLE CONTRACTORS

CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER INELIGIBILITY AND VOLUNTARY EXCLUSION FROM TRANSACTIONS FINANCED IN PART BY THE U.S. GOVERNMENT

I, ___________________________________________, ________________________________________________, hereby
(Name of Certifying Officer)                 (Title of Certifying Officer)
certify that _______________________________________:
(Name of Contractor)

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any Federal department or agency or from participation in New York State Department of Transportation Project No. ____________;

2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statues or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in Paragraph 2 of this certification; and

4. Have not within a three-year period preceding this proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

If any Principal Participant is unable to certify to any of the statements in this certification, such prospective Principal Participant shall attach an explanation to this certification.

I hereby certify and affirm the truthfulness and accuracy of the above statement, and I understand that the provisions of 31 United States Code (U.S.C.) §3801 et seq., (Administrative Remedies for False Claims and Statements) are applicable hereto.

_________________________________________  __________________________________
Signature of Certifying Officer    Telephone Number of Contractor

(Note: The above certification merely certifies that a Proposer and its subcontractors are not declared by the Federal Government or have not voluntarily declared themselves debarred, suspended, or declared ineligible from doing transactions with the Federal Government or any of its agencies.)
FORM IS
CERTIFICATE REGARDING INELIGIBLE SUBCONTRACTORS

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

(1) The prospective lower tier participant (Subcontractor) 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 Project No. ______ by any Federal department 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.

(60 FR 33042, 33064, June 26, 1995)

_______________________________________________
Signed

_______________________________________________
Typed or Printed Name

_______________________________________________
Company Name

_______________________________________________
Date
FORM KP
KEY PERSONNEL INFORMATION

Name of Proposer: ____________________________________________________

PROPOSED KEY PERSONNEL

<table>
<thead>
<tr>
<th>Position</th>
<th>Name</th>
<th>Years of Exper.</th>
<th>Education/Registration</th>
<th>Parent Firm Name</th>
<th>% of Time Dedicated to Project</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Principal</td>
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<td>Project Manager</td>
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<td>Construction Manager</td>
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<td>Design Manager</td>
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<td>Design QC Manager</td>
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<td>Construction QC Manager</td>
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<td>Safety Manager</td>
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<td>Utilities Design/Construction Coordinator</td>
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<tr>
<td>Traffic Control Supervisor</td>
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</table>

Use additional sheets when needed.
FORM LC

LOYCING CERTIFICATE

The undersigned certifies, 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 grant, the making of any Federal loan, 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 making lobbying contacts to 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 **THIS** Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying”, in accordance with its instructions [as amended by “Government-wide Guidance for New Restrictions on Lobbying,” 61 Federal Regulations 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.).]

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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 (as amended by the Lobbying Disclosure Act of 1995). 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.

[Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

The Proposer/Design-Builder, ______________________, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Proposer/Design-Builder understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.

Date: ________________________________

Company Name: _______________________________________

Signature: ________________________________________________

Name: ________________________________

(Print)

Title: ________________________________________________

NOTE: THE DESIGN-BUILDER IS REQUIRED PURSUANT TO FEDERAL LAW, TO INCLUDE THE ABOVE LANGUAGE IN SUBCONTRACTS OVER $100,000 AND TO OBTAIN THIS LOBBYING CERTIFICATE FROM EACH SUBCONTRACTOR BEING PAID $100,000 OR MORE UNDER THIS CONTRACT.
FORM LSI
LETTER OF SUBCONTRACT INTENT

____________________________________ intends to subcontract Work for the ________________________ Project
(Proposer’s Name)

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

________________________________________________________________________________________
________________________________________________________________________________________
________________________________________________________________________________________
________________________________________________________________________________________
________________________________________________________________________________________
________________________________________________________________________________________
________________________________________________________________________________________

The minimum value of the Subcontract is ____________________.

The Subcontractor/Consultant ______________________ is _______________is not a certified M/W/DBE firm.

If certified, indicate certifying entity: ______________________. Include a name and telephone number for certifying entity _________________________________.

For the Proposer:

(Signature) Confirmed by:  (Signature)

(Printed Name) (Printed Name)

>Title) (Title)

(Date) (Date)

New York State Department of Transportation
FORM NC
NON-COLLUSION AFFIDAVIT

STATE OF ________________________________

COUNTY OF ______________________________

Each of the undersigned, being first duly sworn, deposes and says that ______ is the ______ of and ______ is the ___________ of ________________, which entity(ies) are the _____ of, _____ the entity making the foregoing Proposal, that the Proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization or corporation; that the Proposal is genuine and not collusive or sham; that the Proposer has not directly or indirectly induced or solicited any other Proposer to put in a false or sham Proposal, and has not directly or indirectly colluded, conspired, connived or agreed with any Proposer or anyone else to put in a sham Proposal or that anyone shall refrain from proposing; that the Proposer has not in any manner, directly or indirectly, sought by agreement, communication or conference with anyone to fix the Contract Price or any component of the Contract Price, of the Proposer or any other Proposer, or to fix any overhead, profit or cost element included in the Proposal, or of that of any other Proposer, or to secure any advantage against the Department of anyone interested in the proposed Contract; that all statements contained in the Proposal are true; and, further, that the Proposer has not, directly or indirectly, submitted its Contract Price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company, association, organization, proposal depository or any member or agent thereof to effectuate a collusive or sham Proposal.

_______________________________  _______________________________
(Signature)      (Signature)

_________________________________  _______________________________
(Printed Name)      (Printed Name)

_________________________________  _______________________________
(Title)      (Title)

Subscribed and sworn to before me this _____________day of _____________, 2002.

Notary Public in and for ) ) SS
) ) said County and State

[Seal]  My commission expires: __________________

[Duplicate or modify this form as necessary so that it accurately describes the entity making the Proposal and so that it is signed on behalf of all general partners or joint venturers of the Proposer.]
<table>
<thead>
<tr>
<th>Specialty / Assignment / Percentage</th>
<th>Subcontractor Name / Contact</th>
<th>Address of Head Office</th>
<th>Tel / Fax</th>
<th>For last 2 Projects, list Project Name, Owner, and Owner Contact Name, Phone &amp; Fax No.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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<td>Project 1</td>
</tr>
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<td></td>
<td></td>
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<td></td>
<td>Project 2</td>
</tr>
</tbody>
</table>
New York State Department of Transportation

**FORM NS**
**NAMED SUBCONTRACTORS**

Proposer Name __________________________________________________

<table>
<thead>
<tr>
<th>Specialty / Assignment / Percentage</th>
<th>Subcontractor Name / Contact</th>
<th>Address of Head Office</th>
<th>Tel / Fax</th>
<th>For last 2 Projects, list Project Name, Owner, and Owner Contact Name, Phone &amp; Fax No.</th>
</tr>
</thead>
<tbody>
<tr>
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<td></td>
<td>Project 1</td>
</tr>
<tr>
<td></td>
<td></td>
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<td></td>
<td>Project 2</td>
</tr>
</tbody>
</table>

Add additional sheet(s) as necessary.
New York State Department of Transportation (the “Department”)
______________________
______________________
Attn: ____________________
Re: Request for Proposals (“RFP”)  
Project No. __________ (“Contract”)

Gentlemen:

[Describe relationship to Proposer and its joint venture members, general partners, and any other entities whose approval is required in order to authorize delivery of the proposal.] This letter is provided to you pursuant to Section 3.1.1 of the Instructions to Proposers contained in the RFP.

In giving this opinion, we have examined ______________________. We have also considered questions of law and we have examined such documents and instruments and certificates of public officials and individuals who participated in the procurement process as we have deemed necessary or advisable.

In making this response we have assumed that all items submitted to us or reviewed by us are genuine, accurate and complete, and if not originals, are true and correct copies of originals, and that all signatures on such items are genuine.

Subject to the foregoing, we are of the opinion that:

1. [opinion regarding formation and existence of Proposer and each of its joint venture members and general partners]

2. [opinion that the Proposer has power and is duly authorized to execute and deliver the Proposal and Design-Build Contract]

3. [opinion that the Proposal has been duly and validly executed and delivered and constitutes a legal, valid and binding obligation of the Proposer and its joint venture members/general partners to enter into the Contract if awarded] [updated opinion will state that the Contract has been duly and validly executed and delivered]

4. [opinion that all required approvals have been obtained with respect to execution and delivery of the Proposal and Contract; and that the Proposal and Contract do not conflict with any agreements to which Proposer or its joint venture members/general partners are a party or with any orders, judgments or decrees by which Proposer or its joint venture members/general partners are bound.]
### FORM PC1(S)
**PRICE CENTER 1**
**PRELIMINARIES AND GENERAL REQUIREMENTS**

<table>
<thead>
<tr>
<th>Activity Code (1)</th>
<th>Activity (2)</th>
<th>Lump Sum Price (Enter Lump Sum Price for Each Activity)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Payment and Performance Bonds &amp; Guarantees</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Insurance, Insurance Certificates</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Project Mobilization</td>
<td></td>
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<td></td>
<td>Permits &amp; Regulatory Approvals (non-Environmental)</td>
<td></td>
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<tr>
<td></td>
<td>Environmental Compliance (Plans, permits, approvals, reports, records, monitoring, etc.)</td>
<td></td>
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<tr>
<td></td>
<td>Project Management</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Quality Plan &amp; Updates</td>
<td></td>
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<tr>
<td></td>
<td>Project Quality Management and Construction Quality Control</td>
<td></td>
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<tr>
<td></td>
<td>Safety Plan &amp; Safety Administration</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Liaison and coordination with local authorities and agencies</td>
<td></td>
</tr>
<tr>
<td></td>
<td>On-Site Security, Communications &amp; Project Identification Signing</td>
<td></td>
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<tr>
<td></td>
<td>Design-Builder’s Temporary Facilities (provide, erect, service and maintain)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Design-Builder-Provided Facilities and Equipment for the Department</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Removal of Temporary and Design-Builder-Provided Facilities and Site Clean-up/Restoration</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Construction Staking</td>
<td></td>
</tr>
</tbody>
</table>

#### Price Center Value
(Sum of the Lump Sum Prices for each activity) (3)

**NOTES:**

1. Use codes from Baseline Progress Schedule P3 Program.
2. Other activities may be added by Proposer.
3. Enter sum for the column. Enter amount on Form SP(S).
## FORM PC2(S)
**PRICE CENTER 2**
**PROJECT-WIDE ENGINEERING & DESIGN ACTIVITIES**

<table>
<thead>
<tr>
<th>Activity Code</th>
<th>Activity (2)</th>
<th>Lump Sum Price (Enter Lump Sum Price for each activity)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Design of Temporary and Permanent Works through Final Design (including design reports, Design Drawings and Project Specifications)</td>
<td></td>
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<tr>
<td></td>
<td>Geotechnical Investigations</td>
<td></td>
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<tr>
<td></td>
<td>Other preliminary engineering such as preliminary surveys</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Design support during construction</td>
<td></td>
</tr>
<tr>
<td></td>
<td>As-Built drawings, manuals and reports</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Activities of Design QC Manager and staff (Design QC)</td>
<td></td>
</tr>
</tbody>
</table>

### Price Center Value
(Sum of lump sum prices for each activity) (3)

**NOTE:**

1. From activities on Baseline Progress Schedule P3 Program.
2. Other activities may be added by Proposer.
3. Enter sum on Form SP(S).
## FORM PC3(S)
### PRICE CENTER 3
#### PROJECT-WIDE MAINTENANCE AND PROTECTION OF TRAFFIC

<table>
<thead>
<tr>
<th>Activity Code (1)</th>
<th>Activity (2)</th>
<th>Lump Sum Price (Enter Lump Sum Price for each activity)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Maintenance and Protection of Traffic Plan and Updates</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Maintenance and Protection of Traffic Implementation and Operations</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Traffic Control Plan(s) and Updates</td>
<td></td>
</tr>
</tbody>
</table>

**Price Center Value**
(Sum of lump sum prices for each activity) (3)

**NOTE:**
(1) From activities on Baseline Progress Schedule P3 Program.
(2) Other activities may be added by Proposer.
(3) Enter sum on Form SP(S).
## HAZARDOUS AND CONTAMINATED SUBSTANCES REMEDIATION ACTIVITIES (H&CSR)

### Environmental (Hazmat) Design and Monitoring of Construction Zone

<table>
<thead>
<tr>
<th>Activity Code</th>
<th>Activity (1)</th>
<th>Unit of Measure</th>
<th>Unit Price</th>
<th>Est. Quantity</th>
<th>$ Amount (3)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Excavation and Replacement of Uncontaminated Overburden</td>
<td>CuM</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Category 1A: Excavation and On-site Remediation of Hydrocarbon Contaminated Soil</td>
<td>CuM</td>
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<tr>
<td></td>
<td>Category 1B: Excavation and Off-site Remediation of Hydrocarbon Contaminated Soil</td>
<td>CuM</td>
<td></td>
<td></td>
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</tr>
<tr>
<td></td>
<td>Category 2A: On-site Remediation of Contaminated Groundwater</td>
<td>1000 L</td>
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<td>Category 2B: Off-site Remediation of Contaminated Groundwater</td>
<td>1000 L</td>
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<td>Category 3A: On-site Remediation of Asbestos Containing Material</td>
<td>CuM</td>
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<td></td>
<td>Category 3B: Removal and Off-site Remediation of Asbestos Containing Material</td>
<td>CuM</td>
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<tr>
<td></td>
<td>Category 4: Removal and Off-site Remediation of Lead-Based Paint</td>
<td>SqM</td>
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</tr>
</tbody>
</table>

### Price Center Value (4)
(Sum of prices for each activity)

**NOTES:**

1. From activities on Baseline Progress Schedule.
2. Enter lump sum price.
3. Enter extension of quantity times unit price.
4. Total lump sum and extensions for unit priced items and enter sum on Form SP(S).
<table>
<thead>
<tr>
<th>Project WBS Code</th>
<th>Project-wide Activities</th>
<th>Price Center Title</th>
<th>Price Center Description</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>PC1 Preliminaries and General Requirements</td>
<td>See Form PC1(S)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>PC2 Project-Wide Engineering &amp; Design Activities</td>
<td>See Form PC2(S)</td>
<td></td>
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<tr>
<td></td>
<td>PC3 Project-Wide Maintenance and Protection of Traffic</td>
<td>See Form PC3(S)</td>
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<td></td>
<td>PC4 Not Used</td>
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<td></td>
<td>PC5 Not Used</td>
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<tr>
<td></td>
<td>PC6 Hazardous and Contaminated Substances Remediation</td>
<td>See Form PC6(S)</td>
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(1)
The table is as follows:

<table>
<thead>
<tr>
<th>Project WBS Code</th>
<th>Price Center Code</th>
<th>Price Center Title</th>
<th>Price Center Description</th>
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</tr>
</tbody>
</table>

(1) Enter information for each construction Price Center.
Proposer’s Name: _______________________________________

This Price Proposal is submitted in response to the Request for Proposals, dated (Date), as amended by Addenda, and includes the following:

Section 1:
- Form PP(S) (Price Proposal Cover Sheet)

Section 2:
- Schedule of Prices (Form SP(S));
- Forms PC1(S) through PC3(S);
- Form PC6(S);
- Schedule of Values (Form SOV – Option 1);
- List of Proposed M/W/DBE’s;
- Form LSI;
- Copy of Proposed Baseline Progress Schedule; and
- Copy of Form PCD(S), Price Center Descriptions.

Section 3:
- Proposal Bond

Signed by Parties signing Proposal Form:

__________________________________  ____________________________________  ____________________________________
__________________________________  ____________________________________  ____________________________________
__________________________________  ____________________________________  ____________________________________
__________________________________  ____________________________________  ____________________________________
__________________________________  ____________________________________  ____________________________________

(Signatures)  (Representing)  (Dates)
<table>
<thead>
<tr>
<th>Part 9 Section No.</th>
<th>Description of Item or Component (1)</th>
<th>Unit Of Measure</th>
<th>Unit Price (2)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Clearing and Grubbing</td>
<td>Hectare</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Unclassified Excavation</td>
<td>Cu M</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Borrow</td>
<td>Cu M</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Subexcavation</td>
<td>Cu M</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Unsuitable Material Excavation</td>
<td>Cu M</td>
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<td></td>
<td>Structure Excavation</td>
<td>Cu M</td>
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<tr>
<td></td>
<td>Structure Backfill</td>
<td>Cu M</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Bituminous-Treated Base</td>
<td>Sq M/cm of Depth</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Base Course</td>
<td>Sq M/cm of Depth</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Open-Graded Friction Course</td>
<td>Sq M</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Minor Paving</td>
<td>Sq M</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Plant-Mix Bituminous Pavement</td>
<td>Sq M/cm of Depth</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Mechanically-Stabilized Earth Retaining Structures</td>
<td>Sq M (Face Area)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Portland Cement Concrete, Class AA</td>
<td>Cu M</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Portland Cement Concrete, Class A</td>
<td>Cu M</td>
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</tr>
<tr>
<td></td>
<td>Concrete Structures, Structural Concrete, Class A</td>
<td>Cu M</td>
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<td></td>
<td>Superstructure Concrete</td>
<td>Cu M</td>
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<td></td>
<td>Reinforced Concrete for Minor Structures</td>
<td>Cu M</td>
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<td></td>
<td>Flowable Fill</td>
<td>Cu M</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Pipe Culverts</td>
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</tr>
</tbody>
</table>

Instructions: Develop project-specific list to fit each project. The list on this template is for illustrative purposes only.
## Form SOV
### Schedule of Values

<table>
<thead>
<tr>
<th>Part 9 Section No.</th>
<th>Description of Item or Component (1)</th>
<th>Unit Of Measure</th>
<th>Unit Price (2)</th>
</tr>
</thead>
<tbody>
<tr>
<td>CMP, diameter or equivalent</td>
<td>LM</td>
<td></td>
<td></td>
</tr>
<tr>
<td>CMP, diameter or equivalent</td>
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<td></td>
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<td>LM</td>
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<td></td>
</tr>
<tr>
<td>CMP, diameter or equivalent</td>
<td>LM</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Concrete, Reinforced, diameter</td>
<td>LM</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Concrete, Reinforced, diameter</td>
<td>LM</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Thermoplastic, HDPE, corrugated, diameter</td>
<td>LM</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Thermoplastic, HDPE, corrugated, diameter</td>
<td>LM</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Thermoplastic, HDPE, corrugated, diameter</td>
<td>LM</td>
<td></td>
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<tr>
<td>Thermoplastic, HDPE, corrugated, diameter</td>
<td>LM</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Thermoplastic, HDPE, corrugated, diameter</td>
<td>LM</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Underdrains</td>
<td>LM</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vertical Drains</td>
<td>LM</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Standard Curb &amp; Gutter</td>
<td>LM</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Landscape Planting per PS, Aesthetics</td>
<td>Each</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Notes:**

1. Proposer shall provide additional descriptions as necessary to fully describe the Work covered by the unit prices shown.
<table>
<thead>
<tr>
<th>Part 9 Section No.</th>
<th>Description of Item or Component (1)</th>
<th>Unit Of Measure</th>
<th>Unit Price (2)</th>
</tr>
</thead>
</table>

[Instructions: Develop project-specific list to fit each project. The list on this template is for illustrative purposes only.]

(2) Unit prices shall cover all construction costs to provide the item or component listed installed and in place per Contract Documents Part 2, DB Section 109I-1.2.1.
<table>
<thead>
<tr>
<th>Price Center Code (1)</th>
<th>Price Center Title / Component Identification (1)</th>
<th>Price Center Value (2)</th>
</tr>
</thead>
<tbody>
<tr>
<td>PC1</td>
<td>Preliminaries and General Requirements. See Form PC1(S)</td>
<td></td>
</tr>
<tr>
<td>PC2</td>
<td>Project-Wide Engineering &amp; Design Activities. See Form PC2(S)</td>
<td></td>
</tr>
<tr>
<td>PC3</td>
<td>Project-Wide Maintenance and Protection of Traffic. See Form PC3(S)</td>
<td></td>
</tr>
<tr>
<td>PC4</td>
<td>Not Used</td>
<td></td>
</tr>
<tr>
<td>PC5</td>
<td>Not Used</td>
<td></td>
</tr>
<tr>
<td>PC6</td>
<td>Project-Wide Hazardous and Contaminated Substances Remediation. See Form PC6(S)</td>
<td></td>
</tr>
<tr>
<td>PC7</td>
<td>Site Work</td>
<td></td>
</tr>
<tr>
<td>PC8</td>
<td>Excavation &amp; Embankment</td>
<td></td>
</tr>
<tr>
<td>PC9</td>
<td>Utility Relocations</td>
<td></td>
</tr>
<tr>
<td>PC10</td>
<td>Pavement Structure (20-year design) (Base &amp; Paving)</td>
<td></td>
</tr>
<tr>
<td>PC11</td>
<td>Drainage</td>
<td></td>
</tr>
<tr>
<td>PC12</td>
<td>Retaining Structures</td>
<td></td>
</tr>
<tr>
<td>PC13</td>
<td>Permanent signing &amp; striping</td>
<td></td>
</tr>
</tbody>
</table>

(4) BASE PROPOSAL PRICE

(5) [Enter any alternate proposal(s).]

(6) TOTAL PROPOSAL PRICE
### FORM SP(S)
SCHEDULE OF PRICES FORMAT

<table>
<thead>
<tr>
<th>Price Center Code (1)</th>
<th>Price Center Title / Component Identification (1)</th>
<th>Price Center Value (2)</th>
</tr>
</thead>
</table>

**Instructions:**

1) Enter Price Center Codes and Titles for each Price Center, to match Form PCD(S).
2) Enter Price Center Value.
3) Do not change amount. Department has entered the appropriate number.
4) Enter sum of all Price Center Values for Project.
5) Enter title of any alternate proposal and the price differential only between the Base Proposal Price and any alternate proposed. If no alternative is proposed, enter “None” under Description and “N/A” for the Price Center Value.
6) Enter total of Base Proposal Price and the sum of any alternate proposals.
(Project Name)
DESIGN-BUILD PROJECT

PIN ______________

INSTRUCTIONS TO PROPOSERS

APPENDIX C

FORMS
(Larger More Complex Projects)
## INDEX OF FORMS

<table>
<thead>
<tr>
<th>Form Designator</th>
<th>Form Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposal Form</td>
<td>Proposal Form</td>
</tr>
<tr>
<td>appendix to proposal form</td>
<td>Proposal Bond</td>
</tr>
<tr>
<td>List of Proposed M/W/DBE’s</td>
<td>107A ROW Acquisition Schedule</td>
</tr>
<tr>
<td>BAC Buy America Certificate</td>
<td>BAC Buy America Certificate</td>
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<tr>
<td>C Single Point of Contact</td>
<td>C Single Point of Contact</td>
</tr>
<tr>
<td>C218m Certificate of Insurance</td>
<td>C218m Certificate of Insurance</td>
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<tr>
<td>CF RFP Comment Form</td>
<td>CF RFP Comment Form</td>
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<tr>
<td>CR Commitment to Assign Identified Resources to Project</td>
<td>CR Commitment to Assign Identified Resources to Project</td>
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<tr>
<td>M/W/DBE Proposer’s Status as a M/W/DBE</td>
<td>M/W/DBE Proposer’s Status as a M/W/DBE</td>
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<tr>
<td>DU Design Unit Descriptions</td>
<td>DU Design Unit Descriptions</td>
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<tr>
<td>EPD Escrow Agreement</td>
<td>EPD Escrow Agreement</td>
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<tr>
<td>GF Proposer’s M/W/DBE Good Faith Efforts</td>
<td>GF Proposer’s M/W/DBE Good Faith Efforts</td>
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<tr>
<td>IC Certificate Regarding Ineligible Contractors</td>
<td>IC Certificate Regarding Ineligible Contractors</td>
</tr>
<tr>
<td>IS Certificate Regarding Ineligible Subcontractors</td>
<td>IS Certificate Regarding Ineligible Subcontractors</td>
</tr>
<tr>
<td>KP Key Personnel Information</td>
<td>KP Key Personnel Information</td>
</tr>
<tr>
<td>LC Lobbying Certificate</td>
<td>LC Lobbying Certificate</td>
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<tr>
<td>LSI Letter of Subcontract Intent</td>
<td>LSI Letter of Subcontract Intent</td>
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<tr>
<td>NC Non-Collusion Affidavit</td>
<td>NC Non-Collusion Affidavit</td>
</tr>
<tr>
<td>NS Named Subcontractors</td>
<td>NS Named Subcontractors</td>
</tr>
<tr>
<td>OC Opinion of Counsel</td>
<td>OC Opinion of Counsel</td>
</tr>
<tr>
<td>PC1(L) Price Center 1, Preliminaries and General Requirements</td>
<td>PC1(L) Price Center 1, Preliminaries and General Requirements</td>
</tr>
<tr>
<td>PC2(L) Price Center 2, Design Activities</td>
<td>PC2(L) Price Center 2, Design Activities</td>
</tr>
<tr>
<td>PC3(L) Price Center 3, Project-Wide Maintenance and Protection of Traffic</td>
<td>PC3(L) Price Center 3, Project-Wide Maintenance and Protection of Traffic</td>
</tr>
<tr>
<td>PC4(L) Price Center 4, Project-Wide Environmental Mitigation and Monitoring</td>
<td>PC4(L) Price Center 4, Project-Wide Environmental Mitigation and Monitoring</td>
</tr>
<tr>
<td>PC4A(L) Project-Wide Tree Removal and Replacement and Landscaping</td>
<td>PC4A(L) Project-Wide Tree Removal and Replacement and Landscaping</td>
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<tr>
<td>PC5(L) Price Center 5, Project-Wide Public Information</td>
<td>PC5(L) Price Center 5, Project-Wide Public Information</td>
</tr>
<tr>
<td>PC6(L) Price Center 6, Project-Wide Hazardous and Contaminated Substances Remediation Activities</td>
<td>PC6(L) Price Center 6, Project-Wide Hazardous and Contaminated Substances Remediation Activities</td>
</tr>
<tr>
<td>PCD(L) Price Center Descriptions</td>
<td>PCD(L) Price Center Descriptions</td>
</tr>
<tr>
<td>PCD(L) Schedule of Progress Checkpoints</td>
<td>PCD(L) Schedule of Progress Checkpoints</td>
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<tr>
<td>PP(L) Price Proposal Cover Sheet</td>
<td>PP(L) Price Proposal Cover Sheet</td>
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<td>PPS-P Proposal Periodic Payment Schedule (Format)</td>
<td>PPS-P Proposal Periodic Payment Schedule (Format)</td>
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<tr>
<td>SOV Schedule of Values</td>
<td>SOV Schedule of Values</td>
</tr>
<tr>
<td>SP(L) Schedule of Prices Format</td>
<td>SP(L) Schedule of Prices Format</td>
</tr>
</tbody>
</table>
FORM OF PROPOSAL

NAME ___________________________ TELEPHONE No. ( ) ________________________
ADDRESS ______________________________________________________________________

*CONTRACTOR'S LICENSE No. ______________  * LICENSE CLASSIFICATION_____________

* Not Required for Proposing on Federal-Aid Projects

TO THE NEW YORK STATE DEPARTMENT OF TRANSPORTATION:
The undersigned proposes to design and construct this Project in accordance with the New York State Department of Transportation's current Standard Specifications for Road and Bridge Construction, the Selected DBE Program Provisions, the Design Criteria, the Performance Specifications 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 of New York Project No. ________ in ________ County(ies), New York on ________ between ________ being about ________ in length, at the prices stated in the Schedule of Prices (Form SP). The undersigned also certifies that he has examined the site of the proposed Work, the RFP, the preliminary plans, the Performance Specifications, the Special Provisions and all other 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:

1. To execute the standard form contract and to furnish Contract Bonds in the amount specified in Contract Documents Part 2, Section 103.___, within fifteen (15) days after receiving notification of the acceptance of this Proposal, and failing to do so, to forfeit the accompanying check or proposal bond to the State as liquidated damages, and the Commissioner of Transportation may proceed to award the Contract to others.

2. To commence Work within 30 days, or such additional time as may be allowed in writing by the Commissioner of Transportation, after notification of Award of Contract, and to complete the Contract as awarded by the Final Completion date specified in Section ___.

3. To furnish a performance and a payment bond in the penalty of full amount of Contract as surety conditioned for the full, complete and faithful performance of this Contract.

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 below):

☐ 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 Bid 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.

5. In accordance with the Contract to repair, maintain and guarantee all work performed thereunder until accepted by the Commissioner of Transportation.

6. In the event a race conscious measures program goal is placed on this Project, the established DBE goal for this Project is ______________ ____. In accordance with 49 CFR Part 23 (amended) and 49 CFR Part 26, the Department's Disadvantaged Business Enterprise Program, the Selected DBE Program Provisions and modifications to the Provisions, the undersigned (Check appropriate box below):

☐ Assures to meet or exceed the established DBE goal.
Cannot meet the established DBE goal and assures to meet or exceed a DBE goal of ________%. All documentation indicating the good faith efforts to meet the established DBE goal shall be submitted at the Proposal Due Date.

7. In the event a race conscious measure program goal is placed on this Project, the undersigned, as the apparent best value Proposer further assures that it will submit Form A-585, DBE-1 (for federally funded projects) at the Proposal Due Date. Failure to submit this form within the specified time shall render the Proposal non-responsive.

8. The Proposer, hereby certifies that it has ( ) has not ( ), participated in a previous contract or subcontract subject to the equal opportunity clause, as required by Executive Orders 11246, 10925 and 11114 as amended, and that it has ( ), has not ( ), filed with the Office of Federal Contract Compliance Program all reports due under the applicable filing requirements.

9. We acknowledge receipt of the following Amendments:

<table>
<thead>
<tr>
<th>NUMBER</th>
<th>DATE</th>
<th>NUMBER</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
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</tbody>
</table>

10. 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 State of New York, but only to the extent that such overcharges are passed on to the State. The undersigned further agrees to require its Subcontractors to assign any and all such claims for overcharges to the State, but only to the extent such overcharges are passed on to the State, by executing an assignment on a form obtainable from the Engineer 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 State.

11. The undersigned tenders herewith, as a Proposal guarantee for which receipt has been given, a certified check, bid bond, cashier's check, postal money order or bank money order in the amount of at least 5% of the amount proposed drawn to the order of the New York State Department of Transportation.

Organization: _______________________________________________________

By: _______________________________________________________________

Title: ______________________________________________________________

STATE OF _________________________) ss

COUNTY OF _________________________)

SUBSCRIBED AND SWORN TO ME ON THIS:

_______ DAY OF ____________________, 20____

____________________________________________

NOTARY PUBLIC

My Commission Expires: _______________________________

---

New York State Department of Transportation

Project No. ________ 2 of 2  
Instructions to Proposers  
[Insert Date]
Appendix to Form of Proposal

Appendix – Part 1

1. Proposal Validity Period 180 days from Proposal Date
2. Warranty Period: Per Special Provision 104
3. Proposal Bond 5% of the Proposal Price
4. Performance Bond 100% of Contract Price
5. Payment Bond 100% of Contract Price
7. Liquidated Damages for:
   Failure to achieve Substantial Completion by date specified in Contract Documents Part 1, Article 2.2 and/or failure to meet Final Acceptance by the date specified in Contract Documents Part 1, Article 2.3: Per Special Provision 108C
8. Rate of retention: Per Part 2, DB Section 109L-8
9. Limit of retention: Per Part 2, DB Section 109L-8
10. The Department’s address:
    New York State Department of Transportation
11. Deadline for the Department’s Exercising Option 1 = 30 days after Award
14. Deadline for the Department’s Exercising Option __ = ___ days after Award
15. Contract Time ___ Calendar Days
Appendix – Part 2
(To be completed by the Proposer as part of the Proposal Documents)

1. Design-Builder’s proposed insurance policy coverage;
2. Design-Builder’s proposed Designer;
3. Design-Builder’s Proposed Named Subcontractors;
4. Parts of the Project proposed to be subcontracted other than to Named Subcontractors;
5. Design-Builder’s local address within ________ area; and
6. RFP Addenda issued by the Department and received by the Proposer:

   Addendum No.: Date:
PROPOSAL BOND

KNOW ALL BY THESE PRESENTS, that ____________________________,
(Name of Firm)
______________________________
(Address)

(hereinafter called the "Design-Builder") and the ____________________________, a

 corporation created and existing under the laws of the State of ____________________________,

 having its principal office in the City of ____________________________ (hereinafter called the "Surety"), are held and firmly bound unto the people of the State of New York

 (hereinafter called the "State"), in the full just sum of ____________________________, 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 Design-Builder 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:

Signed, sealed, and dated this ____________________________ 200 ___ A.D.

WHEREAS, the said Design-Builder has submitted to the Commissioner of Transportation of

the State of New York, a Proposal for ____________________________

(Description of Project)

AND

WHEREAS, under the terms of the laws of the State of New York, the said Design-Builder has

filed or intends to file this bond to guarantee that the Design-Builder will execute all required

Contract Documents and furnish such faithful performance and payment bonds as may be

required by law in accordance with the terms of the Design-Builder's said Proposal.

NOW, THEREFORE, the condition of the foregoing obligation is such, that if the said Design-

Builder shall promptly execute and submit, and the Commissioner of Transportation shall accept,

all required Contract Documents including such faithful performance and payment bonds as may

be required in accordance with the terms of the Design-Builder's said Proposal, then this

obligation shall be null and void, otherwise to remain in full force and virtue.

IN TESTIMONY WHEREOF, the said Design-Builder has hereunto set its hand and seal and

the said

Surety has caused this instrument to be signed by its ____________________________ and its

______________________________, and its corporate seal to be hereunto affixed, the
day and year first above written.
Signed, sealed and delivered in the presence of:

Design-Builder


Surety


(Acknowledgment by Design-Builder, unless it be a corporation)

STATE OF NEW YORK

COUNTY OF ________________________

On this ________________________ day of ________________________ 200___,

before me personally came ________________________, to me known and known to me to be the person described in and who executed the foregoing instrument, and acknowledged that he/she executed the same.

______________________________
Notary Public County
(Acknowledgment by Design-Builder, if a corporation)

STATE OF NEW YORK

COUNTY OF ________________

On this ________________ day of ______________________ 200 ___,

before me personally came ________________________________, to me
known who being by me duly sworn, did depose and say that he/she resides in

_________________________; that he/she is the _________________ of the

_________________________; the corporation described in and which executed the

foregoing instrument; that he/she knew the seal of said corporation; that the seal affixed to said instrument was such corporate seal; that it was so

affixed by order of the board of directors of said corporation, and that he/she signed his/her name thereto by like order.

_________________________

Notary Public County

(Acknowledgment by Surety)

STATE OF NEW YORK

COUNTY OF ________________

On this ________________ day of ______________________ 200 ___,

before me personally came ________________________________, to me
known, who being by me duly sworn, did depose and say that he/she resides in

_________________________; that he/she is the _________________ of the

_________________________; the corporation described in and which executed the within

instrument, that he/she knows the seal of said corporation, that the seal affixed to said instrument is such corporate seal, that it was so

affixed by order of the board of directors of said corporation, and that he/she signed his/her name thereto by like order.

_________________________

Notary Public County
<table>
<thead>
<tr>
<th>Firm Name (Legal business name used for M/W/DBE certification)</th>
<th>Address</th>
<th>How will firm participate? (Prime, Joint Venture, Partner, Subcontractor, Consultant, Trucker or Supplier)</th>
<th>State(s) in which currently certified</th>
<th>Description of Work</th>
<th>Minimum dollar value of proposed participation</th>
<th>Estimated Percentage of Total Proposal Price</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tbody>
</table>

Use additional sheets as necessary.
Form 107A
ROW Acquisition Schedule

<table>
<thead>
<tr>
<th>Status Legend</th>
<th>Acquired</th>
<th>All impacts identified</th>
<th>A</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Not yet acquired</td>
<td>All impacts identified</td>
<td>B</td>
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<tr>
<td></td>
<td></td>
<td>Not all impacts identified</td>
<td>C</td>
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<tr>
<td></td>
<td></td>
<td>Probable need for condemnation</td>
<td>D</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Parcel</th>
<th>Type</th>
<th>Location</th>
<th>Owner</th>
<th>Status</th>
<th>Contractor's Priority No.</th>
<th>Date Desired by Design-Build *</th>
<th>Date Available</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>FEE</td>
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<td>2</td>
<td>FEE</td>
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<td>3</td>
<td>FEE</td>
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<td>FEE</td>
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<td>FEE</td>
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*Individual parcels will be identified in these areas. Design-Build is to provide priority and dates required for ROW in these areas based on alignment shift.
This procurement is subject to the Federal Highway Administration (FHWA) Buy America Requirement in 23 CFR 635.410.

A Buy America Certificate, in format below, must be completed and submitted with the Proposal. After the Proposal Due Date, each Proposer is bound by its original certification. However, in accordance with 49 USC 5323(j)(7), a Proposer may have the opportunity to correct an inadvertent error in its certification. A Proposer may correct any certification of noncompliance or failure to properly complete this certification if the Proposer attests under penalty of perjury that it submitted an incorrect certification as a result of an inadvertent or clerical error. The burden of establishing such inadvertent or clerical error is on the Proposer. The Proposer’s failure to sign the certification is not considered an inadvertent or clerical error. A Proposal which does not include the certificate will be considered non-responsive.

A false certification is a criminal act in violation of 18 U.S.C. 1001. Should this procurement be investigated, the successful Proposer has the burden of proof to establish that it is in compliance.

A waiver of Buy America requirements may be sought by the Department if grounds for the waiver exist, however, the Proposer certifies that it will comply with the applicable Buy America requirements if a waiver of those requirements is not available.

Section 165(a) of the Surface Transportation Assistance Act of 1982 permits FHWA participation on this Contract only if iron, steel and manufactured products used in the Contract are produced in the United States.
BUY AMERICA CERTIFICATE

Certificate of Compliance

The Proposer hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(2), and the applicable regulations in 23 CFR 635.410.

Date: _________________________________________
Signature:______________________________________
Proposer’s Name: _______________________________
Title: _________________________________________

Or

Certificate for Non-Compliance

The Proposer hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j)(2), but may qualify for a waiver to the requirement to 49 U.S.C. 5323(j)(2)(B) or (j)(2)(D) and regulations in 23 CFR 635.410.

Date: __________________________________________
Signature: ______________________________________
Proposer’s Name: ______________________________
Title: __________________________________________

NOTE: Failure to complete, sign and submit this certificate may result in rejection of the entire Proposal.
FORM C
SINGLE POINT OF CONTACT

Proposer’s Name: __________________________________________

Name of Point of Contact: ________________________________

Company Affiliation: ___________________________________

Address: _______________________________________________

_______________________________________________________

_______________________________________________________

Office Phone: ____________________________________________

Fax: _____________________________________________________

Cell Phone or Pager No. ___________________________________
New York State Department of Transportation

CERTIFICATE OF INSURANCE

Send Both Certificates to:
Contract Management Bureau
in Albany

Name and Address of Insured Design-Builder:  Additional Insured:

Location and Description of Work:  Contract #.

The subscribing insurance company, authorized to do business in the State of New York, certifies that insurance of the kinds and types and for limits of liability herein stated, covering the work herein designated, has been procured by and furnished on the behalf of the insured Design-Builder and is in full force and effect for the period listed below.

<table>
<thead>
<tr>
<th>KIND OF INSURANCE</th>
<th>POLICY NUMBER</th>
<th>EFFECTIVE DATE</th>
<th>EXPIRATION DATE</th>
<th>LIMITS OF LIABILITY (In thousands)</th>
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<tbody>
<tr>
<td>(a) Design-Builder’s Liability</td>
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<tr>
<td>(b) Design-builder’s Protective Liability</td>
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<tr>
<td>(c) Completed Operations Liability</td>
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<tr>
<td>(d) Protective liability furnished by Design-Builder in the name of the People and the State of New York, Commissioner of Transportation and their employees, and any Construction Compliance Engineer or Construction Compliance Monitors and such others as specified in Contract Documents Part 5, Special Provision 107</td>
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<tr>
<td>(e) Commercial general liability (Premises, Existence, Hazard) in the name of the People and the State of New York, Commissioner of Transportation and their employees, and any Construction Compliance Engineer or Construction Compliance Monitors and such others as specified in Contract Documents Part 5, Special Provision 107</td>
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<td>(f) Railroad Protective Liability</td>
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<td>(g) Professional Liability</td>
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<td>(h) Worker’s Compensation</td>
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<td>Limits as required by law</td>
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<td>(i) Disability Benefits</td>
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<td>Limits as required by law</td>
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<td>(j) Excess Umbrella</td>
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<td>(k) Automobile Liability</td>
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<td>Limits as required by law</td>
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<td>(l) Other</td>
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This is to certify that ___________________________________________________________________________ (hereinafter called Company) of ____________________________, has issued to ________________________________ a policy or policies of insurance effective from the dates listed on the front of this certificate at 12:01 standard time at the address of the insured stated in said policy or policies and continuing until canceled as provided herein to provide liability insurance covering the obligations imposed upon such Design-Builder by the provisions of the laws of the State of New York, regulations promulgated therewith and the terms and provisions of Contract ______________________.

Such insurance as herein certified (1) applies to all operations of said insured in connection with the Work required by the provisions of the documents forming the Contract, (2) also applies on the effective date stated above, whether or not the Contract Documents between the insured Design-Builder and the New York State Department of Transportation have been executed, and (3) is written in accordance with the company’s regular policies and endorsements, subject to the company’s applicable manuals or rules and rates in effect, as modified and amended by this Certificate and the insurance provisions of the Contract.

This Certificate is furnished in accordance with the specifications of the New York State Department of Transportation for the construction and reconstruction of state highways, covering the operations herein described.

These certificates described herein may not be cancelled without cancellation of a policy to which it is attached. Such cancellation may be issued by the company or the insured giving thirty (30) days notice in writing to the New York State Department of Transportation (NYSDOT), such thirty (30) days notice to commence to run from the date notice is actually received in the Main Office of New York State DOT, Director Contract Management Bureau, Building 5, 1220 Washington Avenue, Albany, New York 12232. No policy referred to herein shall be changed, cancelled or coverage terminated for any reason including expiration of the policy or nonpayment of premiums until thirty (30) days written notice has been received by the Director. Such notice shall be mailed via certified mail or registered mail.

Policy coverage MUST agree with coverage stated on this Certificate. False statements of coverage are punishable under Section 117 of the New York State Insurance Law. As indicated in Contract Documents Part 5, Special Provision 107, limits of coverage NOT to be amended with deductible clauses of any kind.

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

(Name and Address of Insurance Company)

By: ________________________________________________________________

(Signature of Authorized Representative)

RUBBER STAMP NOT ACCEPTABLE

Agency Name and Address:

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

Telephone Number___________________________

Dated: _____________________________________
# FORM CF
## RFP COMMENT FORM

Comment Sheet No. ______ of ______ Sheets

<table>
<thead>
<tr>
<th>Part No.</th>
<th>Section No.</th>
<th>Comment(s)</th>
<th>Reserved for Response</th>
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FORM CR
COMMITMENT TO ASSIGN IDENTIFIED RESOURCES TO PROJECT

Proposer’s Name: ________________________________

Understanding the Department’s concern that the personnel resources 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, ________________________________ (Name of Proposer) commits that the personnel resources shown in the Proposal, including identified design staff, 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”).

Signed: ________________________________

Printed Name: ________________________________

Title: ________________________________

Date: ________________________________

(To be executed by the Proposer’s designated Project Principal or Project Manager)
FORM M/W/DBE
PROPOSER’S STATUS AS A M/W/DBE

PROPOSER: ____________________________

M/W/DBE or Joint Venturer Status

a) Indicate (X) whether the Proposer qualifies as a M/W/DBE recognized by the Department or NYSDED_____.

If the Proposer is the above, it must have current certification status with the Department or NYSDED, or application must be approved prior to Proposal evaluation.

b) Indicate (X) whether the Proposer is joint venturing with a M/W/DBE ____

If either of the above is a joint venturer, a copy of the joint venture agreement and evidence of M/W/DBE certification must be submitted to the Department prior to the Proposal evaluation.

c) If the Proposer checked M/W/DBE in item b) above, complete the following:

(1) Provide a description of the proposed Work to be performed by the Proposer's own work force and the dollar value.

(2) Provide a description and dollar value of the Work to be performed by the M/W/DBE joint venturers, and identify their M/W/DBE status.

M/W/DBE Dollar Value $ _________________

Note: The Department or NYSDED certifies firms as M/W/DBEs on a “first come first served” basis.
FORM DU
DESIGN UNIT DESCRIPTIONS

Proposer Name: ________________________________________________

<table>
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<tr>
<th>Price Center Code (from Form PCD(L)) (1)</th>
<th>Design Unit Code</th>
<th>Design Unit Description</th>
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Note: (1) – Selected Proposer shall add Price Center Codes prior to Contract execution.
THIS ESCROW AGREEMENT (this “Agreement”) is made and entered into this _______________, 200_, by and among the New York State Department of Transportation (the Department), and ______________________, (“Proposer”) and ______________________ (“Escrow Agent”) with reference to the following facts:

1. The Department has issued a Request for Proposals to furnish the design of and to build the _______ Project (the “RFP”);
2. Proposer has submitted to the Department a proposal (the “Proposal”) in response to the RFP;
3. As part of the Proposal, Proposer is submitting one copy of required information used in the preparation of its Proposal in accordance with Section 3.4 of the Instructions to Proposers included in the RFP. Said information is contained in ___ separately sealed boxes (“Escrowed Proposal Documentation”); and
4. The Department and Proposer wish to employ the services of Escrow Agent to act as the escrow holder with regard to the Escrowed Proposal Documentation, and Escrow Agent has agreed to serve as escrow holder under the terms and conditions provided in this Agreement:

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

1. Deposit. Proposer hereby deposits with Escrow Agent the Escrowed Proposal Documentation. Escrow Agent hereby acknowledges receipt of such Escrowed Proposal Documentation, and such Escrowed Proposal Documentation shall be held in escrow under the terms and conditions of this Agreement.
2. Holding of Escrowed Proposal Documentation. Escrow Agent shall hold the Escrowed Proposal Documentation in escrow in a designated area on the premises of Escrow Holder located at _______________ on a non-public basis. The Escrowed Proposal Documentation shall be stored in an area which is locked at all times. No third party, including the employees of Escrow Agent, shall be allowed access to any part of the Escrowed Proposal Documentation. Escrow Agent shall allow access to the Escrowed Proposal Documentation, from time to time only to designated representatives of the Department and Proposer for purposes of joint review of the Escrowed Proposal Documentation by the Department and Proposer. No access shall be given to either representative from the Department or Proposer unless representatives from both are present. Escrow Agent shall provide such access to the Department and Proposer during Escrow Agent’s business hours upon reasonable advance notice. ________________, or his/her successor, is authorized to request access on behalf of the Department and ________________, or his/her successor, is authorized to request access on behalf of Proposer. The Department or Proposer may change its authorized representative by providing written notice to the other parties. Escrow Agent shall allow access only to those individuals designated in written notices from the authorized representatives designated above.
3. Release of Escrowed Proposal Documentation. Escrow Agent shall release the Escrowed Proposal Documentation as follows:
   a) If the Department does not enter into a contract with Proposer, Escrow Agent shall release the Escrowed Proposal Documentation to Proposer upon delivery by the Department of a
FORM EPD

certificate from _________________, certifying that the Department has determined not to enter into a contract with Proposer.

4. Representation and Warranty. Proposer represents and warrants to the Department that, prior to delivery of the Escrowed Proposal Documentation to Escrow Agent, the Escrowed Proposal Documentation were personally examined by an authorized representative of Proposer and that they meet the requirements of the RFP (including the requirements of Contract Documents Part 2, DB Section 110) and are sufficient to enable a complete understanding of the interpretation of how Proposer arrived at its Price Proposal.

5. Rights of Escrow Agent. If conflicting demands are made or notices serviced upon Escrow Agent with respect to this escrow, the parties hereto expressly agree that it shall have the absolute right at its election to do either or both of the following:

a) Withhold and stop all further proceedings in, and performance of this escrow; or
b) File a suit in interpleader and obtain an order from the court requiring the parties to interplead and litigate in such court their several claims and rights among themselves.

6. Fees. See Exhibit C hereto.

7. Notices. All notices which may or are required to be given or made by either party hereto to the other shall be in writing. Such notices shall be either personally delivered or sent by registered mail, postage prepaid, to:

If to Proposer:

________________________________________

________________________________________  

Attention: ______________________________________

If to the Department:

________________________________________

________________________________________

Attention: ______________________________________

If to Escrow Agent:

________________________________________

________________________________________

Attention: ______________________________________

Or to such other addresses and such other places as any party hereto may from time to time designate by written notice to the others.
8. Counterparts: This Agreement may be executed in one or more counterparts, all of which together shall be deemed an original.

9. Headings. The title headings of the respective paragraphs of this Agreement are inserted for convenience only, and shall not be deemed to be part of this Agreement or considered in construing this Agreement.

10. Governing Law. The laws of the State of New York shall govern this Agreement.

11. Attorney’s Fees. If either the Department or Proposer commences or engages in any action by or against the other party directly or indirectly arising out of or in connection with this Agreement, the prevailing party shall be entitled to have and recover from the losing party reasonable attorney’s fees and other costs incurred in the action and in preparation for said action and any subsequent appeal.

IN WITNESS WHEREOF, the parties hereto, each intending to be legally bound by this writing, have caused this Agreement to be executed the date first above written.

“THE DEPARTMENT” New York State Department of Transportation

By: __________________________
Title: __________________________

“PROPOSER” ______________________________
By: __________________________
Title: __________________________

The escrow provided for in this Agreement is hereby Accepted, only to the extent of the escrow provisions, by Escrow Agent.

By: __________________________
Title: __________________________

EXHIBIT A
FORM EPD

Sealed Scope and Price Proposals
THIS ESCROW AGREEMENT (this “Agreement”) is made and entered into this _________, 200_, among the New York State Department of Transportation, (the Department, and ______________ (“Design-Builder”) and ______________ (“Escrow Agent”) with reference to the following facts:

A. The Department has issued a Request for Proposals to furnish the design of and to build the ________ Project (“RFP”);

B. Design-Builder has submitted to the Department a Proposal (the “Proposal”) in response to the RFP;

C. As part of the Proposal, Design-Builder is submitting one copy of all information regarding the assumptions made in calculating the Contract Price as required under Contract Documents Part 2, DB Section 110, in separately sealed boxes (Escrowed Proposal Documentation); and

D. The Department and Design-Builder wish to employ the services of Escrow Agent to act as the escrow holder with regard to the Escrowed Proposal Documentation, and Escrow Agent has agreed to serve as such escrow holder under the terms and conditions provided in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

1. **Deposit.** Design-Builder hereby deposits with Escrow Agent the Escrowed Proposal Documentation. Escrow Agent hereby acknowledges receipt of such Escrowed Proposal Documentation, and such Escrowed Proposal Documentation shall be held in escrow under the terms and conditions of this Agreement.

2. **Holding of Escrowed Proposal Documentation.** Escrow Agent shall hold the Escrowed Proposal Documentation in escrow in a designated area on the premises of Escrow Holder located at ______________ on a non-public basis. The Escrowed Proposal Documentation shall be stored in an area which is locked at all times. No third party, including the employees of Escrow Agent, shall be allowed access to any of the Escrowed Proposal Documentation. Escrow Agent shall allow access to the Escrowed Proposal Documentation, from time to time only to designated representatives of the Department and Design-Builder for purposes of joint review of the Escrowed Proposal Documentation by the Department and Design-Builder. No access shall be given to either representative from the Department or Design-Builder unless representatives from both are present. Escrow Agent shall provide such access to the Department and Design-Builder during Escrow Agent’s business hours upon reasonable advance notice. ______________, or his/her successor, is authorized to request access on behalf of the Department and ______________, or his/her successor, is authorized to request access on behalf of Design-Builder. The Department or Design-Builder may change its authorized representative by providing written notice to the other parties. Escrow Agent shall allow access only to those individuals designated in written notices from the authorized representatives designated above.
3. **Release of Escrowed Proposal Documentation.** Unless otherwise notified in writing, Escrow Agent shall release the Escrowed Proposal Documentation to Design-Builder at ______________________, upon receipt by Escrow Agent of a certificate from ______________________, Department’s Project Manager, certifying that the Department has determined not to enter into a contract with Design-Builder or if escrow agent does not receive notice prior to _____________ it will deliver Escrowed Proposal Documentation back to Design-Builder.

4. **Right of Escrow Agent.** If conflicting demands are made or notices served upon Escrow Agent with respect to this escrow, the parties thereto expressly agree that it shall have the absolute right at its election to do either or both of the following:

   (a) withhold and stop all future proceedings in, and performance of this escrow; or

   (b) file a suit in interpleader and obtain an order from the court requiring the parties to interplead and litigate in such court their several claims and right among themselves.

5. **Fee.** See Exhibit C of the Escrow Agreement.

6. **Notices.** All notices which may or are required to be given or made by either party hereto to the other shall be in writing. Such notices shall be either personally delivered or sent by registered mail, postage prepaid, to:

   If to Design-Builder:
   
   Attention: ______________________
   ______________________
   Phone ______________
   Fax ______________

   If to the Department:
   
   Attention: ______________________
   ______________________
   Phone ______________
   Fax ______________

   If to Escrow Agent:
   
   Attention: ______________________
   ______________________

   or to such other addresses and such other places as any party hereto may from time to time designate by written notice to the others.
7. Counterparts. This Agreement may be executed in one or more counterparts, all of which together shall be deemed an original.

8. Headings. The title headings of the respective paragraphs of this Agreement are inserted for convenience only, and shall not be deemed to be part of this Agreement or considered in construing this Agreement.


10. Attorney’s Fees. If either the Department or Design-Builder commences or engages in any action by or against the other party directly or indirectly arising out of or in connection with this Agreement, the prevailing party shall be entitled to have and recover from the losing party reasonable attorneys’ fees and other costs incurred in the action and in preparation for said action and any subsequent appeal.

IN WITNESS WHEREOF, the parties hereto, each intending to be legally bound by this writing, have caused this Agreement to be executed the date first above written.

“THE DEPARTMENT”

New York State Department of Transportation

By: ________________________________

Title: _______________________________

“DESIGN-BUILDER”

By: ________________________________

Title: _______________________________

The escrow provided for this agreement is hereby accepted, only to the extent of the escrow provisions, by Escrow Agent.

By: ________________________________

Title: _______________________________

Date: ________________________________
Holding Escrow Agent Fees

Set up and Acceptance Fee $______

Annual Escrow Fee (in advance) $______

Plus:

___ per Thousand

___

___ remainder

Account Activity Charges

1. Investment of Funds (per asset) $______

2. Disbursement (check or wire) $______

Plus charges at cost for out-of-pocket expenses, extraordinary services, and costs for review of documents by Escrow Agent’s legal counsel.
FORM GF
PROPOSER’S M/W/DBE GOOD FAITH EFFORTS

(Not required if List of Proposed M/W/DBEs demonstrates meeting the Contract specific goals)

PROPOSER________________________
ADDRESS __________________________

All Proposers shall submit the following information to demonstrate that a good faith effort has been made to provide opportunities for M/W/DBE firms on the Project.

Proposers shall submit the following information to remain eligible for selection:

1. The names and dates of advertisement of each newspaper, trade paper, and minority-focus paper in which a request for M/W/DBE participation for this Project was placed by the Proposer.

<table>
<thead>
<tr>
<th>Papers</th>
<th>Dates of Advertisement</th>
</tr>
</thead>
</table>

2. The names and dates of written notices of all certified M/W/DBEs solicited by direct mail or other means for this Project and the dates and methods used for following up initial solicitations to determine with certainty whether the M/W/DBEs were interested:

<table>
<thead>
<tr>
<th>Names of M/W/DBEs Solicited</th>
<th>Dates of Solicitations</th>
<th>Follow-up Methods and Dates</th>
</tr>
</thead>
</table>

3. Items of Work for which the Proposer requested bids, proposals or Material to be supplied by M/W/DBEs, if any; the information furnished interested M/W/DBEs in the way of plans, specifications and requirements for the Work, and any breakdown of items of Work into economically feasible units to facilitate M/W/DBE participation. Where there are M/W/DBEs available for doing portions of the Work normally performed by the Proposer with its own forces, the Proposer will be expected to make portions of such Work available for M/W/DBEs to bid on.
Form GF
Proposer’s M/W/DBE Good Faith Efforts

Items of Work:

Information Furnished:

Breakdown of Items:

4. The names of M/W/DBEs who submitted bids or proposals for any of the Work indicated above which were not accepted, a summary of the Proposer’s discussions and/or negotiations with them, the name of the Subcontractor or supplier who was selected for that portion of the Work, and the reasons for the Proposer’s choice. If the reason for rejecting a M/W/DBE bid was price, give the price bid or proposed by the rejected M/W/DBE and the price bid or proposed by the selected Subcontractor or supplier. Since the utilization of available M/W/DBEs is expected, only significant price differences will be considered as cause for rejecting such M/W/DBE bids or proposals.

Names of rejected M/W/DBEs:

____________________________________________________________________________
____________________________________________________________________________
____________________________________________________________________________
____________________________________________________________________________
____________________________________________________________________________
____________________________________________________________________________

Summary of discussions and/or negotiations:

____________________________________________________________________________
____________________________________________________________________________
____________________________________________________________________________
____________________________________________________________________________
____________________________________________________________________________
____________________________________________________________________________

Names of Subcontractors or suppliers who were selected over the rejected M/W/DBEs listed above and the reasons for that choice:
5. Assistance that the Proposer has extended to rejected M/W/DBEs identified above to remedy the deficiency in their bids:

______________________________________________________________________________
______________________________________________________________________________
______________________________________________________________________________

6. Efforts to assist interested M/W/DBEs on obtaining required bonding, lines of credit or insurance.

7. Efforts to assist interested M/W/DBEs in obtaining necessary equipment, supplies, Material or related assistance or services.

8. Effective use of services of available minority/women community organizations, contractor groups and local/State/Federal minority/women business assistance offices and other organizations to assist in recruitment and placements of M/W/DBEs.

9. Any additional data to support a demonstration of good faith effort, such as contacts with M/W/DBE assistance agencies:

______________________________________________________________________________
______________________________________________________________________________
______________________________________________________________________________

Note:

(1) See Federal Register, Vol. 64, No. 21, Tuesday, February 2, 1999/Rules and Regulations, Appendix A to Part 26 – Guidance Concerning Good Faith Efforts.
(2) Use additional sheets of paper if necessary. Appropriate documentation such as copies of newspaper ads, letters soliciting bids, and telephone logs should accompany this form.
FORM GF
PROPOSER’S M/W/DBE GOOD FAITH EFFORTS
GOALS AND GOOD FAITH EFFORTS AFFIDAVIT

STATE OF __________________________________________)
COUNTY OF _________________________________________) SS:

Each of the undersigned, being first duly sworn, deposes and says that _______________ is the _______________ of _______________ and _______________ is the _______________ of _______________, which entity(ies) are the _______________ of _______________, the entity making the foregoing Proposal and affirms that the Proposer will either achieve the M/W/DBE goal described in Contract Documents Part 1, Article 5.1 (for M/WBE goals) or Article 5.2 (for DBE goals), or will make good faith efforts to do so as described in Contract Documents Part 2, DB Section 102-9.6 (for W/WBE goals) or DB Section 102-10.6 (for DBE goals).

___________________________________                   _________________________________
(Signature)            (Signature)

___________________________________                   _________________________________
(Signature)            (Signature)

___________________________________                   _________________________________
(Title)             (Title)

Subscribed and sworn to before me this _____ day of ___________, 200__.

_______________________________________
Notary Public in and for
said County and State
[Seal]
My commission expires:

[Duplicate or modify this form as necessary so that it accurately describes the entity making the Proposal and so that it is signed on behalf of all general partners or joint venturers of the Proposer.]
FORM IC
CERTIFICATE REGARDING INELIGIBLE CONTRACTORS
CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER INELIGIBILITY AND VOLUNTARY EXCLUSION FROM TRANSACTIONS FINANCED IN PART BY THE U.S. GOVERNMENT

I, ____________________________________________, ____________________________________________, hereby
(Name of Certifying Officer) (Title of Certifying Officer)
certify that ________________________________________:
(Name of Contractor)

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any Federal department or agency or from participation in New York State Department of Transportation Project No. ____________;

2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statues or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in Paragraph 2 of this certification; and

4. Have not within a three-year period preceding this proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

If any Principal Participant is unable to certify to any of the statements in this certification, such prospective Principal Participant shall attach an explanation to this certification.

I hereby certify and affirm the truthfulness and accuracy of the above statement, and I understand that the provisions of 31 United States Code (U.S.C.) §3801 et seq., (Administrative Remedies for False Claims and Statements) are applicable hereto.

_________________________________________  __________________________________
Name of Contractor    Telephone Number of Contractor

_________________________________________  __________________________________
Street Address of Contractor    City, State, Zip

Signature of Certifying Officer    Telephone Number of Contractor

(Note: The above certification merely certifies that a Proposer and its subcontractors are not declared by the Federal Government or have not voluntarily declared themselves debarred, suspended, or declared ineligible from doing transactions with the Federal Government or any of its agencies.)
FORM IS
CERTIFICATE REGARDING INELIGIBLE SUBCONTRACTORS

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

(1) The prospective lower tier participant (Subcontractor) 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 Project No. ________ by any Federal department 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.

(60 FR 33042, 33064, June 26, 1995)

Signed

_______________________________________________

Typed or Printed Name

_______________________________________________

Company Name

_______________________________________________

Date
New York State Department of Transportation

**FORM KP**
**KEY PERSONNEL INFORMATION**

Name of Proposer: ____________________________________________________

PROPOSED KEY PERSONNEL

<table>
<thead>
<tr>
<th>Position</th>
<th>Name</th>
<th>Years of Exper.</th>
<th>Education/Registration</th>
<th>Parent Firm Name</th>
<th>% of Time Dedicated to Project</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Principal</td>
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<tr>
<td>Project Manager</td>
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<td>Quality Control Manager</td>
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<td>Construction Manager</td>
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<td>Design Manager</td>
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<td>Design QC Manager</td>
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<td>Construction QC Manager</td>
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<td>Safety Manager</td>
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<td>Utilities Design/Construction Coordinator</td>
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<td>Traffic Control Supervisor</td>
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</table>

Use additional sheets when needed.
FORM LC
LOBBRYING CERTIFICATE

The undersigned certifies, 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 grant, the making of any Federal loan, 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 making lobbying contacts to 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 **THIS** Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying”, in accordance with its instructions [as amended by “Government-wide Guidance for New Restrictions on Lobbying,” 61 Federal Regulations 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.)].

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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 (as amended by the Lobbying Disclosure Act of 1995). 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.

[Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each expenditure or failure.]

The Proposer/Design-Builder, __________________________, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Proposer/Design-Builder understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.

Date: ______________________________________

Company Name: ______________________________________

Signature: ______________________________________

Name: ______________________________________

(Print)

Title: ______________________________________

NOTE: THE DESIGN-BUILDER IS REQUIRED PURSUANT TO FEDERAL LAW, TO INCLUDE THE ABOVE LANGUAGE IN SUBCONTRACTS OVER $100,000 AND TO OBTAIN THIS LOBBYING CERTIFICATE FROM EACH SUBCONTRACTOR BEING PAID $100,000 OR MORE UNDER THIS CONTRACT.
FORM LSI
LETTER OF SUBCONTRACT INTENT

_________________________ intends to subcontract Work for the ________________Project
(Proposer’s Name)

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

________________________________________________________________________________________
_____________________________________________________________________________
_____________________________________________________________________________
_____________________________________________________________________________
_____________________________________________________________________________
_____________________________________________________________________________
_____________________________________________________________________________

The minimum value of the Subcontract is ____________________.

The Subcontractor/Consultant _______________ is ______________is not a certified
M/W/DBE firm.

If certified, indicate certifying entity: ___________________________. Include a name
and telephone number for certifying entity _____________________________________.

For the Proposer: For the Subcontractor/Consultant:

(Signature) Confirmed by: (Signature)

(Printed Name) (Printed Name)

(Title) (Title)

(Date) (Date)
FORM NC
NON-COLLUSION AFFIDAVIT

STATE OF _____________________________________

COUNTY OF ___________________________________

Each of the undersigned, being first duly sworn, deposes and says that _______ is the _______ of and _______ is the ________________ of ________________, which entity(ies) are the ____________ of, _______ the entity making the foregoing Proposal, that the Proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization or corporation; that the Proposal is genuine and not collusive or sham; that the Proposer has not directly or indirectly induced or solicited any other Proposer to put in a false or sham Proposal, and has not directly or indirectly colluded, conspired, connived or agreed with any Proposer or anyone else to put in a sham Proposal or that anyone shall refrain from proposing; that the Proposer has not in any manner, directly or indirectly, sought by agreement, communication or conference with anyone to fix the Contract Price or any component of the Contract Price, of the Proposer or any other Proposer, or to fix any overhead, profit or cost element included in the Proposal, or of that of any other Proposer, or to secure any advantage against the Department of anyone interested in the proposed Contract; that all statements contained in the Proposal are true; and, further, that the Proposer has not, directly or indirectly, submitted its Contract Price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company, association, organization, proposal depository or any member or agent thereof to effectuate a collusive or sham Proposal.

_______________________________ (Signature)      (Signature)

_________________________________      _______________________________
(Printed Name)      (Printed Name)

_________________________________      _______________________________
(Title)       (Title)
Subscribed and sworn to before me this _____________day of _____________, 2002.

Notary Public in and for ) SS
) SS
said County and State )

[Seal] My commission expires: _________________

[Duplicate or modify this form as necessary so that it accurately describes the entity making the Proposal and so that it is signed on behalf of all general partners or joint venturers of the Proposer.]
New York State Department of Transportation

**FORM NS**
NAMED SUBCONTRACTORS

Proposer Name __________________________________________________

<table>
<thead>
<tr>
<th>Specialty / Assignment / Percentage</th>
<th>Subcontractor Name / Contact</th>
<th>Address of Head Office</th>
<th>Tel / Fax</th>
<th>For last 2 Projects, list Project Name, Owner, and Owner Contact Name, Phone &amp; Fax No.</th>
</tr>
</thead>
<tbody>
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</tbody>
</table>

1 of 2
### FORM NS
**NAMED SUBCONTRACTORS**

Proposer Name __________________________________________________

<table>
<thead>
<tr>
<th>Specialty / Assignment / Percentage</th>
<th>Subcontractor Name / Contact</th>
<th>Address of Head Office</th>
<th>Tel / Fax</th>
<th>For last 2 Projects, list Project Name, Owner, and Owner Contact Name, Phone &amp; Fax No.</th>
</tr>
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<tr>
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<td>Project 1</td>
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<td></td>
<td>Project 2</td>
</tr>
</tbody>
</table>

Add additional sheet(s) as necessary.
FORM OC
OPINION OF COUNSEL
[Letterhead of Independent Law Firm or In-house Counsel]

New York State Department of Transportation (the “Department”)

Attn: ____________________

Re: Request for Proposals (“RFP”)

Project No. ________ (“Contract”)

Gentlemen:

[Describe relationship to Proposer and its joint venture members, general partners, and any other entities whose approval is required in order to authorize delivery of the proposal.] This letter is provided to you pursuant to Section 3.1.1 of the Instructions to Proposers contained in the RFP.

In giving this opinion, we have examined ______________________. We have also considered such questions of law and we have examined such documents and instruments and certificates of public officials and individuals who participated in the procurement process as we have deemed necessary or advisable.

In making this response we have assumed that all items submitted to us or reviewed by us are genuine, accurate and complete, and if not originals, are true and correct copies of originals, and that all signatures on such items are genuine.

Subject to the foregoing, we are of the opinion that:

1. [opinion regarding formation and existence of Proposer and each of its joint venture members and general partners]

2. [opinion that the Proposer has power and is duly authorized to execute and deliver the Proposal and Design-Build Contract]

3. [opinion that the Proposal has been duly and validly executed and delivered and constitutes a legal, valid and binding obligation of the Proposer and its joint venture members/general partners to enter into the Contract if awarded] [updated opinion will state that the Contract has been duly and validly executed and delivered]

4. [opinion that all required approvals have been obtained with respect to execution and delivery of the Proposal and Contract; and that the Proposal and Contract do not conflict with any agreements to which Proposer or its joint venture members/general partners are a party or with any orders, judgments or decrees by which Proposer or its joint venture members/general partners are bound.]
## FORM PC1(L)
### PRICE CENTER 1
### PRELIMINARIES AND GENERAL REQUIREMENTS

<table>
<thead>
<tr>
<th>Activity Code(1)</th>
<th>Activity (2)</th>
<th>Lump Sum Price (Enter Lump Sum Price for Each Activity)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Payment and Performance Bonds &amp; Guarantees</td>
<td></td>
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<tr>
<td></td>
<td>Insurance, Insurance Certificates</td>
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<td></td>
<td>Project Mobilization</td>
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<td></td>
<td>Permits &amp; Regulatory Approvals (non-Environmental)</td>
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<tr>
<td></td>
<td>Environmental Compliance (Plans, permits, approvals, reports, records, monitoring, etc.)</td>
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<td></td>
<td>Project Management</td>
<td></td>
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<td></td>
<td>Quality Plan &amp; Updates</td>
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<td></td>
<td>Project Quality Management and Construction Quality Control</td>
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<td></td>
<td>Safety Plan &amp; Safety Administration</td>
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<td></td>
<td>Liaison and coordination with local authorities and agencies</td>
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<td></td>
<td>On-Site Security, Communications &amp; Project Identification Signing</td>
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<tr>
<td></td>
<td>Design-Builder’s Temporary Facilities (provide, erect, service and maintain)</td>
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<tr>
<td></td>
<td>Design-Builder-Provided Facilities and Equipment for the Department</td>
<td></td>
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<td></td>
<td>Removal of Temporary and Design-Builder-Provided Facilities and Site Clean-up/Restoration</td>
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<td></td>
<td>Construction Staking</td>
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</tbody>
</table>

### Price Center Value (3)
(Sum of the Lump Sum Prices for each activity)

### NOTES:

1. Use codes from Baseline Progress Schedule P3 Program.
2. Other activities may be added by Proposer.
3. Enter sum for the column. Enter amount on Form SP(L).
<table>
<thead>
<tr>
<th>Activity Code(^{(1)})</th>
<th>Activity(^{(2)})</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Design of Temporary and Permanent Works through Final Design (including design reports, Design Drawings and Project Specifications)</td>
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<tr>
<td></td>
<td>Geotechnical Investigations</td>
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<td></td>
<td>Other preliminary engineering such as preliminary surveys</td>
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<td></td>
<td>Design support during construction</td>
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<td></td>
<td>As-Built drawings, manuals and reports</td>
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<td></td>
<td>Activities of Design QC Manager and staff (Design QC)</td>
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<tr>
<td><strong>Price Center Value</strong>(^{(3)})</td>
<td>(Sum of lump sum prices for each activity)</td>
</tr>
</tbody>
</table>

**NOTE:**

(1) From activities on Baseline Progress Schedule P3 Program.
(2) Other activities may be added by Proposer.
(3) Enter sum on Form SP(L).
<table>
<thead>
<tr>
<th>Activity Code (1)</th>
<th>Activity (2)</th>
<th>Lump Sum Price (Enter Lump Sum Price for each activity)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Maintenance and Protection of Traffic Plan and Updates</td>
<td></td>
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<tr>
<td></td>
<td>Maintenance and Protection of Traffic Implementation and Operations</td>
<td></td>
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<td></td>
<td>Traffic Control Plan(s) and Updates</td>
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</table>

**Price Center Value**
(Sum of lump sum prices for each activity) (3)

NOTE:

(1) From activities on Baseline Progress Schedule P3 Program.
(2) Other activities may be added by Proposer.
(3) Enter sum on Form SP(L).
<table>
<thead>
<tr>
<th>Activity Code (1)</th>
<th>Activity (2)</th>
<th>Lump Sum Price (Enter lump sum price for each activity)</th>
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<tbody>
<tr>
<td></td>
<td>Aesthetics Plan Preparation (Contract Documents Part 4, Performance Specification ____, Section ____).</td>
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<td>Tree removal and replacement and landscaping (Enter sum from Form PC4A(L)).</td>
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<td>Planting Maintenance Activities (Contract Documents Part 4, Performance Specification ____, Section ____).</td>
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<td>Environmental investigations and documentation (Contract Documents Part 4, Performance Specification ____, Section ____).</td>
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<td>Environmental Mitigation Measures and Plans (Contract Documents Part 4, Performance Specification ____, Section ____).</td>
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<td></td>
<td>SPDES Preparation (Contract Documents Part 2, <strong>DB Section 107-11</strong>).</td>
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<td>SPDES Implementation</td>
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<td><strong>Price Center Value</strong></td>
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<td>(Sum of prices for each activity) (3)</td>
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</tbody>
</table>

**NOTES:**

(1) From activities on Baseline Progress Schedule.
(2) Other activities may be added by Proposer.
(3) Enter sum on Form SP(L) (and on Form SP-C, for selected Proposer).
<table>
<thead>
<tr>
<th>Activity Code (1)</th>
<th>Description (2)</th>
<th>Unit of Measure</th>
<th>Proposed Quantity</th>
<th>Unit Price</th>
<th>Extended Price (Enter price for each activity)</th>
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</tbody>
</table>

**Sum of Extended Prices (3)**

**NOTES:**

1. From activities on Baseline Progress Schedule P3 Program.
2. From response to ITP Appendix A, Section 7.1.2.
3. Enter sum on Form PC4(L).
## Public Information

<table>
<thead>
<tr>
<th>Activity Code (1)</th>
<th>Activity (2)</th>
<th>Lump Sum Price (Enter lump sum price for each activity)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Public Information Plan and Updates (Contract Documents Part 4, Performance Specification ____, Section ____)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Public Information Activities during Contract</td>
<td></td>
</tr>
</tbody>
</table>

### Price Center Value

(Sum of prices for each activity) (3)

**NOTES:**

1. From activities on Baseline Progress Schedule.
2. Other activities may be added by Proposer.
3. Enter sum on Form SP(L).
## New York State Department of Transportation

### FORM PC6(L)
**PRICE CENTER 6**  
**PROJECT-WIDE**  
**HAZARDOUS AND CONTAMINATED SUBSTANCES REMEDIATION ACTIVITIES**  
(H&CSR)

<table>
<thead>
<tr>
<th>Activity Code <em>(1)</em></th>
<th>Activity <em>(1)</em></th>
<th>Unit of Measure</th>
<th>Unit Price</th>
<th>Est. Quantity</th>
<th>$ Amount <em>(3)</em></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Excavation and Replacement of Uncontaminated Overburden</td>
<td>CuM</td>
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</tr>
<tr>
<td>Category 1A:</td>
<td>Excavation and On-site Remediation of Hydrocarbon Contaminated Soil</td>
<td>CuM</td>
<td></td>
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<tr>
<td>Category 1B:</td>
<td>Excavation and Off-site Remediation of Hydrocarbon Contaminated Soil</td>
<td>CuM</td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Category 2A:</td>
<td>On-site Remediation of Contaminated Groundwater</td>
<td>1000 L</td>
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</tr>
<tr>
<td>Category 2B:</td>
<td>Off-site Remediation of Contaminated Groundwater</td>
<td>1000 L</td>
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<td></td>
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</tr>
<tr>
<td>Category 3A:</td>
<td>On-site Remediation of Asbestos Containing Material</td>
<td>CuM</td>
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<td></td>
</tr>
<tr>
<td>Category 3B:</td>
<td>Removal and Off-site Remediation of Asbestos Containing Material</td>
<td>CuM</td>
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</tr>
<tr>
<td>Category 4:</td>
<td>Removal and Off-site Remediation of Lead-Based Paint</td>
<td>SqM</td>
<td></td>
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</table>

### Price Center Value *(4)*  
(Sum of prices for each activity)

**NOTES:**

1. From activities on Baseline Progress Schedule.
2. Enter lump sum price.
3. Enter extension of quantity times unit price.
4. Total lump sum and extensions for unit priced items and enter sum on Form SP(L).
<table>
<thead>
<tr>
<th>Project Section</th>
<th>Project WBS Code</th>
<th>Price Center Code</th>
<th>Price Center Title</th>
<th>Price Center Description</th>
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<tbody>
<tr>
<td>A</td>
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<td></td>
<td>Project-wide Activities</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>PC1 Preliminaries and General Requirements</td>
<td>See Form PC1(L)</td>
</tr>
<tr>
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<td></td>
<td></td>
<td>PC2 Project-Wide Engineering &amp; Design Activities</td>
<td>See Form PC2(L)</td>
</tr>
<tr>
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<td></td>
<td>PC3 Project-Wide Maintenance and Protection of Traffic</td>
<td>See Form PC3(L)</td>
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<td>PC4 Project-Wide Environmental Mitigation and Monitoring</td>
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<td></td>
<td>PC5 Project-Wide Public Information</td>
<td>See Form PC5(L)</td>
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<tr>
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<td></td>
<td></td>
<td>PC6 Project-Wide Hazardous and Contaminated Substances Remediation Activities</td>
<td>See Form PC6(L)</td>
</tr>
<tr>
<td>B</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Project Section</td>
<td>Project WBS Code</td>
<td>Price Center Code</td>
<td>Price Center Title</td>
<td>Price Center Description</td>
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</tbody>
</table>

[Note: Add Construction Price Centers for Sections B thru __. Add additional Sections as required.]
<table>
<thead>
<tr>
<th>Price Center Code</th>
<th>Progress Checkpoint Code</th>
<th>Progress Checkpoint Title</th>
<th>Month after NTP Scheduled to be Complete</th>
<th>Description of Work Programmed to be Accomplished Within the Progress Checkpoint</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tbody>
</table>

Add additional sheets as required.
Proposer’s Name: _______________________________________

This Price Proposal is submitted in response to the Request for Proposals, dated (Date), as amended by Amendments, and includes the following:

Section 1:
  • Form PP(L) (Price Proposal Cover Sheet)

Section 2:
  • Schedule of Prices (Form SP(L));
  • Forms PC1(L) through PC6(L);
  • Schedule of Values (Form SOV – Option 1);
  • Proposal Periodic Payment Schedule (Form PPS-P);
  • List of Proposed M/W/DBE’s;
  • Form LSI;
  • Copy of Proposed Baseline Progress Schedule; and
  • Copy of Form PCD(L), Price Center Descriptions.

Section 3:
  • Proposal Bond

Signed by Parties signing Proposal Form:

__________________________________________  ____________________________  ____________________________
(Signatures) (Representing) (Dates)
**FORM PPS-P**  
PROPOSAL PERIODIC PAYMENT SCHEDULE

<table>
<thead>
<tr>
<th>Month after NTP(3)</th>
<th>Total Proposal Price(1)</th>
<th>Planned Cumulative Payment (2)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
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<td>27</td>
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</tbody>
</table>

1. Enter Proposal Price from Form SP(L).
2. Enter planned cumulative payment for each month between NTP and Guaranteed Completion Date.
3. Add months to table to reflect duration of Contract.
New York State Department of Transportation

FORM SOV
SCHEDULE OF VALUES

<table>
<thead>
<tr>
<th>Part 9 Section No.</th>
<th>Description of Item or Component (1)</th>
<th>Unit Of Measure</th>
<th>Unit Price (2)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Clearing and Grubbing</td>
<td>Hectare</td>
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<tr>
<td></td>
<td>Unclassified Excavation</td>
<td>Cu M</td>
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<td>Borrow</td>
<td>Cu M</td>
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<td>Subexcavation</td>
<td>Cu M</td>
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<td>Unsuitable Material Excavation</td>
<td>Cu M</td>
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<td>Structure Excavation</td>
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<td>Structure Backfill</td>
<td>Cu M</td>
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<tr>
<td></td>
<td>Bituminous-Treated Base</td>
<td>Sq M/cm of Depth</td>
<td></td>
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<tr>
<td></td>
<td>Base Course</td>
<td>Sq M/cm of Depth</td>
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<tr>
<td></td>
<td>Open-Graded Friction Course</td>
<td>Sq M</td>
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<tr>
<td></td>
<td>Minor Paving</td>
<td>Sq M</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Plant-Mix Bituminous Pavement</td>
<td>Sq M/cm of Depth</td>
<td></td>
</tr>
<tr>
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<td>Mechanically-Stabilized Earth Retaining Structures</td>
<td>Sq M (Face Area)</td>
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<td></td>
<td>Portland Cement Concrete, Class AA</td>
<td>Cu M</td>
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<td>Portland Cement Concrete, Class A</td>
<td>Cu M</td>
<td></td>
</tr>
<tr>
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<td>Concrete Structures, Structural Concrete, Class A</td>
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<td>Superstructure Concrete</td>
<td>Cu M</td>
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<td>Reinforced Concrete for Minor Structures</td>
<td>Cu M</td>
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<td>Flowable Fill</td>
<td>Cu M</td>
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<td>Pipe Culverts</td>
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</tbody>
</table>

[Instructions: Develop project-specific list to fit each project. The list on this template is for illustrative purposes only.]
<table>
<thead>
<tr>
<th>Part 9 Section No.</th>
<th>Description of Item or Component (1)</th>
<th>Unit Of Measure</th>
<th>Unit Price (2)</th>
</tr>
</thead>
<tbody>
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<td>LM</td>
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<td>CMP, diameter or equivalent</td>
<td>LM</td>
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<td>CMP, diameter or equivalent</td>
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<td>Thermoplastic, HDPE, corrugated,</td>
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<td>Vertical Drains</td>
<td>LM</td>
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<td>Standard Curb &amp; Gutter</td>
<td>LM</td>
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<td>Landscape Planting per PS_, Aesthetics</td>
<td>Each</td>
<td></td>
</tr>
</tbody>
</table>

Notes:

(1) Proposer shall provide additional descriptions as necessary to fully describe the Work covered by the unit prices shown.
New York State Department of Transportation

**FORM SOV**
**SCHEDULE OF VALUES**

<table>
<thead>
<tr>
<th>Part 9 Section No.</th>
<th>Description of Item or Component (1)</th>
<th>Unit Of Measure</th>
<th>Unit Price (2)</th>
</tr>
</thead>
</table>

*Instructions: Develop project-specific list to fit each project. The list on this template is for illustrative purposes only.*

(2) Unit prices shall cover all construction costs to provide the item or component listed installed and in place per Contract Documents Part 2, **DB Section 109L-1.2.1**.
## New York State Department of Transportation

### FORM SP(L)
SCHEDULE OF PRICES FORMAT

<table>
<thead>
<tr>
<th>Price Center Code (¹)</th>
<th>Price Center Title / Component Identification (¹)</th>
<th>Price Center Value (²)</th>
</tr>
</thead>
</table>

### PROJECT SECTION A (Project-Wide Activities)

- **PC1** Preliminaries and General Requirements. See Form PC1(L)
- **PC2** Project-Wide Engineering & Design Activities. See Form PC2(L)
- **PC3** Project-Wide Maintenance and Protection of Traffic. See Form PC3(L)
- **PC4** Project-Wide Environmental Mitigation and Monitoring. See Form PC4(L)
- **PC5** Project-Wide Public Information. See Form PC5(L)
- **PC6** Project-Wide Hazardous and Contaminated Substances Remediation Activities. See Form PC6(L)

### SECTION B

- **PC7B** Site Work
- **PC8B** Excavation & Embankment
- **PC9B** Utility Relocations
- **PC10B** Pavement Structure (20-year design) (Base & Paving)
- **PC11B** Drainage
- **PC12B** Retaining Structures
- **PC13B** Permanent signing & striping

### SECTION C

- **PC7C** Site Work
- **PC8C** Excavation & Embankment
- **PC9C** Utility Relocations
- **PC10C** Pavement Structure (20-year design) (Base & Paving)
- **PC11C** Drainage
<table>
<thead>
<tr>
<th>Price Center Code (1)</th>
<th>Price Center Title / Component Identification (1)</th>
<th>Price Center Value (2)</th>
</tr>
</thead>
<tbody>
<tr>
<td>PC12C</td>
<td>Retaining Structures</td>
<td></td>
</tr>
<tr>
<td>PC13C</td>
<td>Permanent signing &amp; striping</td>
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</tr>
<tr>
<td>PC14C</td>
<td>Bridge</td>
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</tbody>
</table>

**SECTION D**

<table>
<thead>
<tr>
<th>Price Center Code (1)</th>
<th>Price Center Title / Component Identification (1)</th>
<th>Price Center Value (2)</th>
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<tbody>
<tr>
<td>PC7D</td>
<td>Site Work</td>
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</tr>
<tr>
<td>PC8D</td>
<td>Excavation &amp; Embankment</td>
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</tr>
<tr>
<td>PC9D</td>
<td>Utility Relocations</td>
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<tr>
<td>PC10D</td>
<td>Pavement Structure (20-year design)</td>
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<td></td>
<td>(Base &amp; Paving)</td>
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<tr>
<td>PC11D</td>
<td>Drainage</td>
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<tr>
<td>PC12D</td>
<td>Retaining Structures</td>
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<tr>
<td>PC13D</td>
<td>Permanent signing &amp; striping</td>
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</table>

Subtotal Sections A through D

<table>
<thead>
<tr>
<th>(4) BASE PROPOSAL PRICE</th>
</tr>
</thead>
</table>

(5) [Enter any alternate proposal(s).]

| (6) TOTAL PROPOSAL PRICE |
Instructions:

1) Enter Price Center Codes and Titles for each Price Center, to match Form PCD(L).
2) Enter Price Center Value.
3) Do not change amount. Department has entered the appropriate number.
4) Enter sum of all Price Center Values for Project.
5) Enter title of any alternate proposal and the price differential only between the Base Proposal Price and any alternate proposed. If no alternative design is proposed, enter “None” under the description and “N/A” for the Price Center Value. If alternate proposal relates to an existing Price Center in a Section, enter that Price Center number followed by “(Alt)”. If the alternate proposal covers components of more than one Section, provide a description and price for each Section where the alternate proposal applies. For example, if alternate pavement designs were proposed in Sections B and D, there should be two entries:

<table>
<thead>
<tr>
<th>Price Center (Alt)</th>
<th>Description</th>
</tr>
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<tbody>
<tr>
<td>PC10B(Alt)</td>
<td>Alternate Pavement Design</td>
</tr>
<tr>
<td>PC10D(Alt)</td>
<td>Alternate Pavement Design</td>
</tr>
</tbody>
</table>

6) Enter the sum of the BASE PROPOSAL PRICE and all alternate proposals.